ADMINISTRATIVE REGISTER OF KENTUCKY

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

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TUESDAY, MARCH 1, 1994

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MEETING NOTICE: The Administrative Regulation Review Subcommittee is **tentatively** scheduled to meet on March 7, 1994 upon adjournment of the session.. See **tentative** agenda on pages 2525-2526 in this Administrative Register.

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

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

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
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Education Professional Standards Board

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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 to be taken unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

Review Procedure

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

EMERGENCY ADMINISTRATIVE REGULATIONS NOW IN EFFECT

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

STATEMENT OF EMERGENCY
2 KAR 2:010E

Emergency administrative regulation 2 KAR 2:010E is necessary in order to establish the forms to be used to register as a legislative agent or employer of an agent, to update registration as a legislative agent or employer of an agent, and to give notice of terminations of engagements. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which was filed with the Regulations Compiler on February 15, 1994.

JUDGE GEORGE E. BARKER, Chair

KENTUCKY LEGISLATIVE ETHICS COMMISSION

2 KAR 2:010E. Legislative agent or employer registration statement, legislative agent's updated registration statement, legislative agent's notice of termination of engagement, employer's updated registration statement, employer's notice of termination of engagement.

RELATES TO: KRS 6.666(6) to (13), 6.807, 6.821, 6.824, 6.827
STATUTORY AUTHORITY: KRS 6.666(5)
EFFECTIVE: February 15, 1994
NECESSITY AND FUNCTION: KRS 6.807 requires each legislative agent and employer to file an initial registration statement, periodic updated registration statements, and a notice of termination of engagements. This administrative regulation establishes the required forms [~~registration statement~~].

Section 1. Definitions. "Personal expenses" mean expenses which are neither reimbursable to the legislative agent by the employer, nor deductible as a business expense under the Internal Revenue Code.

Section 2. [~~1.~~] The registration forms and termination forms required by KRS 6.807 shall be mailed to the Kentucky Legislative Ethics Commission, Room 318, Capitol Annex, Frankfort, Kentucky 40601.

Section 3. [~~2.~~] (1) The "Initial Legislative Agent/Employer Registration Statement", "Legislative Agents Updated Registration Statement", "Legislative Agents Notice of Termination of Engagement", "Employers Updated Registration Statement", "Employers Notice of Termination of Engagement", are [~~(KLEC 7/93)" is~~] incorporated by reference.

(2) These documents [~~This document~~] may be inspected, copied, or obtained at the Kentucky Legislative Ethics Commission, Capitol Annex, Room 318, Frankfort, KY 40601, 8 a.m. to 4:30 p.m., Monday through Friday.

JUDGE GEORGE E. BARKER, Chair
APPROVED BY AGENCY: February 15, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.

STATEMENT OF EMERGENCY
2 KAR 2:020E

Emergency administrative regulation 2 KAR 2:020E is necessary in order to establish the form to be used for filing the statement of financial disclosure required by KRS 6.781. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which was filed with the Regulations Compiler on February 15, 1994.

JUDGE GEORGE E. BARKER, Chair

KENTUCKY LEGISLATIVE ETHICS COMMISSION

2 KAR 2:020E. Statement of financial disclosure.

RELATES TO: KRS 6.781 to 6.797
STATUTORY AUTHORITY: KRS 6.666(5), (6)
EFFECTIVE: February 15, 1994
NECESSITY AND FUNCTION: KRS 6.781 requires all members of the General Assembly, all candidates and nominees for election to the General Assembly, and major management personnel in the Legislative Branch of state government to file statements of financial disclosure. This administrative regulation establishes the required form.

Section 1. The statement of financial disclosure required by KRS 6.781 shall be mailed to the Kentucky Legislative Ethics Commission, Room 318, Capitol Annex, Frankfort, Kentucky 40601.

Section 2. (1) The "Statement of Financial Disclosure" is incorporated by reference.

(2) This document may be inspected, copied, or obtained at the Kentucky Legislative Ethics Commission, Room 318, Capitol Annex, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday.

JUDGE GEORGE E. BARKER, Chair
APPROVED BY AGENCY: February 15, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.

STATEMENT OF EMERGENCY
2 KAR 2:030E

Emergency administrative regulation 2 KAR 2:030E is necessary to establish procedural guidelines for the Kentucky Legislative Ethics Commission. This regulation establishes the practices to be followed in the course of adjudicatory proceedings. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which was filed with the Regulations Compiler on February 15, 1994.

JUDGE GEORGE E. BARKER, Chair

KENTUCKY LEGISLATIVE ETHICS COMMISSION

2 KAR 2:030E. Rules of procedure.

RELATES TO: KRS 6.601, 6.849
STATUTORY AUTHORITY: KRS 6.666(5)
EFFECTIVE: February 15, 1994
NECESSITY AND FUNCTION: KRS 6.691 requires the Kentucky Legislative Ethics Commission to conduct adjudicatory proceedings in appropriate cases. The function of this administrative regulation is

to regulate the proceedings of the commission, subject to KRS 6.691(1), which provides that the Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence apply to all commission adjudicatory proceedings.

Section 1. Definitions. (1) "Chair" means Chair of the Kentucky Legislative Ethics Commission, or vice-chair in the absence or disability of the chair.

(2) "Commission" means the Kentucky Legislative Ethics Commission.

(3) "Formal complaint" means a formal written statement issued by the commission accusing one (1) or more persons of a violation of the provisions of KRS 6.601 to 6.849.

(4) "Respondent" means a person accused of violating KRS 6.601 to 6.849.

Section 2. Right of a Respondent to Request an Adjudicatory Hearing. If, after an investigation, the commission determines that probable cause exists to support an alleged violation of KRS 6.601 to 6.849 and, due to mitigating circumstances set forth in KRS 6.686(5)(a), the commission issues a confidential reprimand, the respondent may file a written request, within five (5) days of receipt of the reprimand, requesting an adjudicatory proceeding. A respondent shall not file an appeal based on a confidential reprimand without having first filed a timely request for an adjudicatory proceeding.

Section 3. Formal Complaints. (1) If the commission determines that probable cause exists to support an alleged violation of KRS 6.601 to 6.849, and further decides that a confidential reprimand as defined by KRS 6.686(5)(a) is not appropriate, a formal complaint shall be issued against the respondent.

(2) The formal complaint shall be prepared in writing, stating the facts alleged to constitute a violation of KRS 6.601 to 6.849, and containing a general statement of the applicable law. The formal complaint shall be signed by the chair or another member authorized by the commission.

(3) Any number of acts or omissions, and any number of separate and distinct transactions alleged to constitute a violation of KRS 6.601 to 6.849 may be alleged in a single formal complaint, but each act or omission shall be set out in a separate paragraph.

(4) Separate complaints may be consolidated and heard as a single case.

(5) A formal complaint may be filed against two (2) or more persons if based upon the same or related sets of facts, and may, at the commission's discretion, be consolidated and heard as a single proceeding.

(6) When two (2) or more persons are proceeded against in the same proceeding, the commission shall make a separate finding regarding each respondent.

Section 4. Notice of Filing of Formal Complaint: Time to Answer. Upon the filing of a formal complaint, the administrative secretary, by certified mail with return receipt requested shall furnish the respondent with a copy of the formal complaint and notify the respondent that within twenty (20) days after the receipt of the notice, he must file his answer with the administrative secretary and serve a copy of his answer on the attorney for the commission by mailing or delivering a copy to him.

Section 5. When a Formal Complaint Can be Taken as Confessed. The commission may take the allegations of the formal complaint as admitted or confessed if a respondent who was notified of the formal complaint by the commission files an answer admitting the allegations or fails to file an answer within the time provided in these rules. The commission may receive evidence if it deems that evidence would be of assistance in making its determination.

Section 6. Proceedings When Pleadings Present Only an Issue of Law. If the pleadings present only an issue of law, the commission shall fix a time for filing of briefs. The commission may receive evidence if it deems that evidence would be of assistance in making its determination.

Section 7. Rulings on Motions. (1) Dispositive motions shall be ruled on by the commission. Examples of dispositive motions are motions to dismiss, or motions to exclude essential evidence.

(2) The chair or another member authorized by the commission shall rule on procedural motions. An example of a procedural motion is a motion for a continuance.

(3) All pleadings shall be filed with the administrative secretary and copies served upon opposing parties or their counsel as provided by the Kentucky Rules of Civil Procedure.

Section 8. Authority for Settlement Negotiations. The attorney for the commission, with the approval of the chair, may attempt to negotiate a settlement with the respondent, and may recommend to the chair that an agreed stipulation of fact, finding of violation, and judgment be entered. The chair may accept or reject the recommendation. If the recommendation is accepted the agreed stipulation, finding, and judgment shall be entered. If the recommendation is rejected the matter shall be heard by the commission without any reference to the offer of settlement by the respondent being made to any member of the commission, but the chair will decline to vote. However, the respondent shall have the right to appeal the rejection of the recommendation to the full commission but shall first sign a waiver of any objections to the commission conducting a hearing regarding the complaint in the event the respondent's proposed settlement is rejected by the commission.

Section 9. Witness Lists. At least ten (10) days before the date set for a hearing the attorneys for all parties, and for the commission, shall provide the names of all proposed witnesses to the commission. Copies of the witness lists shall be served upon opposing parties or their counsel as provided by the Kentucky Rules of Civil Procedure and additional witnesses may only be called for rebuttal, or with the permission of the commission for good cause shown.

Section 10. Prehearing Conference. The chair may order that a prehearing conference be held with reasonable notice to all parties.

Section 11. Amendments to Formal Complaint or Answer. The formal complaint may be amended to conform to the proof or to set forth additional facts, either occurring before or after the commencement of the hearing. If an amendment is made, the respondent shall be given reasonable time to answer the amendment and to prepare and present his defense against the matters charged thereby.

Section 12. Hearing Additional Evidence. The commission may order a hearing for the taking of additional evidence at any time while the matter is pending before it. The order shall set the time and place of hearing and shall indicate matters on which the evidence is to be taken. A copy of the order shall be sent by mail to the respondent, and his attorney if any, at least ten (10) days prior to the date of the hearing.

Section 13. Deliberations. At the conclusion of the evidence, the deliberations of the commission shall be held in closed session, with only clerical staff present.

Section 14. Transcript of Evidence. The proceedings before the commission shall be reported by a reporter appointed by the commission, or recorded by a mechanical device. If after a hearing the commission orders that the charge or charges be dismissed, or that the respondent be administered a reprimand, the commission

may direct the reporter to preserve all notes of the hearing, but defer a transcription of the record until ordered by the commission. In all other proceedings the testimony shall be transcribed at the expense of the commission.

JUDGE GEORGE E. BARKER, Chair
APPROVED BY AGENCY: February 15, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.

STATEMENT OF EMERGENCY
401 KAR 42:060E

This emergency administrative regulation establishes requirements for responding to known or suspected releases into the environment from underground storage tank systems. These requirements dovetail with revised cleanup requirements being adopted simultaneously under 401 KAR 42:080E. In order to allow facility owners and operators to take advantage of the revised cleanup requirements as soon as possible, it is necessary to promulgate this regulation as an emergency administrative regulation. An ordinary administrative regulation would not allow facility owners and operators to take advantage of the revised cleanup requirements in an expeditious manner. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Administrative Regulations Compiler on February 9, 1994.

BRERETON C. JONES, Governor
PHILLIP J. SHEPHERD, Secretary

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

401 KAR 42:060E. Release response and corrective action for UST systems containing petroleum or hazardous substances.

RELATES TO: KRS 224.01, 224.10, 224.40, 224.43, 224.46, 224.60, 40 CFR Part 280 Subpart F, 40 CFR Part 281, 42 USC 6991 to 6991i [e]

STATUTORY AUTHORITY: KRS 224.10-100, 224.60-105, 224.60-137, 40 CFR Part 280 Subpart F[~~, 40 CFR Part 281, 42 USC 6991e~~]

EFFECTIVE: February 15, 1994

NECESSITY AND FUNCTION: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to develop and conduct programs which provide for the prevention, abatement, and control of contaminants which may threaten the environment. KRS 224.60-105(2) requires the cabinet to regulate underground storage tanks by requiring notification, minimum construction and performance standards, leak detection, recordkeeping, reporting releases, corrective actions, closure, financial responsibility, and other requirements to protect public health and the environment. KRS 224.60-105(3) requires the cabinet to establish a regulatory program which implements federal requirements for underground storage tanks and to promulgate administrative regulations for underground storage tanks which shall be submitted for approval to the United States Environmental Protection Agency pursuant to federal regulations. This chapter identifies requirements for underground storage tanks. This administrative regulation establishes the requirements for release response, site characterization, corrective action, and public participation.

Section 1. Adoption of Federal Regulation. The requirements for release response, site characterization, corrective action and public participation for underground storage tanks are governed by 40 CFR Part 280 Subpart F (1990).

Section 2. Incorporation by Reference. (1) The following documents are hereby incorporated by reference:

(a) "Underground Storage Tank System Site Check Outline" (January 1994); and

(b) "Underground Storage Tank System Site Investigation Outline" (January 1994).

(2) The documents referenced in subsection (1) of this section are available for inspection and copying, subject to copyright law, at the Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601, (502)564-6716, from 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, excluding state holidays.

PHILLIP J. SHEPHERD, Secretary
E. DOUGLAS STEPHAN, Commissioner
APPROVED BY AGENCY: February 9, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.

STATEMENT OF EMERGENCY
401 KAR 42:070E

This emergency administrative regulation establishes requirements for the closure of underground storage tank systems. These requirements dovetail with revised cleanup requirements being adopted simultaneously under 401 KAR 42:080E. In order to allow facility owners and operators to take advantage of the revised cleanup requirements as soon as possible, it is necessary to promulgate this regulation as an emergency administrative regulation. An ordinary administrative regulation would not allow facility owners and operators to take advantage of the revised cleanup requirements in an expeditious manner. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Administrative Regulations Compiler on February 9, 1994.

BRERETON C. JONES, Governor
PHILLIP J. SHEPHERD, Secretary

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

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

RELATES TO: KRS 224.01, 224.10, 224.40, 224.43, 224.46, 224.60, 40 CFR Part 280 Subpart G, 40 CFR Part 281, 42 USC 6991 to 6991i [e]

STATUTORY AUTHORITY: KRS 224.10-100, 224.60-105, 224.60-137, 40 CFR Part 280 Subpart G[~~, 40 CFR Part 281, 42 USC 6991e~~]

EFFECTIVE: February 15, 1994

NECESSITY AND FUNCTION: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to develop and conduct programs which provide for the prevention, abatement, and control of contaminants which may threaten the environment. KRS 224.60-105(2) requires the cabinet to regulate underground storage tanks by requiring notification, minimum construction and performance standards, leak detection, recordkeeping, reporting releases, corrective actions, closure, financial responsibility, and other requirements to protect public health and the environment. KRS 224.60-105(3) requires the cabinet to establish a regulatory program which implements federal requirements for underground storage tanks and to promulgate administrative regulations for underground storage

tanks which shall be submitted for approval to the United States Environmental Protection Agency pursuant to federal regulations. This chapter identifies requirements for underground storage tanks. This administrative regulation establishes the requirements for release detection and recordkeeping for all UST systems.

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

Section 2. Incorporation by Reference. (1) The following documents are hereby incorporated by reference:

(a) "Underground Storage Tank System Closure Outline" (January 1994);

(b) "Notice of Intent to Permanently Close Underground Storage Tank(s) Form", DEP Form 5025 (January 1994); and

(c) "Closure Assessment Report Form", DEP Form 4058 (November 1990).

(2) The documents referenced in subsection (1) of this section are available for inspection and copying, subject to copyright law, at the Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601, (502)564-6716, from 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, excluding state holidays. [~~(2) The forms for the notice of intent to permanently close underground storage tanks and the closure assessment report are being incorporated by reference into this section. These forms became effective in November 1990, and are available for distribution and inspection from the Underground Storage Tank Program, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. The business hours of the division are from 8 a.m. to 4:30 p.m. Monday through Friday.~~]

PHILLIP J. SHEPHERD, Secretary
E. DOUGLAS STEPHAN, Commissioner
APPROVED BY AGENCY: February 9, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.

STATEMENT OF EMERGENCY
401 KAR 42:080E

This emergency administrative regulation establishes a classification scheme for petroleum underground storage tank systems and a listing of associated cleanup levels. The cleanup levels apply to benzene, toluene, ethylbenzene, and xylene released into the environment from tank systems containing gasoline, kerosene, jet fuel, or aviation fuel. In order to allow facility owners and operators to take advantage of the revised cleanup requirements as soon as possible, it is necessary to promulgate this regulation as an emergency administrative regulation. An ordinary administrative regulation would not allow facility owners and operators to take advantage of the revised requirements in an expeditious manner. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The proposed ordinary administrative regulation was filed with the Administrative Regulations Compiler on February 9, 1994.

BRERETON C. JONES, Governor
PHILLIP J. SHEPHERD, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department For Environmental Protection
Division Of Waste Management

401 KAR 42:080E. Classification of petroleum underground storage tank systems and listing of associated cleanup levels.

RELATES TO: KRS 224.01, 224.10, 224.40, 224.43, 224.46, 224.60, 40 CFR Part 280 Subparts F, G, Part 281, 42 USC 6991 to 6991i

STATUTORY AUTHORITY: KRS 224.10-100, 224.60-105, 224.60-137

EFFECTIVE: February 15, 1994

NECESSITY AND FUNCTION: KRS 224.60-105 requires the cabinet to promulgate administrative regulations on underground storage tanks to protect public health and the environment. The statute recognizes that the administrative regulations may distinguish between types, classes, and ages of underground storage tanks. KRS 224.60-137 requires the cabinet to adopt standards for corrective action for a release into the environment from a petroleum storage tank. The corrective action standards are to be protective of human health and the environment and based upon a study performed for the Petroleum Storage Tank Environmental Assurance Fund Commission, unless the cabinet states in detail why it did not accept a recommendation from the study. This administrative regulation complies with these requirements by establishing a classification scheme for petroleum underground storage tank systems and cleanup levels for benzene, toluene, ethylbenzene, and xylene released into the environment from tank systems containing gasoline, kerosene, jet fuel, or aviation fuel. The classification scheme and the cleanup levels are consistent with recommendations contained in the study performed for the Petroleum Storage Tank Environmental Assurance Fund Commission, except as specified in the Regulatory Impact Analysis for this administrative regulation.

Section 1. Scope and Applicability. (1) The document incorporated by reference in Section 2 of this administrative regulation sets forth a classification scheme for all petroleum underground storage tanks systems. The document also establishes cleanup levels for benzene, toluene, ethylbenzene, and xylene released into the environment from tank systems containing gasoline, kerosene, jet fuel, or aviation fuel. Specific cleanup levels for these petroleum constituents at a particular petroleum underground storage tank system are dependent upon the particular category into which the tank system is classified.

(2) The provisions of this administrative regulation shall apply to any "Notice of Intent to Permanently Close Underground Storage Tank(s) Form" (DEP Form 5025) received by the cabinet on or after April 18, 1994, and to those closure notices received prior to April 18, 1994 for which a request was submitted pursuant to 401 KAR 42:080E Section 1(2).

Section 2. Incorporation by Reference. (1) The following document is hereby incorporated by reference: "Petroleum Underground Storage Tank System Facility Classification Outline" (January 1994).

(2) The document referenced in subsection (1) of this section is available for inspection and copying, subject to copyright law, at the Division of Waste Management, 14 Reilly Road, Frankfort, Ky 40601, (502) 564-6716, from 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, excluding state holidays.

PHILLIP J. SHEPHERD, Secretary
E. DOUGLAS STEPHAN, Commissioner
APPROVED BY AGENCY: February 9, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.

STATEMENT OF EMERGENCY
902 KAR 100:019E

Emergency regulation 902 KAR 100:019E is necessary in order to provide confomity with federal regulation 10 CFR 20. In order to continue enforcement of compatible standards for protection against radiation, as required by the Commonwealth's Agreement with the U.S. Nuclear Regulatory Commission, the Cabinet for Human Resources is required to implement this administrative regulation. An ordinary administrative regulation will not suffice due to the effective

date required by the U.S. Nuclear Regulatory Commission. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed with the Regulations Compiler on or before January 15, 1994.

BRERETON C. JONES, Governor
FONTAINE BANKS, JR., Secretary

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

902 KAR 100:019E. Standards for protection against radiation.

RELATES TO: KRS 211.842 to 211.852, 211.990(4), 10 CFR 10.1001-20.1906, 20.2101-20.2204, 20.2206, Appendixes A, B to 20.1001-20.2401, 40 CFR 190, 49 CFR 100-180, 173.403(m),(w), 173.421-173.424

STATUTORY AUTHORITY: KRS 194.050, 211.090, 211.844, 10 CFR 10.1001-20.1906, 20.2101-20.2204, 20.2206, Appendixes A, B to 20.1001-20.2401, 40 CFR 190, 49 CFR 100-180, 49 CFR 173.403(m),(w), 173.421-173.424

EFFECTIVE: January 26, 1994

NECESSITY AND FUNCTION: KRS 211.844 authorizes the Cabinet for Human Resources to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation provides standards for the protection of the user and general public against radiation exposure and shall establish standards for protection against ionizing radiation resulting from activities conducted by persons issued licenses or registrations by the cabinet. This administrative regulation provides standards to control the receipt, possession, use, transfer, and disposal of sources of radiation by a person, licensee, or registrant so the total dose to an individual (including doses resulting from licensed and unlicensed radioactive material and radiation sources other than background radiation) shall not exceed the standards for protection against radiation prescribed in this administrative regulation. 902 KAR 100:020 and 902 KAR 100:025 are repealed due to the promulgation of new radiation standards by the U.S. Nuclear Regulatory Commission in 10 CFR 20.

Section 1. Radiation Protection Implementation. (1) This administrative regulation shall not limit actions required in order to protect against an immediate danger to public health and safety.

(2) This administrative regulation shall apply to a person licensed or registered by the cabinet to receive, possess, use, transfer, or dispose of sources of radiation.

(3) The limits in this administrative regulation shall not apply to doses due to background radiation, exposure of patients to radiation for the purpose of medical diagnosis or therapy, or voluntary participation in medical research programs.

Section 2. Radiation Protection Programs. A person, licensee, or registrant shall:

(1) Develop, document, and implement a radiation protection program commensurate with the scope and extent of their activities and sufficient to ensure compliance with the provisions of this administrative regulation.

(2) Use procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and doses to members of the public that shall be as low as reasonably achievable (ALARA) pursuant to 902 KAR 100:015, Section 2.

(3) Annually review the radiation protection program content and implementation.

Section 3. Occupational Dose Limits for Adults. (1) A person, licensee, or registrant shall control the occupational dose to individual adults, except for planned special exposures as described in Section 7 of this administrative regulation, to the following dose limits:

(a) An annual limit, which shall be the more limiting of the:

1. Total effective dose equivalent being equal to five (5) rems (0.05 sievert (Sv)); or

2. Sum of the deep-dose equivalent and the committed dose equivalent to an individual organ or tissue other than the lens of the eye being equal to fifty (50) rems (five-tenths (0.50) Sv).

(b) The annual limits to the lens of the eye, the skin, and the extremities shall be:

1. An eye dose equivalent of fifteen (15) rems (0.15 Sv); and

2. A shallow-dose equivalent of fifty (50) rems (five-tenths (0.50) Sv) to the skin or to each of the extremities.

(2) Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, shall be subtracted from the limits for planned special exposures that the individual may receive during the current year and during the individual's lifetime as described in Section 7(3)(a) and (b) of this administrative regulation.

(3) The assigned deep-dose equivalent and shallow-dose equivalent shall be for the part of the body receiving the highest exposure. If the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable, the deep-dose equivalent, eye dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits.

(4) Derived air concentration (DAC) and annual limit on intake (ALI) values are presented in Section 44 of this administrative regulation and shall be used to:

(a) Determine the individual's dose as required in Section 34 of this administrative regulation; and

(b) Demonstrate compliance with the occupational dose limits.

(5) In addition to the annual dose limits, the person, licensee, or registrant shall limit the soluble uranium intake by an individual to ten (10) milligrams in a week in consideration of chemical toxicity (see footnote 3 in Section 44 of this administrative regulation).

(6) A person, licensee, or registrant shall reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by a person as described in Section 32 of this administrative regulation.

Section 4. Compliance with Requirements for Summation of External and Internal Doses. (1) If a licensee or registrant is required to monitor by both Section 13(1) and (2) of this administrative regulation, the licensee or registrant shall demonstrate compliance with the dose limits by summing external and internal doses.

(2) If a licensee or registrant is required to monitor only by Section 13(1) or (2) of this administrative regulation, summation shall not be required to demonstrate compliance with the dose limits.

(3) A licensee or registrant may demonstrate compliance with the requirements for summation of external and internal doses by meeting one (1) of the conditions specified in subsection (5) of this section and the conditions in subsections (6) and (7) of this section.

(4) The dose equivalents for the lens of the eye, the skin, and the extremities shall not be included in the summation, but shall be subject to separate limits.

(5) If the only intake of radionuclides occurs by inhalation, the total effective dose equivalent limit shall not be exceeded if the sum of the deep-dose equivalent divided by the total effective dose equivalent limit, and one (1) of the following, does not exceed unity:

(a) Sum of the fractions of the inhalation ALI for each radionuclide;

(b) Total number of derived air concentration-hours (DAC-hours) for radionuclides divided by 2,000; or

(c) Sum of the calculated committed effective dose equivalents to significantly irradiated organs or tissues (T) calculated from bioassay data using appropriate biological models and expressed as a fraction of the annual limit.

(6) If the occupationally exposed individual also receives an intake of radionuclides by oral ingestion greater than ten (10) percent of the applicable oral ALI, the licensee or registrant shall account for this intake and include it in demonstrating compliance with the limits.

(7) A licensee or registrant shall evaluate and, to the extent practical, account for intakes through wounds or skin absorption. The intake through intact skin has been included in the calculation of DAC for hydrogen-3 and may not need to be further evaluated.

Section 5. Determination of External Dose from Airborne Radioactive Material. (1) If determining the dose from airborne radioactive material, a licensee or registrant shall include the contribution to the deep-dose equivalent, eye dose equivalent, and shallow-dose equivalent from external exposure to the radioactive cloud.

(2) If the airborne radioactive material includes radionuclides other than noble gases or the cloud of airborne radioactive material is not relatively uniform, airborne radioactivity measurements and DAC values shall not be used as the primary means to assess the deep-dose equivalent.

(3) The determination of the deep-dose equivalent to an individual shall be based upon measurements using instruments or individual monitoring devices.

Section 6. Determination of Internal Exposure. (1) For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, the licensee or registrant shall, if required by Section 13 of this administrative regulation, take suitable and timely measurements of:

(a) Concentrations of radioactive materials in the air in work areas;

(b) Quantities of radionuclides in the body;

(c) Quantities of radionuclides excreted from the body; or

(d) Combinations of these measurements.

(2) A licensee or registrant shall assume an individual inhales radioactive material at the airborne concentration in which the individual is present, unless respiratory protective equipment is used, as provided in Section 19 of this administrative regulation, or the assessment of intake is based on bioassays.

(3) If specific information on the physical and biochemical properties of the radionuclides taken into the body, or the behavior or material in an individual is known, a licensee or registrant may:

(a) Use the information to calculate the committed effective dose equivalent; and, if used, the licensee or registrant shall document the information in the individual's record;

(b) Upon prior approval by the cabinet, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material (for example, aerosol size distribution or density); and

(c) Separately assess the contribution of fractional intakes of Class D, W, or Y compounds of a radionuclide, as provided in Section 44 of this administrative regulation, to the committed effective dose equivalent.

(4) If a licensee or registrant chooses to assess intakes of Class Y material using the measurements provided in subsection (1)(b) or (c) of this section, the licensee or registrant may delay the recording and reporting of the assessments for periods up to seven (7) months, unless otherwise required by Sections 39 or 40 of this administrative regulation, in order to permit the licensee or registrant to make additional measurements basic to the assessments.

(5) If the identity and concentration of radionuclides in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours shall be the:

(a) Sum of the ratios of the concentration to the appropriate DAC value (e.g., D, W, Y) from Section 44 of this administrative regulation for radionuclides in the mixture; or

(b) Ratio of the total concentration for radionuclides in the mixture to the most restrictive DAC value for a radionuclide in the mixture.

(6) If the identity of radionuclides in a mixture is known, but the concentration of one (1) or more of the radionuclides in the mixture is not known, the DAC for the mixture shall be the most restrictive DAC of a radionuclide in the mixture.

(7) If a mixture of radionuclides in air exists, a licensee or registrant may disregard certain radionuclides in the mixture if the:

(a) Licensee or registrant uses the total activity of the mixture in demonstrating compliance with the dose limits in Section 3 of this administrative regulation and in complying with the monitoring requirements in Section 13(2) of this administrative regulation;

(b) Concentration of a radionuclide disregarded is less than ten (10) percent of its DAC; and

(c) Sum of these percentages for the radionuclides disregarded in the mixture does not exceed thirty (30) percent.

(8) In order to calculate the committed effective dose equivalent, a licensee or registrant may assume that the inhalation of one (1) ALI, or an exposure of 2,000 DAC-hours, results in a committed effective dose equivalent of five (5) rems (0.05 Sv) for radionuclides having their ALIs or DACs based on the committed effective dose equivalent.

(a) If the ALI, and the associated DAC, is determined by the nonstochastic organ dose limit of fifty (50) rems (five-tenths (0.50) Sv), the intake of radionuclides that result in a committed effective dose equivalent of five (5) rems (0.05 Sv) (the stochastic ALI) is listed in parentheses in Section 44 of this administrative regulation. A licensee or registrant may, as a simplifying assumption, use the stochastic ALIs to determine committed effective dose equivalent.

(b) If a licensee or registrant uses the stochastic ALIs, the licensee or registrant shall also demonstrate that the limit in Section 3(1)(a)2 of this administrative regulation shall be met.

Section 7. Planned Special Exposures. (1) A licensee or registrant may authorize an adult worker to receive doses in addition to, and accounted for separately from the doses received under, the limits specified in Section 3 of this administrative regulation provided each of the following conditions are satisfied:

(a) The licensee or registrant authorizes a planned special exposure only in an exceptional situation if alternatives that may avoid the higher exposure are unavailable or impractical;

(b) The licensee or registrant, and employer if the employer is not the licensee or registrant, specifically authorize the planned special exposure, in writing, before the exposure occurs;

(c) Before a planned special exposure, the licensee or registrant ensures that the individuals involved are:

1. Informed of the purpose of the planned operation;

2. Informed of the estimated doses and associated potential risks and specific radiation levels or other conditions that may be involved in performing the task; and

3. Instructed in the measures to be taken to keep the dose ALARA considering other risks that may be present.

(2) Prior to permitting an individual to participate in a planned special exposure, a licensee or registrant shall ascertain prior doses as required by Section 32(2) of this administrative regulation during the lifetime of the individual for each individual involved.

(3) Subject to Section 3(2) of this administrative regulation, a licensee or registrant shall not authorize a planned special exposure that shall cause an individual to receive a dose from planned special exposures and doses in excess of the limits to exceed:

(a) The numerical values of the dose limits in Section 3(1) of this administrative regulation in a year; and

(b) Five (5) times the annual dose limits in Section 3(1) of this administrative regulation during the individual's lifetime.

(4) A licensee or registrant shall:

(a) Maintain records of the conduct of a planned special exposure pursuant to Section 33 of this administrative regulation; and

(b) Submit a written report pursuant to Section 41 of this administrative regulation.

(5) A licensee or registrant shall record the best estimate of the dose resulting from the planned special exposure in the individual's record and inform the individual, in writing, of the dose within thirty (30) days from the date of the planned special exposure. The dose from planned special exposures shall not be considered in controlling future occupational dose of the individual by Section 3(1) of this administrative regulation, but shall be included in evaluations required by Section 7(2) and (3) of this administrative regulation.

Section 8. Occupational Dose Limits for Minors. The annual occupational dose limits for minors shall be ten (10) percent of the annual dose limits specified for adult workers in Section 3 of this administrative regulation.

Section 9. Dose to an Embryo or Fetus. (1) A licensee or registrant shall ensure that the dose to an embryo or fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed five-tenths (0.5) rem (5 mSv).

(2) A licensee or registrant shall make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman to satisfy the limit in subsection (1) of this section.

(3) The dose to an embryo or fetus shall be taken as the sum of:

(a) The deep-dose equivalent to the declared pregnant woman; and

(b) The dose to the embryo or fetus from radionuclides in the embryo or fetus and radionuclides in the declared pregnant woman.

(4) If the dose to the embryo or fetus is found to have exceeded five-tenths (0.5) rem (five (5) mSv), or is within 0.05 rem (five-tenths (0.5) mSv) of this dose, by the time the woman declares the pregnancy to a licensee or registrant, the licensee or registrant shall be in compliance with subsection (1) of this section if the additional dose to the embryo or fetus does not exceed 0.05 rem (five-tenths (0.5) mSv) during the remainder of the pregnancy.

Section 10. Radiation Dose Limits for Individual Members of the Public. (1) A licensee or registrant shall conduct operations to ensure:

(a) The total effective dose equivalent to individual members of the public from the licensed, registered, and other operations shall not exceed one-tenth (0.1) rem (one (1) mSv) in a year, exclusive of the dose contribution from the licensee's or registrant's disposal of radioactive material into sanitary sewerage under 902 KAR 100:021, Section 3; and

(b) The dose in an unrestricted area from external sources shall not exceed 0.002 rem (0.02 mSv) in one (1) hour.

(2) If a licensee or registrant permits members of the public to have access to controlled areas, the limits for members of the public shall continue to apply to those individuals.

(3) A licensee or registrant applicant for a license or registration may apply for prior authorization to operate up to an annual dose limit for an individual member of the public of five-tenths (0.5) rem (five (5) mSv). The application shall include the following information:

(a) Demonstration of the need for, and the expected duration of, operations in excess of the limit in subsection (1) of this section;

(b) A licensee's or registrant's program to assess and control dose within the five-tenths (0.5) rem (five (5) mSv) annual limit; and

(c) The procedures to be followed to maintain the dose ALARA.

(4) In addition to the provisions of this administrative regulation, a person, licensee, or registrant subject to the provisions of U.S. Environmental Protection Agency's applicable environmental radiation standards in 40 CFR 190 shall comply with those standards.

(5) The cabinet may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.

Section 11. Compliance with Dose Limits for Individual Members of the Public. (1) To demonstrate compliance with the dose limits for individual members of the public in Section 10 of this administrative regulation, a licensee or registrant shall make or cause to be made, as appropriate, surveys of:

(a) Radiation levels in unrestricted and controlled areas; and

(b) Radioactive materials in effluents released to unrestricted and controlled areas.

(2) A licensee or registrant shall show compliance with the annual dose limit in Section 10 of this administrative regulation by:

(a) Demonstrating by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed operation shall not exceed the annual dose limit; or

(b) Demonstrating that:

1. The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the restricted area shall not exceed the values specified in Section 44(9), Table II, of this administrative regulation; and

2. If an individual were continually present in an unrestricted area, the dose from external sources shall not exceed 0.002 rem (0.02 mSv) in an hour and 0.05 rem (five-tenths (0.5) mSv) in a year.

(3) Upon approval from the cabinet, a licensee or registrant may adjust the effluent concentration values in Section 44(9), Table II, of this administrative regulation, for members of the public, to take into account the actual physical and chemical characteristics of the effluents (for example, aerosol size distribution, solubility, density, radioactive decay equilibrium, or chemical form).

Section 12. Surveys and Monitoring. (1) A licensee or registrant shall make or cause to be made, surveys that are:

(a) Necessary for the licensee or registrant to comply with the provisions in this administrative regulation; and

(b) Reasonable under the circumstances to evaluate:

1. The extent of radiation levels;

2. Concentrations or quantities of radioactive material; and

3. The potential radiological hazards that may be present.

(2) A licensee or registrant shall ensure that instruments and equipment used for quantitative radiation measurements (for example, dose rate and effluent monitoring) are calibrated periodically for the radiation measured.

(3) Personnel dosimeters, except direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to the extremities, that require processing to determine the radiation doses used by licensees or registrants to comply with Section 3 of this administrative regulation, other applicable provisions of 902 KAR Chapter 100, or conditions specified in a license shall be processed and evaluated by a dosimetry processor:

(a) Holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology; and

(b) Approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored.

Section 13. Conditions Requiring Individual Monitoring of External and Internal Occupational Dose. (1) A licensee or registrant shall monitor exposures to radiation and radioactive material at levels sufficient to demonstrate compliance with the occupational dose limits of this administrative regulation. As a minimum, the licensee or registrant shall monitor occupational exposure to radiation, and shall supply and require the use of individual monitoring devices by:

(a) Adults likely to receive, in one (1) year from sources external to the body, a dose in excess of ten (10) percent of the limits in

Section 3(1) of this administrative regulation;

(b) Minors and declared pregnant women likely to receive, in one (1) year from sources external to the body, a dose in excess of ten (10) percent of the applicable limits in Sections 8 or 9 of this administrative regulation; and

(c) Individuals entering a high or very high radiation area.

(2) A licensee or registrant shall monitor, pursuant to Section 6 of this administrative regulation, the occupational intake of radioactive material by, and assess the committed effective dose equivalent to:

(a) Adults likely to receive, in one (1) year, an intake in excess of ten (10) percent of the applicable ALIs in Section 44(9), Table I, Columns 1 and 2, of this administrative regulation; and

(b) Minors and declared pregnant women likely to receive, in one (1) year, a committed effective dose equivalent in excess of 0.05 rem (five-tenths (0.5) mSv).

Section 14. Control of Access to High Radiation Areas. (1) A licensee or registrant shall ensure that each entrance or access point to a high radiation area shall have at least one (1) of the following features:

(a) A control device that, upon entry into the area, shall cause the level of radiation to be reduced below the level an individual may receive a deep-dose equivalent of one-tenth (0.1) rem (one (1) mSv) in one (1) hour at thirty (30) centimeters from the radiation source or from a surface that the radiation penetrates;

(b) A control device that shall energize a conspicuous visible or audible alarm signal so the individual entering the high radiation area and the supervisor of the activity shall be made aware of the entry; or

(c) Entryways that shall be locked, except during periods that access to the areas is required, with positive control over each individual entry.

(2) In place of the controls required by subsection (1) of this section for a high radiation area, a licensee or registrant may substitute continuous direct or electronic surveillance that shall be capable of preventing unauthorized entry.

(3) A licensee or registrant may apply to the cabinet for approval of alternative methods for controlling access to high radiation areas.

(4) A licensee or registrant shall establish the controls required by subsections (1) and (3) of this section that shall not prevent individuals from leaving a high radiation area.

(5) Control shall not be required for an entrance or access point to a room or other area that is a high radiation area solely because of the presence of radioactive materials prepared for transport and packaged and labeled in accordance with 49 CFR 100-180 if the packages will not remain in the area longer than three (3) days, and the dose rate at one (1) meter from the external surface of a package will not exceed 0.01 rem (one-tenth (0.1) mSv) per hour.

(6) Control of entrance or access to rooms or other areas in hospitals shall not be required solely because of the presence of patients containing radioactive material if personnel are in attendance who:

(a) Take the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the limits established in this administrative regulation; and

(b) Operate within the ALARA provisions of the licensee's or registrant's radiation protection program.

(7) A registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a high radiation area as described in this section if the registrant has met the specific requirements for access and control specified in 902 KAR 100:100, 902 KAR 100:115, and 902 KAR 100:155.

Section 15. Control of Access to Very High Radiation Areas. (1) In addition to the provisions in Section 14 of this administrative regulation, a licensee or registrant shall institute additional measures to ensure that an individual shall not be able to gain unauthorized or inadvertent access to areas in which radiation levels may be encountered at 500 rads (five (5) grays) or more in one (1) hour at one (1) meter from a radiation source or a surface through which the radiation penetrates.

(2) A registrant shall not be required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a very high radiation area as described in subsection (1) of this section if the registrant has met the specific requirements for access and control specified in 902 KAR 100:100, 902 KAR 100:115, and 902 KAR 100:155.

Section 16. Control of Access to Very High Radiation Areas for Irradiators. (1) This section shall apply to radiation from sources of radiation used in sealed sources in nonself-shielded irradiators.

(2) This section shall not apply to:

(a) Sources of radiation used in teletherapy, radiography, or completely self-shielded irradiators in which the source:

1. Is both stored and operated within the same shielding radiation barrier; and

2. In the designed configuration of the irradiator, is always physically inaccessible to an individual and cannot create high levels of radiation in an area that is accessible to an individual.

(b) Sources from which the radiation shall be incidental to some other use or to nuclear reactor-generated radiation.

(3) Areas where radiation levels may exist in excess of 500 rads (five (5) grays) in one (1) hour at one (1) meter from a source of radiation used to irradiate materials shall meet the following requirements.

(a) An entrance or access point shall be equipped with entry control devices which:

1. Function automatically to prevent an individual from inadvertently entering the area if very high radiation levels exist;

2. Permit deliberate entry into the area only after a control device is actuated that causes the radiation level within the area, from the source of radiation, to be reduced below a level where it is possible for an individual to receive a deep-dose equivalent in excess of one-tenth (0.1) rem (one (1) mSv) in one (1) hour; and

3. Prevent operation of the source of radiation if the source would produce radiation levels in the area that may result in a deep-dose equivalent to an individual in excess of one-tenth (0.1) rem (one (1) mSv) in one (1) hour.

(b) Additional control devices shall be provided so that, upon failure of the entry control devices to function as required by subsection (3)(a) of this section:

1. The radiation level within the area, from the source of radiation, is reduced below a level where it is possible for an individual to receive a deep-dose equivalent in excess of one-tenth (0.1) rem (one (1) mSv) in one (1) hour; and

2. Conspicuous visible and audible alarm signals are generated to make an individual attempting to enter the area aware of the hazard, and at least one (1) other authorized individual who is physically present, familiar with the activity, and prepared to render or summon assistance, aware of the failure of the entry control devices;

(c) A licensee or registrant shall provide control devices so that, upon failure or removal of physical radiation barriers other than the source's shielded storage container:

1. The radiation level from the source of radiation shall be reduced below a level where it is possible for an individual to receive a deep-dose equivalent in excess of one-tenth (0.1) rem (one (1) mSv) in one (1) hour; and

2. Conspicuous visible and audible alarm signals shall be generated to make potentially affected individuals aware of the hazard, and a licensee, registrant, or at least one (1) other individual who is familiar with the activity and prepared to render or summon assistance, aware of the failure or removal of the physical barrier;

(d) If the shield for the stored source is a liquid, the licensee or registrant shall provide means to:

1. Monitor the integrity of the shield; and

2. Automatically signal loss of adequate shielding;

(e) Physical radiation barriers that comprise permanent structural components, such as walls, that have no credible probability of failure or removal in ordinary circumstances need not meet the requirements of paragraphs (c) and (d) of this subsection;

(f) An area shall be equipped with devices that automatically generate conspicuous visible and audible alarm signals:

1. To alert personnel in the area before the source can be put into operation;

2. In sufficient time for an individual in the area to operate a clearly identified control device, which is installed in the area and can prevent the source from being put into operation;

(g) An area shall be controlled by use of administrative procedures and devices as are necessary to ensure that the area is cleared of personnel prior to use of the source;

(h) An area shall be checked by a radiation measurement to ensure that, prior to the first individual's entry into the area after use of the source of radiation, the radiation level from the source of radiation in the area is below a level where it is possible for an individual to receive a deep-dose equivalent in excess of one-tenth (0.1) rem (one (1) mSv) in one (1) hour;

(i) The entry control devices required in paragraph (a) of this subsection shall have been tested for proper functioning as follows:

1. Daily prior to initial operation with the source of radiation, unless operations were continued uninterrupted from a previous day;

2. Prior to resumption of operation of the source of radiation after an unintended interruption; and

3. By adherence to a submitted schedule for periodic tests of the entry control and warning systems.

(j) A licensee or registrant shall not conduct operations if control devices are not functioning properly, other than those necessary to place the source of radiation in safe condition or to effect repairs on controls;

(k) Entry and exit portals used in transporting materials to and from the irradiation area, and not intended for use by individuals, shall be controlled by devices and administrative procedures as are necessary to physically protect and warn against inadvertent entry by an individual through these portals. Exit portals for processed materials shall be equipped to detect and signal the presence of loose radiation sources carried toward an exit to automatically prevent loose radiation sources from being carried out of the area.

(4)(a) Persons holding licenses or registrations, or applicants for licenses or registrations, for radiation sources may apply to the cabinet for approval of the use of alternative safety measures if they:

1. Are governed by the provisions of subsection (3) of this section; and

2. May be used in a variety of positions or in locations, such as open fields or forests, that make it impracticable to comply with provisions of subsection (3) of this section (for example, those for the automatic control of radiation levels).

(b) Alternative safety measures shall provide a degree of personnel protection equivalent to those specified in subsection (3) of this section.

(c) At least one (1) of the alternative measures shall include an entry-preventing interlock control, based on a measurement of the radiation, that ensures the absence of high radiation levels before an individual may gain access to the area in which sources of radiation are used.

(5) Entry control devices required by subsections (3) and (4) of this section shall be established in a way that an individual will not be prevented from leaving the area.

Section 17. Use of Process or Other Engineering Controls. The licensee or registrant shall use, to the extent practicable, process or other engineering controls (for example, containment or ventilation) to control the concentrations of radioactive material in air.

Section 18. Use of Other Controls. If it is not practicable to apply process or other engineering controls to control the concentrations of radioactive material in air to values below those that define an airborne radioactivity area, a licensee or registrant shall, consistent with maintaining the total effective dose equivalent ALARA, increase monitoring and limit intakes by one (1) or more of the following means:

(1) Control of access;

(2) Limitation of exposure times;

(3) Use of respiratory protection equipment; or

(4) Other controls approved by the cabinet.

Section 19. Use of Individual Respiratory Protection Equipment. (1) If a licensee or registrant uses respiratory protection equipment to limit intakes pursuant to Section 18 of this administrative regulation, the licensee or registrant shall use only respiratory protection equipment that shall be tested and certified or shall have had certification extended by the National Institute for Occupational Safety and Health/Mine Safety and Health Administration (NIOSH/MSHA).

(a) If a licensee or registrant wishes to use equipment that has not been tested or certified by NIOSH/MSHA, has not had certification extended by NIOSH/MSHA, or for which there exists no schedule for testing or certification, the licensee shall submit:

1. An application for authorized use of that equipment, including a demonstration by testing; or

2. A demonstration on the basis of reliable test information that the material and performance characteristics of the equipment shall be capable of providing the proposed degree of protection under anticipated conditions of use;

(b) A licensee or registrant shall implement and maintain a respiratory protection program that shall include:

1. Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate exposures;

2. Surveys and bioassays, as appropriate, to evaluate actual intakes;

3. Testing of respirators for operability immediately prior to each use;

4. Written procedures regarding:

a. Selection, fitting, issuance, maintenance, and testing of respirators, including testing for operability immediately prior to use;

b. Supervision and training of personnel;

c. Monitoring, including air sampling and bioassays; and

d. Recordkeeping; and

5. Determination by a physician prior to initial fitting of respirators, and subsequently at least every twelve (12) months, that the individual user shall be physically able to use the respiratory protection equipment;

(c) A licensee or registrant shall issue a written policy statement on respirator usage covering the:

1. Use of process or other engineering controls, instead of respirators;

2. Routine, nonroutine, and emergency use of respirators; and

3. Periods of respirator use and relief from respirator use;

(d) A licensee or registrant shall advise a respirator user that the user may leave the area for relief from respirator use in the event of:

1. Equipment malfunction;

2. Physical or psychological distress;

3. Procedural or communication failure;

4. Significant deterioration of operating conditions; or

5. Other conditions that may require relief; and

(e) A licensee or registrant shall:

1. Use equipment within limitations for type and mode of use; and

2. If needed, provide proper visual, communication, and other special capabilities such as adequate skin protection.

(2) In estimating exposure of individuals to airborne radioactive materials, a licensee or registrant may make allowance for respiratory protection equipment used to limit intakes under Section 18 of this administrative regulation, if the following conditions, in addition to those in subsection (1) of this section, are satisfied:

(a) The licensee or registrant selects respiratory protection equipment that provides a protection factor greater than the multiple by which peak concentrations of airborne radioactive materials in the working area are expected to exceed the values specified in Section 44(9), Table I, Column 3, of this administrative regulation.

1. If the selection of a respiratory protection device with a protection factor greater than the peak concentration is inconsistent with the goal specified in Section 18 of this administrative regulation of keeping the total effective dose equivalent ALARA, the licensee or registrant may select respiratory protection equipment with a lower protection factor only if the selection would result in keeping the total effective dose equivalent ALARA;

2. The concentration of radioactive material in air that is inhaled if respirators are worn may be initially estimated by dividing the average concentration in air during each period of uninterrupted use by the protection factor;

3. If the exposure is later found to be greater than estimated, the corrected value shall be used; and

4. If the exposure is later found to be less than estimated, the corrected value may be used; and

(b) The licensee or registrant shall obtain authorization from the cabinet before assigning respiratory protection factors in excess of those specified in Section 43 of this administrative regulation. The cabinet may authorize the licensee or registrant to use higher protection factors on receipt of an application that:

1. Describes the situation for which a need exists for higher protection factors; and

2. Demonstrates the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

(3) A licensee or registrant shall use as emergency devices only respiratory protection equipment that has been specifically certified or had certification extended for emergency use by NIOSH/MSHA.

(4) A licensee or registrant shall notify, in writing, the Manager of the Radiation Control Branch at least thirty (30) days before the date that respiratory protection equipment will first be used under the provisions of either subsection (1) or (2) of this section.

Section 20. Further Restrictions on the Use of Respiratory Protection Equipment. The cabinet may impose restrictions in addition to those in Sections 18, 19, and 43 of this administrative regulation to:

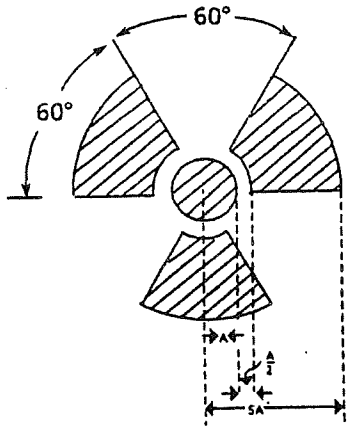
(1) Ensure that the respiratory protection program of the licensee shall be adequate to limit exposures of individuals to airborne radioactive materials; and

(2) Limit the extent to which a licensee shall use respiratory protection equipment instead of process or other engineering controls.

Section 21. Security of Sources of Radiation. A licensee or registrant shall secure from unauthorized removal or access licensed materials stored in controlled or unrestricted areas.

Section 22. Control of Sources of Radiation Not in Storage. A licensee or registrant shall control and maintain constant surveillance of licensed or registered material in a controlled or unrestricted area and not in storage.

Section 23. Caution Signs and Standard Radiation Symbol. (1) Unless otherwise authorized by the cabinet, the symbol prescribed by this section shall use the colors magenta, purple, or black on yellow background. The symbol prescribed by this section shall be the three (3) bladed design:



RADIATION SYMBOL

(a) Cross-hatched area shall be magenta, purple, or black; and

(b) The background shall be yellow.

(2) Exception to color requirements for standard radiation symbol. A licensee or registrant may label sources, source holders, or device components containing sources of radiation subjected to high temperatures with conspicuously etched or stamped radiation caution symbols and without a color requirement.

(3) Additional information on signs and labels. In addition to the contents of signs and labels prescribed in this section, a licensee or registrant may provide, on or near the required signs and labels, additional information, as appropriate, to make individuals aware of potential radiation exposures and to minimize the exposures.

Section 24. Posting Requirements. (1) Posting of radiation areas. A licensee or registrant shall post a radiation area with a conspicuous sign or signs bearing the radiation symbol and the words: "CAUTION, RADIATION AREA".

(2) Posting of high radiation areas. A licensee or registrant shall post a high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words: "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA".

(3) Posting of very high radiation areas. A licensee or registrant shall post a very high radiation area with a conspicuous sign or signs bearing the radiation symbol and words: "GRAVE DANGER, VERY HIGH RADIATION AREA".

(4) Posting of airborne radioactivity areas. A licensee or registrant shall post an airborne radioactivity area with a conspicuous sign or signs bearing the radiation symbol and the words: "CAUTION, AIRBORNE RADIOACTIVITY AREA" or "DANGER, AIRBORNE RADIOACTIVITY AREA".

(5) Posting of areas or rooms in which licensed or registered material shall be used or stored. A licensee or registrant shall post an area or room in which there is used or stored an amount of licensed or registered material exceeding ten (10) times the quantity of the material specified in 902 KAR 100:030, Section 2, with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL(S)" or "DANGER, RADIOACTIVE MATERIAL(S)".

Section 25. Exceptions to Posting Requirements. (1) A licensee or registrant shall not be required to post caution signs in areas or rooms containing sources of radiation for periods of less than eight (8) hours, if the following conditions are met:

(a) The sources of radiation are constantly attended during these periods by an individual who takes the precautions necessary to prevent the exposure of individuals to radiation or radioactive materials in excess of the limits established in this administrative regulation; and

(b) The area or room are subject to the licensee's or registrant's control.

(2) Rooms or other areas in hospitals occupied by patients shall not be required to be posted with caution signs pursuant to Section 24 of this administrative regulation if:

(a) The patient is being treated with sealed sources, has been treated with unsealed radioactive material in quantities less than thirty (30) millicuries or 110 megabecquerels (MBq), or the measured dose rate at one (1) meter from the patient is less than 0.005 rem (0.05 mSv) per hour; and

(b) There are personnel in attendance to take the necessary precautions to:

1. Prevent the exposure of individuals to radiation or radioactive material in excess of the limits established in this administrative regulation; and

2. Operate within the ALARA provisions of the licensee's radiation protection program.

(3) A room or area is not required to be posted with a caution sign because of the presence of a sealed source if the radiation level at thirty (30) centimeters from the surface of the source container or housing does not exceed 0.005 rem (0.05 mSv) per hour.

Section 26. Labeling Containers. (1) A licensee or registrant shall ensure a container of licensed or registered material bears a durable, clearly visible label with the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL".

(a) The label shall provide the following information:

1. Radionuclide present;

2. An estimate of the quantity of radioactivity;

3. Date the activity is estimated;

4. Radiation levels, kinds of materials; and

5. Mass enrichment.

(b) Information in this subsection shall permit individuals handling or using the containers, or working in the vicinity of the containers, to take precautions to avoid or minimize exposures.

(2) A licensee or registrant shall, prior to removal or disposal of empty uncontaminated containers to unrestricted areas:

1. Remove or deface the radioactive material label; or

2. Clearly indicate the container no longer contains radioactive materials.

Section 27. Exemptions to Labeling Requirements. (1) A licensee or registrant shall not be required to label:

(a) Containers holding licensed or registered material in quantities less than the quantities listed in 902 KAR 100:030, Section 2;

(b) Containers holding licensed or registered material in concentrations less than those specified in Section 44(9), Table III, of this administrative regulation;

(c) Containers attended by an individual who takes precautions necessary to prevent the exposure of individuals in excess of the limits established by this administrative regulation;

(d) Containers if they are in transport and packaged and labeled in accordance with 49 CFR Parts 100-180; or

(e) Containers that are accessible only to individuals authorized to handle or use them, or to work in the vicinity of the containers, if the contents are identified to these individuals by a readily available written record (for example, containers in locations that include water-filled canals, storage vaults, or hot cells). The record shall be retained as long as the containers are in use for the purpose indicated on the record; or

(f) Installed manufacturing or process equipment, such as chemical process equipment, piping, and tanks;

(2) Labeling of packages containing radioactive materials shall be required by the U.S. Department of Transportation (DOT) if the amount and type of radioactive material exceeds the limits for an excepted quantity or article pursuant to 49 CFR 173.403(m) and (w) and 173.421-173.424.

Section 28. Procedures for Receiving and Opening Packages. (1) A licensee or registrant who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity pursuant to 902 KAR 100:010 shall make arrangements to receive:

(a) The package if the carrier offers it for delivery; or

(b) Notification of the arrival of the package at the carrier's terminal and take possession of the package expeditiously.

(2) A licensee or registrant shall monitor the external surfaces of a package known to contain radioactive material for radioactive contamination and radiation levels, if the package:

(a) Is labeled as containing radioactive material; or

(b) Has evidence of potential contamination such as packages that are crushed, wet, or damaged.

(3) A licensee or registrant shall perform the monitoring required by subsection (2) of this section as soon as practicable after receipt of the package, but not later than:

(a) Three (3) hours after the package is received at the licensee's facility if received during the licensee's or registrant's normal working hours; or

(b) Three (3) hours from the beginning of the next working day if received after working hours.

(4) A licensee or registrant shall immediately notify the final delivery carrier and, by telephone, telegram, mailgram, or facsimile, the Manager of the Radiation Control Branch if:

(a) Removable radioactive surface contamination exceeds the limits of 902 KAR 100:070, Section 14; or

(b) External radiation levels exceed the limits of 902 KAR 100:070, Section 14.

(5) A licensee or registrant shall:

(a) Establish, maintain, and retain written procedures for safely opening packages in which radioactive material is received; and

(b) Ensure that the procedures are followed and due consideration is given to special instructions for the type of package being opened.

(6) A licensee or registrant transferring special form sources in licensee or registrant owned or operated vehicles to and from a work site shall be exempt from the contamination monitoring requirements of subsection (2) of this section, but shall not be exempt from the survey requirement for measuring radiation levels that are required to ensure the source shall remain properly lodged in its shield.

Section 29. General Provisions for Records. (1) A licensee or registrant shall use the units curie, rad, and rem, including multiples and subdivisions, and shall clearly indicate the units of quantities on records required by this administrative regulation.

(2) A licensee or registrant shall make a clear distinction among the quantities entered on the records required by this administrative regulation, such as:

(a) Total effective dose equivalent;

(b) Shallow-dose equivalent;

(c) Eye dose equivalent;

(d) Deep-dose equivalent; and

(e) Committed effective dose equivalent.

Section 30. Records of Radiation Protection Programs. (1) A licensee or registrant shall maintain records of the radiation protection program, including:

(a) The provisions of the program; and

(b) Audits and other reviews of program content and implementation.

(2) A licensee or registrant shall retain records required by subsection (1)(a) of this section until the cabinet terminates each pertinent license requiring the record.

(3) A licensee or registrant shall retain records required by subsection (1)(b) of this section for three (3) years after the record is

made.

Section 31. Records of Surveys. (1) A licensee or registrant shall:

(a) Maintain records showing the results of surveys and calibrations required by Sections 12 and 28(2) of this administrative regulation; and

(b) Retain records for three (3) years after the record is made.

(2) A licensee or registrant shall retain the following records until the cabinet terminates the pertinent license or registration requiring the record:

(a) Results of surveys to determine the dose from external sources of radiation and used, in the absence of or in combination with individual monitoring data, in the assessment of individual dose equivalents;

(b) Results of measurements and calculations used to determine individual intakes of radioactive material and used in the assessment of internal dose;

(c) Results of air sampling, surveys, and bioassays required pursuant to Section 19(1)(c)1 and 2 of this administrative regulation; and

(d) Results of measurements and calculations used to evaluate the release of radioactive effluents to the environment.

Section 32. Determination of Prior Occupational Dose. (1) For an individual who may enter a licensee's or registrant's restricted or controlled area and may likely receive, in a year, an occupational dose requiring monitoring under Section 13 of this administrative regulation, the licensee or registrant shall:

(a) Determine the occupational radiation dose received during the current year; and

(b) Attempt to obtain the records of lifetime cumulative occupational radiation dose.

(2) Prior to permitting an individual to participate in a planned special exposure, a licensee or registrant shall determine:

(a) The internal and external doses from previous planned special exposures; and

(b) Doses in excess of the limits, including doses received during accidents and emergencies, received during the lifetime of the individual.

(3) In complying with the requirements of subsection (1) of this section, a licensee or registrant may:

(a) Accept, as a record of the occupational dose the individual received during the current year, a written signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and amount of an occupational dose the individual may have received during the current year.

(b) Accept, as the record of lifetime cumulative radiation dose, an up-to-date NRC Form 4, "Cumulative Occupational Exposure History," or equivalent, signed by the individual and counter-signed by an:

1. Appropriate official of the most recent employer for work involving radiation exposure; or

2. The individual's current employer if the individual is not employed by the licensee or registrant.

(c) Obtain reports of the individual's dose equivalent from the most recent employer for work involving radiation exposure, or the individual's current employer if the individual is not employed by the licensee or registrant, by telephone, telegram, electronic media, or letter. If the authenticity of the transmitted report cannot be established, a licensee or registrant shall request a written verification of the dose data.

(4) A licensee or registrant shall record the exposure history, as required by subsection (1) of this section, on NRC Form 4, or other clear and legible record, of the information required on that form.

(a) The form or record shall:

1. Show each period the individual received occupational exposure to radiation or radioactive material; and

2. Be signed by the individual who received the exposure;

(b) For each period a licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report in preparing NRC Form 4; and

(c) For a period in which a licensee or registrant does not obtain a report, the licensee shall place a notation on NRC Form 4 indicating the periods of time for which data are not available.

(5) If a licensee is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the licensee or registrant shall assume:

(a) In establishing administrative controls under Section 3(6) of this administrative regulation for the current year, that the allowable dose limit for the individual is reduced by 1.25 rems (twelve and five-tenths (12.5) mSv) for each quarter for which records were unavailable and the individual was engaged in activities that may have resulted in occupational radiation exposure; and

(b) That the individual is not available for planned special exposures.

(6) A licensee or registrant shall:

1. Retain the records on NRC Form 4, or equivalent, until the cabinet terminates the pertinent license or registration requiring this record; and

2. Retain records used in preparing NRC Form 4 for three (3) years after the record is made.

Section 33. Records of Planned Special Exposures. (1) For each use of the provisions of Section 7 of this administrative regulation for planned special exposures, a licensee or registrant shall maintain records that includes:

(a) The name of the management official who authorized the planned special exposure; and

(b) A copy of the signed authorization; and

(c) Description of:

1. The exceptional circumstances requiring the use of a planned special exposure;

2. What actions were necessary;

3. Why the actions were necessary;

4. How doses were maintained ALARA;

5. What individual and collective doses were expected to result; and

6. The doses actually received in the planned special exposure.

(2) A licensee or registrant shall retain the records until the cabinet terminates the pertinent license or registration requiring these records.

Section 34. Records of Individual Monitoring Results. (1) A licensee or registrant shall maintain records of doses received:

(a) By individuals for whom monitoring was required by Section 13 of this administrative regulation; and

(b) During planned special exposures, accidents, and emergency conditions.

(2) The recordkeeping requirements shall include, if applicable:

(a) Deep-dose equivalent to the whole body;

(b) Eye dose equivalent;

(c) Shallow-dose equivalent to the skin and extremities;

(d) Estimated intake or body burden of radionuclides;

(e) Committed effective dose equivalent assigned to the intake or body burden of radionuclides;

(f) Specific information used to calculate the committed effective dose equivalent under Section 6(3) of this administrative regulation;

(g) Total effective dose equivalent, if required by Section 4 of this administrative regulation; and

(h) Total of the deep-dose equivalent and the committed dose to the organ receiving the highest total dose.

(3) A licensee or registrant shall make entries of the records specified in subsection (1) of this section at least annually.

(4) A licensee or registrant shall maintain the records specified in

subsection (1) of this section on NRC Form 5, "Occupational Exposure Record for a Monitoring Period," in accordance with the instructions for NRC Form 5, or in clear and legible records containing the information required by NRC Form 5.

(5) The records required under this section shall be protected from public disclosure because of their personal privacy nature.

(6) A licensee or registrant shall maintain the:

(a) Records of dose to an embryo or fetus with the records of dose to the declared pregnant woman; and

(b) Declaration of pregnancy on file, but may be maintained separately from the dose records.

(7) A licensee or registrant shall retain each required form or record until the cabinet terminates the pertinent license or registration requiring the record.

(8) Assessments of dose equivalent and records made using units in effect before a licensee's or registrant's adoption of this administrative regulation need not to be changed.

Section 35. Records of Dose to Individual Members of the Public. (1) A licensee or registrant shall maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public.

(2) A licensee or registrant shall retain the records required by subsection (1) of this section until the cabinet terminates the pertinent license or registration requiring the record.

Section 36. Records of Testing Entry Control Devices for Very High Radiation Areas. (1) A licensee or registrant shall maintain records of tests made under Section 16(4)(i) of this administrative regulation on entry control devices for very high radiation areas. These records shall include the date, time, and results of each test of function.

(2) A licensee or registrant shall retain the records required by subsection (1) of this section for three (3) years after the record is made.

Section 37. Form of Records. (1) Records required by this administrative regulation shall be legible throughout the specified retention period.

(2) The record shall be:

1. The original;

2. A reproduced copy; or

3. A microform if the copy or microform is authenticated by authorized personnel and the microform is capable of producing a clear copy throughout the required retention period.

(3) The record may be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period.

(4) Records such as letters, drawings, and specifications, shall include pertinent information such as stamps, initials, and signatures.

(5) A licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.

Section 38. Reports of Theft or Loss of Licensed or Registered Sources of Radiation. (1) Telephone reports.

(a) A licensee or registrant shall report by telephone as follows:

1. Immediately after its occurrence becomes known to the licensee or registrant, lost, stolen, or missing licensed or registered material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in 902 KAR 100:030, Section 2, under circumstances where it appears to the licensee or registrant that an exposure may result to persons in unrestricted areas; or

2. Within thirty (30) days after the occurrence of lost, stolen, or missing licensed or registered material becomes known to the licensee or registrant, licensed or registered material in a quantity greater than ten (10) times the quantity pursuant to 902 KAR 100:030, Section 2, still missing at this time.

(b) Reports shall be made to the cabinet.

(2) Written reports.

(a) A licensee or registrant required to make a report pursuant to subsection (1) of this section shall, within thirty (30) days after making the telephone report, make a written report setting forth the following information:

1. Description of the licensed or registered material involved, including:

a. Kind;

b. Quantity; and

c. Chemical and physical form;

2. Description of the circumstances under which the loss or theft occurred;

3. Statement of disposition, or probable disposition, of the licensed or registered material involved;

4. Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas;

5. Actions that have been, or shall be, taken to recover the material; and

6. Procedures or measures that have been, or shall be, adopted to ensure against a recurrence of the loss or theft of licensed or registered material.

(b) Reports shall be made to the cabinet.

(3) Subsequent to filing the written report, a licensee or registrant shall report additional substantive information on the loss or theft within thirty (30) days after the licensee or registrant learns of the information.

(4) A licensee or registrant shall prepare and file a report with the cabinet as required by this section so that names of individuals who may have received exposure to radiation shall be stated in a separate and detachable part of the report.

Section 39. Notification of Incidents. (1) Immediate notification. A licensee or registrant shall immediately report an event involving radioactive material possessed by the licensee or registrant that may have caused, or threatens to cause, one (1) or more of the following conditions:

(a) An individual may receive:

1. A total effective dose equivalent of twenty-five (25) rems (0.25 Sv) or more;

2. An eye dose equivalent of seventy-five (75) rems (0.75 Sv) or more; or

3. A shallow-dose equivalent to the skin or extremities of 250 rads (two and five-tenths (2.5) Gy) or more;

(b) The release of radioactive material, inside or outside of a restricted area; so that, had an individual been present for twenty-four (24) hours, the individual may have received an intake five (5) times the occupational annual limit on intake. The provisions of this paragraph shall not apply to locations in which personnel are not normally stationed during routine operations, such as in hot-cells or process enclosure;

(c) A loss of one (1) working week or more of the operation of facilities affected; or

(d) Damage to property in excess of $200,000.

(2) Twenty-four (24) hour notification. A licensee or registrant shall, within twenty-four (24) hours of discovery of the event, report an event involving loss of control of licensed or registered source of radiation possessed by the licensee or registrant that may have caused, or shall threaten to cause, one (1) or more of the following conditions:

(a) An individual to receive, in a period of twenty-four (24) hours:

1. A total effective dose equivalent exceeding five (5) rems (0.05 Sv);

2. An eye dose equivalent exceeding fifteen (15) rems (0.15 Sv); or

3. A shallow-dose equivalent to the skin or extremities exceeding

fifty (50) rems (five-tenths (0.5) Sv);

(b) The release of radioactive material, inside or outside of a restricted area; so that, had an individual been present for twenty-four (24) hours, the individual may have received an intake in excess of one (1) occupational annual limit on intake. The provisions of this paragraph shall not apply to locations in which personnel are not normally stationed during routine operations, such as in hot-cells or process enclosures;

(c) A loss of one (1) day or more of the operation of facilities affected; or

(d) Damage to property in excess of $2,000.

(3) A licensee or registrant shall prepare and file a report with the cabinet as required by this section so that names of individuals who have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.

(4) Licensees or registrant shall make reports required by this section to the cabinet by:

(a) Telephone;

(b) Telegram;

(c) Mailgram; or

(d) Facsimile.

(5) The provisions of this section shall not include doses that result from planned special exposures that are within the limits for planned special exposures, and are reported under Section 41 of this administrative regulation.

Section 40. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Limits. (1) Reportable events. In addition to the notification required by Section 39 of this administrative regulation, a licensee or registrant shall submit a written report within thirty (30) days after learning of one (1) or more of the following occurrences:

(a) An incident for which notification shall be required by Section 39 of this administrative regulation; or

(b) Doses in excess of one (1) of the following:

1. Occupational dose limits for adults in Section 3 of this administrative regulation;

2. Occupational dose limits for a minor in Section 8 of this administrative regulation;

3. Limits for an embryo or fetus of a declared pregnant woman in Section 9 of this administrative regulation;

4. Limits for an individual member of the public in Section 10 of this administrative regulation;

5. Applicable limit in the license or registration; or

(c) Levels of radiation or concentrations of radioactive material in:

1. A restricted area in excess of an applicable limit in the license or registration; or

2. An unrestricted area in excess of ten (10) times an applicable limit set forth in this administrative regulation, the license, or the registration, regardless of exposure of an individual in excess of the limits in Section 10 of this administrative regulation occurs; or

(d) For a person, agency, or licensee subject to the provisions of 40 CFR 190, levels of radiation or releases of radioactive material in excess of those standards, or conditions related to those standards.

(2) Contents of reports.

(a) A report required by subsection (1) of this section shall describe the extent of exposure of individuals to radiation and radioactive material, including, as appropriate:

1. Estimates of each individual's dose;

2. The levels of radiation and concentrations of radioactive material involved;

3. The cause of the elevated exposures, dose rates, or concentrations; and

4. Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits and environmental standards, and associated license or registration conditions.

(b) A report filed under subsection (1) of this section shall include for each individual exposed:

1. Name of the individual;

2. Social Security number; and

3. Date of birth.

(c) The report shall be prepared so that information is stated in a separate and detachable part.

(d) With respect to the limit for the embryo or fetus, the identifiers shall be of the declared pregnant woman.

(3) A licensee or registrant who makes a report under subsection (1) of this section shall submit the report, in writing, to the Manager of the Radiation Control Branch, Department for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

Section 41. Reports of Planned Special Exposures. (1) A licensee or registrant shall submit a written report to the Manager of the Radiation Control Branch, Department for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, within thirty (30) days following a planned special exposure conducted in accordance with Section 7 of this administrative regulation.

(2) A licensee or registrant shall:

(a) Inform the Manager of the Radiation Control Branch that a planned special exposure was conducted;

(b) Indicate the date the planned special exposure occurred; and

(c) Provide the information required by Section 33 of this administrative regulation.

Section 42. Reports of Individual Monitoring. (1) This section shall apply to persons licensed or registered by the cabinet to:

(a) Possess or use sources of radiation for purposes of radiography authorized by 902 KAR 100:100;

(b) Receive radioactive waste from other persons for disposal pursuant to 902 KAR 100:022; or

(c) Possess or use, for processing or manufacturing for distribution required by 902 KAR 100:058, byproduct material in amounts exceeding one (1) of the following quantities:

	Quantity of Radionuclide[a] in curies
Cesium-137	1
Cobalt-60	1
Gold-198	100
Iodine-131	1
Iridium-192	10
Krypton-85	1,000
Promethium-147	10
Technetium-99m	1,000

[a]The cabinet may require as a license or registration condition, KRS 211.842-211.852 or 902 KAR 100:015, Section 8, reports from licensees or registrants who are licensed or registered to use radionuclides not on this list, in quantities sufficient to cause comparable radiation levels.

(2) A licensee or registrant in a category listed in subsection (1) of this section shall:

(a) Submit an annual report of the results of individual monitoring carried out by the licensee for each individual monitoring was required by Section 13 of this administrative regulation during that year;

(b) The licensee or registrant shall use Form NRC 5, or other clear and legible record, which contains all the information required by Form NRC 5.

(3) A licensee or registrant may include additional data for individuals for whom monitoring may be provided, but not required.

(4) A licensee or registrant shall:

(a) File the report required by subsection (2) of this section covering the preceding year on or before April 30 of each year; and

(b) Submit the report to the Manager of the Radiation Control Branch, Department for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

Section 43. Protection Factors for Respirators. Protection Factors[a]:

Description[b]	Modes[c]	Protection Factors[d] Particulates only	Protection Factors[d] Particulates, gases & vapors[e]	Tested & Certified Equipment: National Institute for Occupational Safety and Health & Mine Safety and Health Administration tests for permissibility
I. AIR-PURIFYING RESPIRATORS:				
Facepiece, half-mask[g]	N	10		30 CFR Part 11, Subpart K.
Facepiece, full	NP	50		
Facepiece, half-mask full, or hood	PP	1000		
II. ATMOSPHERE-SUPPLYING RESPIRATORS:				
1. Air-line respirator:				
Facepiece, half-mask	CF		1000	30 CFR Part 11, Subpart J.
Facepiece, half-mask	D		5	
Facepiece, full	CF		2000	
Facepiece, full	D		5	
Facepiece, full	PD		2000	
Hood	CF		([h])	
Suit	CF		([i])	([i])
2. Self-contained breathing apparatus (SCBA)				
Facepiece, full	D		50	30 CFR 11, Subpart H.
Facepiece, full	PD		[k]10,000	
Facepiece, full	RD		50	
Facepiece, full	RP		[l]5,000	
III. COMBINATION RESPIRATORS:				
A combination of air-purifying and atmosphere-supplying respirators	Protection factor for type and mode of operation as listed above.			30 CFR 11, Sec. 11.63(b).

See footnotes.

FOOTNOTES

a. For use in the selection of respiratory protective equipment to be used only if the contaminants have been identified and the concentrations, or possible concentrations, are known.

b. Only for shaven faces and if nothing interferes with the seal of tight-fitting facepieces against the skin. Hoods and suits shall be excepted.

c. The mode symbols shall be defined as follows:

CF = continuous flow

D = demand

NP = negative pressure, that is, negative phase during inhalation

PD = pressure demand, that is, always positive pressure

PP = positive pressure

RD = demand, recirculating or closed circuit

RP = pressure demand, recirculating or closed circuit

d.1. The protection factor shall be a measure of the degree of protection afforded by a respirator, defined as the ratio of the concentration of airborne radioactive material outside the respiratory protective equipment to that inside the equipment, usually inside the facepiece, under conditions of use. It shall be applied to the ambient airborne concentration to estimate the concentrations inhaled by the wearer according to the following formula:

$$\text{Concentration inhaled} = \frac{\text{Ambient airborne concentration}}{\text{Protection factor}}$$

2. The protection factors apply:

(a) Only for individuals trained in using respirators and wearing properly fitted respirators that shall be used and maintained under supervision in a well-planned respiratory protective program.

(b) For air-purifying respirators only if high efficiency particulate filters, above 99.97% removal efficiency by thermally generated three-tenths (0.3) micron (μm) dioctyl phthalate (DOP) test or equivalent, shall be used in atmospheres not deficient in oxygen and not containing radioactive gas or vapor respiratory hazards.

(c) Adjustment shall not be made for the use of sorbents against radioactive material in the form of gases or vapors.

(d) For atmosphere-supplying respirators only if supplied with adequate respirable air. Respirable air shall be provided of the quality and quantity required in accordance with the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration certification described in 30 CFR Part 11. Oxygen and air shall not be used in the same apparatus.

e. Excluding radioactive contaminants that present an absorption or submersion hazard. For tritium oxide, approximately one-third (1/3)

of the intake occurs by absorption through the skin so that an overall protection factor of less than two (2) shall be appropriate if atmosphere-supplying respirators are used to protect against tritium oxide. If the protection factor for respiratory protective equipment is five (5), the effective protection factor for tritium is about one and four-tenths (1.4); with protection factors of ten (10), the effective factor for tritium oxide is about one and seven-tenths (1.7); and with protection factors of 100 or more, the effective factor for tritium oxide is about one and nine-tenths (1.9). Air-purifying respirators shall not be suitable for protection against tritium oxide. See also footnote i concerning supplied-air suits.

f. Canisters and cartridges shall not be used beyond service-life limitations.

g. Under-chin type only. This type of respirator shall not be satisfactory for use if it may be possible, that if an accident or emergency were to occur, for the ambient airborne concentrations to reach instantaneous values greater than ten (10) times the pertinent values in Table I, Column 3 of Section 44(9) of this administrative regulation.This type of respirator shall not be suitable for protection against plutonium or other high-toxicity materials. The mask shall be tested for fit prior to use, each time it is donned.

h.1. Equipment shall be operated in a manner that ensures that proper airflow-rates are maintained. A protection factor of no more than 1000 may be utilized for tested-and-certified supplied-air hoods if a minimum air flow of six (6) cubic feet per minute (0.17 m^3/min) is maintained and calibrated air line pressure gauges or flow measuring devices are used. A protection factor of up to 2000 may be used for tested and certified hoods only if the air flow is maintained at the manufacturer's recommended maximum rate for the equipment, this rate is greater than six (6) cubic feet per minute (0.17 m^3/min) and calibrated air line pressure gauges or flow measuring devices are used.

2. The design of the supplied-air hood or helmet, with a minimum flow of six (6) cubic feet per minute (0.17 m^3/min) of air, may determine its overall efficiency and the protection it provides. For example, some hoods aspirate contaminated air into the breathing zone if the wearer works with hands-over-head. This aspiration may be overcome if a short cape-like extension to the hood is worn under a coat or overalls. Other limitations specified by the approval agency shall be considered before using a hood in certain types of atmospheres. See footnote c.

i. Appropriate protection factors shall be determined, taking into account the design of the suit and its permeability to the contaminant under conditions of use. There shall be a standby rescue person equipped with a respirator or other apparatus appropriate for the potential hazards and communications equipment if supplied-air suits are used.

j. No approval schedules are currently available for this equipment. Equipment shall be evaluated by testing or on the basis of reliable test information.

k. This type of respirator may provide greater protection and be used as an emergency device in unknown concentrations for protection against inhalation hazards. External radiation hazards and other limitations to permitted exposure, for example, as skin absorption, shall be taken into account in these circumstances.

l. Quantitative fit testing shall be performed on each individual, and no more than 0.02% leakage shall be allowed with this type of apparatus. Perceptible outward leakage of gas from this or a positive pressure self-contained breathing apparatus shall be unacceptable because service life shall be reduced substantially. Special training in the use of this type of apparatus shall be provided to the wearer.

Note 1: Protection factors for respirators approved by the U.S. Bureau of Mines and the National Institute for Occupational Safety and Health, according to applicable approvals for respirators for type and mode of use to protect against airborne radionuclides, may be used to the extent that they do not exceed the protection factors listed in this table. The protection factors listed in this table may not be appropriate to circumstances if chemicals or other respiratory hazards exist in addition to radioactive hazards. The selection and use of respirators for these circumstances shall take into account applicable approvals of the U.S. Bureau of Mines and the National Institute for Occupational Safety and Health.

Note 2: Radioactive contaminants, for which the concentration values in Table I, Column 3 of Section 44(9) are based on internal dose due to inhalation, may present external exposure hazards at higher concentrations. Under these circumstances, limitations on occupancy may have to be governed by external dose limits.

Section 44. Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage. (1) For each radionuclide, subsection (9), Table I, of this section indicates the chemical form which shall be used for selecting the appropriate ALI or DAC value.

(2) The ALIs and DACs for inhalation are given for:

(a) An aerosol with an activity median aerodynamic diameter (AMAD) of one (1) μm; and

(b) Three (3) classes (D,W,Y) of radioactive material, which refer to their retention (approximately days, weeks, or years) in the pulmonary region of the lung. This classification applies to a range of clearance half-times for:

1. D if less than ten (10) days;
2. W from ten (10) to 100 days; and
3. Y greater than 100 days.

(3) Subsection (9) of this section provides concentration limits for airborne and liquid effluents released to the general environment.

(4) Subsection (9) of this section provides concentration limits for discharges to sanitary sewerage.

(5) The values in Tables I, II, and III of subsection (9) of this section are presented in the computer "E" notation. In this notation:

(a) A value of 6E-02 represents a value of 6×10^{-2} or 0.06;

(b) 6E+2 represents 6×10^{2} or 600; and

(c) 6E+0 represents 6×10^{0} or 6.

(6) Occupational Values - Table I.

(a) The columns in Table I of subsection (9) of this section captioned "Oral Ingestion ALI," "Inhalation ALI," and "DAC," shall be applicable to occupational exposure to radioactive material.

(b) The ALIs in subsection (9) of this section are the annual intakes of a given radionuclide by "Reference Man" which result in a committed effective dose equivalent of:

1. Five (5) rem (0.05 Sv), stochastic ALI; or
2. Fifty (50) rem (five-tenths (0.5) Sv) to an organ or tissue, nonstochastic ALI.

(c) The stochastic ALIs were derived to result in a risk, due to irradiation of organs and tissues, comparable to the risk associated with deep dose equivalent to the whole body of five (5) rem (0.05 Sv).

1. The derivation includes multiplying the committed dose equivalent to an organ or tissue by a weighting factor, w_T;
2. This weighting factor is the proportion of the risk of stochastic effects resulting from irradiation of the organ or tissue (T) to the total risk of stochastic effects if the whole body is irradiated uniformly; and
3. The values of w_T are listed under the definition of weighting factor in 902 KAR 100:010.

(d) The nonstochastic ALIs were derived to avoid nonstochastic effects, such as prompt damage to tissue or reduction in organ function.

(e) A value of $w_T = 0.06$ shall be applicable to each of the five (5) organs or tissues in the "remainder" category receiving the highest dose equivalents, and the dose equivalents of other remaining tissues may be disregarded. The following portions of the GI tract shall be treated as four (4) separate organs:

1. Stomach;
2. Small intestine;
3. Upper large intestine; and

4. Lower large intestine.

(f) The dose equivalents for an extremity, skin, and lens of the eye shall not be considered in computing the committed effective dose equivalent, and shall be subject to limits that are met separately.

(g) If an ALI shall be defined by the stochastic dose limit, this value alone is given. If an ALI shall be determined by the nonstochastic dose limit to an organ, the organ or tissue to which the limit applies is shown, and the ALI for the stochastic limit is shown in parentheses. Abbreviated organ or tissue designations are used as follows:

1. LLI wall = lower large intestine wall;
2. St. wall = stomach wall;
3. Blad wall = bladder wall; and
4. Bone surf = bone surface.

(h) The use of the ALIs listed first, the more limiting of the stochastic and nonstochastic ALIs, shall ensure nonstochastic effects are avoided and the risk of stochastic effects is limited to an acceptably low value.

1. If, in a particular situation involving a radionuclide for which the nonstochastic ALI is limiting, use of that nonstochastic ALI may be considered unduly conservative, a licensee may use the stochastic ALI to determine the committed effective dose equivalent;

2. A licensee shall also ensure that the fifty (50) rem (five-tenths (0.5) Sv) dose equivalent limit for an organ or tissue shall not be exceeded by the sum of the external deep dose equivalent plus the internal committed dose equivalent to that organ, not the effective dose;

3. If there is no external dose contribution, the requirements of subparagraph 2 of this paragraph shall be demonstrated if the sum of the fractions of the nonstochastic ALIs (ALI_{ns}) that contribute to the committed dose equivalent to the organ receiving the highest dose shall not exceed unity, that is, Σ (intake in μCi of each radionuclide/ ALI_{ns}) $\leq$ 1.0; and

4. If there is an external deep dose equivalent contribution of H_d, then this sum shall be less than 1 - (H_d/50), instead of $\leq$1.0.

(i) The dose equivalents for an extremity, skin, and lens of the eye shall not be considered in computing the committed effective dose equivalent, but shall be subject to limits that shall be met separately.

(j) The derived air concentration (DAC) values are derived limits intended to control chronic occupational exposures. The relationship between the DAC and the ALI shall be given by:

1. DAC = ALI(in μCi)/(2000 hours per working year x 60 minutes/hour x 2 x 10^4 ml per minute) = [ALI/2.4 x 10^9] μCi/ml, if 2 x 10^4 ml is the volume of air breathed per minute at work by the reference man under working conditions of light work;

2. The DAC values relate to one (1) of two (2) modes of exposure with external submersion or the internal committed dose equivalents resulting from inhalation of radioactive materials. DACs based upon submersion shall be for immersion in a semi-infinite cloud of uniform concentration and shall apply to each radionuclide separately;

3. The ALI and DAC values include contributions to exposure by the single radionuclide named and in-growth of daughter radionuclides produced in the body by decay of the parent. Intakes that include both the parent and daughter radionuclides shall be treated by the general method appropriate for mixtures;

4. The values of ALI and DAC shall not apply directly if the individual both ingests and inhales a radionuclide, if the individual is exposed to a mixture of radionuclides by inhalation, ingestion, or both, or if the individual is exposed to both internal and external irradiation (see Section 13 of this administrative regulation). If an individual is exposed to radioactive materials which fall under several of the translocation classifications of the same radionuclide (for example, Class D, Class W, or Class Y), the exposure may be evaluated as if it were a mixture of different radionuclides; and

5. It shall be noted that the classification of a compound as Class D, W, or Y is based on the chemical form of the compound and does not take into account the radiological half-life of different radionuclides. Values are given for Class D, W, and Y compounds, even for very short-lived radionuclides.

(7) Effluent Concentrations - Table II.

(a) The columns in Table II of subsection (9) of this section captioned "Effluents," "Air," and "Water" shall be applicable to the assessment and control of dose to the public, particularly in the implementation of the provisions of 902 KAR 100:021, Section 3. The concentration values given in Columns 1 and 2 of Table II, subsection (9) of this section, are equivalent to the radionuclide concentrations which, if inhaled or ingested continuously over the course of a year, shall produce a total effective dose equivalent of 0.05 rem (five-tenths (0.5) mSv).

(b) Consideration of nonstochastic limits has not been included in deriving the air and water effluent concentration limits because nonstochastic effects are presumed not to occur at or below the dose levels established for individual members of the public. For radionuclides, where the nonstochastic limit will be governing in deriving the occupational DAC, the stochastic ALI shall be used in deriving the corresponding airborne effluent limit in Table II, subsection (9) of this section. For this reason, the DAC and airborne effluent limits are not always proportional.

(c) The air concentration values listed in Table II, subsection (9) of this section, Column 1, were derived by one (1) of two (2) methods. For those radionuclides for which the stochastic limit is governing, the occupational stochastic inhalation ALI was divided by 2.4 x 10^9, relating the inhalation ALI to the DAC, as explained in subsection (6)(j)1, of this section and then divided by a factor of 300. The factor of 300 includes the following components:

1. A factor of fifty (50) to relate the 0.05 rem (0.05 Sv) annual occupational dose limit to the one-tenth (0.1) rem limit for members of the public;

2. A factor of three (3) to adjust for the difference in exposure time and the inhalation rate for a worker and for members of the public; and

3. A factor of two (2) to adjust the occupational values, derived for adults, so they are applicable to other age groups.

(d) For those radionuclides for which submersion, that is external dose, shall be limiting, the occupational DAC in Table I, Column 3, of subsection (9) of this section shall be divided by 219. The factor of 219 is composed of:

1. A factor of fifty (50), as described in subsection (7)(c) of this section;

2. A factor of 4.38 relating occupational exposure for 2,000 hours per year to full-time exposure (8,760 hours per year); and

3. An additional factor of two (2) for age considerations shall not be warranted in the submersion case.

(e) The water concentrations shall be derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3 x 10^7. The factor of 7.3 x 10^7 (ml) includes the following components:

1. The factors of fifty (50) and two (2) described above; and

2. A factor of 7.3 x 10^5 (ml) which is the annual water intake of the reference man.

(f) This section provides groupings of radionuclides which shall be applicable to unknown mixtures of radionuclides. These groupings, including occupational inhalation ALIs and DACs, air and water effluent concentrations, and releases to sewer, require demonstrating the most limiting radionuclides in successive classes are absent. The limit for the unknown mixture shall be defined if the presence of one (1) of the listed radionuclides cannot be definitely excluded as being present from knowledge of the radionuclide composition of the source or from actual measurements.

(8) Releases to Sewers - Table III.

(a) The monthly average concentrations for release to sanitary sewerage shall be applicable to Section 11 of this administrative regulation.

(b) The concentration values were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3×10^6 (ml). The factor of 7.3×10^6 (ml) shall be composed of a factor of 7.3×10^5 (ml), the annual water intake by the reference man, and a factor of ten (10), that the concentrations, if the sewage released by the licensee was the only source of water ingested by a reference man during a year, shall result in a committed effective dose equivalent of five-tenths (0.5) rem.

(9) List of Elements and Tables I, II, and III.

Name	Symbol	Atomic Number	Name	Symbol	Atomic Number
Actinium	Ac	89	Mercury	Hg	80
Aluminum	Al	13	Molybdenum	Mo	42
Americium	Am	95	Neodymium	Nd	60
Antimony	Sb	51	Neptunium	Np	93
Argon	Ar	18	Nickel	Ni	28
Arsenic	As	33	Niobium	Nb	41
Astatine	At	85	Osmium	Os	76
Barium	Ba	56	Palladium	Pd	46
Berkelium	Bk	97	Phosphorus	P	15
Beryllium	Be	4	Platinum	Pt	78
Bismuth	Bi	83	Plutonium	Pu	94
Bromine	Br	35	Polonium	Po	84
Cadmium	Cd	48	Potassium	K	19
Calcium	Ca	20	Praseodymium	Pr	59
Californium	Cf	98	Promethium	Pm	61
Carbon	C	6	Protactinium	Pa	91
Cerium	Ce	58	Radium	Ra	88
Cesium	Cs	55	Radon	Rn	86
Chlorine	Cl	17	Rhenium	Re	75
Chromium	Cr	24	Rhodium	Rh	45
Cobalt	Co	27	Rubidium	Rb	37
Copper	Cu	29	Ruthenium	Ru	44
Curium	Cm	96	Samarium	Sm	62
Dysprosium	Dy	66	Scandium	Sc	21
Einsteinium	Es	99	Selenium	Se	34
Erbium	Er	68	Silicon	Si	14
Europium	Eu	63	Silver	Ag	47
Fermium	Fm	100	Sodium	Na	11
Fluorine	F	9	Strontium	Sr	38
Francium	Fr	87	Sulfur	S	16
Gadolinium	Gd	64	Tantalum	Ta	73
Gallium	Ga	31	Technetium	Tc	43
Germanium	Ge	32	Tellurium	Te	52
Gold	Au	79	Terbium	Tb	65
Hafnium	Hf	72	Thallium	Tl	81
Holmium	Ho	67	Thorium	Th	90
Hydrogen	H	1	Thulium	Tm	69
Indium	In	49	Tin	Sn	50
Iodine	I	53	Titanium	Ti	22
Iridium	Ir	77	Tungsten	W	74
Iron	Fe	26	Uranium	U	92
Krypton	Kr	36	Vanadium	V	23
Lanthanum	La	57	Xenon	Xe	54
Lead	Pb	82	Ytterbium	Yb	70
Lutetium	Lu	71	Yttrium	Y	39
Magnesium	Mg	12	Zinc	Zn	30
Manganese	Mn	25	Zirconium	Zr	40
Mendelevium	Md	101			

Atomic No.	Radionuclide	Class	Table I Occupational Values Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 Inhalation DAC (μCi/ml)	Table II Effluent Concentrations Col. 1 Air (μCi/ml)	Col.2 Water (μCi/ml)	Table III Releases to Sewers Monthly Average Concentration (μCi/ml)
1	Hydrogen-3	Water, DAC includes skin absorption	8E+4	8E+4	2E-5	1E-7	1E-3	1E-2
		Gas (HT or T_2) Submersion[1]:	Use above values as HT and T_2 oxidize in air and in the body to HTO.					
4	Beryllium-7	W, all compounds except those given for Y	4E+4	2E+4	9E-6	3E-8	6E-4	6E-3
		Y, oxides, halides, and nitrates	-	2E+4	8E-6	3E-8	-	-
4	Beryllium-10	W, see ^{7}Be	1E+3	2E+2	6E-8	2E-10	-	-
			LLI wall (1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{7}Be	-	1E+1	6E-9	2E-11	-	-
6	Carbon-11[2]	Monoxide	-	1E+6	5E-4	2E-6	-	-
		Dioxide	-	6E+5	3E-4	9E-7	-	-
		Compounds	4E+5	4E+5	2E-4	6E-7	6E-3	6E-2
6	Carbon-14	Monoxide	-	2E+6	7E-4	2E-6	-	-
		Dioxide	-	2E+5	9E-5	3E-7	-	-
		Compounds	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
9	Fluorine-18[2]	D, fluorides of H, Li, Na, K, Rb, Cs, and Fr	5E+4	7E+4	3E-5	1E-7	-	-
			St wall (5E+4)	-	-	-	7E-4	7E-3
		W, fluorides of Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, As, Sb, Bi, Fe, Ru, Os, Co, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, V, Nb, Ta, Mn, Tc, and Re	-	9E+4	4E-5	1E-7	-	-
		Y, lanthanum fluoride	-	8E+4	3E-5	1E-7	-	-
11	Sodium-22	D, all compounds	4E+2	6E+2	3E-7	9E-10	6E-6	6E-5
11	Sodium-24	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
12	Magnesium-28	D, all compounds except those given for W	7E+2	2E+3	7E-7	2E-9	9E-6	9E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	1E+3	5E-7	2E-9	-	-
13	Aluminum-26	D, all compounds except those given for W	4E+2	6E+1	3E-8	9E-11	6E-6	6E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	9E+1	4E-8	1E-10	-	-
14	Silicon-31	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, oxides, hydroxides, carbides, and nitrates	-	3E+4	1E-5	5E-8	-	-
		Y, aluminosilicate glass	-	3E+4	1E-5	4E-8	-	-
14	Silicon-32	D, see ^{31}Si	2E+3	2E+2	1E-7	3E-10	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
		W, see ^{31}Si	-	1E+2	5E-8	2E-10	-	-
		Y, see ^{31}Si	-	5E+0	2E-9	7E-12	-	-
15	Phosphorus-32	D, all compounds except phosphates given for W	6E+2	9E+2	4E-7	1E-9	9E-6	9E-5
		W, phosphates of Zn^{2+}, S^{3+}, Mg^{2+}, Fe^{3+}, Bi^{3+}, and lanthanides	-	4E+2	2E-7	5E-10	-	-
15	Phosphorus-33	D, see ^{32}P	6E+3	8E+3	4E-6	1E-8	8E-5	8E-4
		W, see ^{32}P	-	3E+3	1E-6	4E-9	-	-
16	Sulfur-35	Vapor	1E+4	6E-6	2E-8	-	-	

		D, sulfides and sulfates except those given for W	1E+4	2E+4	7E-6	2E-8	-	-
			LLI wall (8E+3)	-	-	-	1E-4	1E-3
		W, elemental sulfur, sulfides of Sr, Ba, Ge, Sn, Pb, As, Sb, Bi, Cu, Ag, Au, Zn, Cd, Hg, W, and Mo Sulfates of Ca, Sr, Ba, Ra, As, Sb, and Bi	6E+3 -	2E+3	9E-7	3E-9	-	-
17	Chlorine-36	D, chlorides of H, Li, Na, K, Rb, Cs, and Fr W, chlorides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Cr, Mo, W, Mn, Tc, and Re	2E+3 -	2E+3 2E+2	1E-6 1E-7	3E-9 3E-10	2E-5 -	2E-4 -
17	Chlorine-38[2]	D, see ^{36}Cl	2E+4	4E+4	2E-5	6E-8	-	-
			St wall (3E+4)	-	-	-	3E-4	3E-3
		W, see ^{36}Cl	-	5E+4	2E-5	6E-8	-	-
17	Chlorine-39[2]	D, see ^{36}Cl	2E+4	5E+4	2E-5	7E-8	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
		W, see ^{36}Cl	-	6E+4	2E-5	8E-8	-	-
18	Argon-37	Submersion[1]	-	-	1E+0	6E-3	-	-
18	Argon-39	Submersion[1]	-	-	2E-4	8E-7	-	-
18	Argon-41	Submersion[1]	-	-	3E-6	1E-8	-	-
19	Potassium-40	D, all compounds	3E+2	4E+2	2E-7	6E-10	4E-6	4E-5
19	Potassium-42	D, all compounds	5E+3	5E+3	2E-6	7E-9	6E-5	6E-4
19	Potassium-43	D, all compounds	6E+3	9E+3	4E-6	1E-8	9E-5	9E-4
19	Potassium-44[2]	D, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
19	Potassium-45[2]	D, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
			St wall (5E+4)	-	-	-	7E-4	7E-3
20	Calcium-41	W, all compounds	3E+3	4E+3	2E-6	-	-	-
			Bone surf (4E+3)	Bone surf (4E+3)	-	5E-9	6E-5	6E-4
20	Calcium-45	W, all compounds	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
20	Calcium-47	W, all compounds	8E+2	9E+2	4E-7	1E-9	1E-5	1E-4
21	Scandium-43	Y, all compounds	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
21	Scandium-44m	Y, all compounds	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
21	Scandium-44	Y, all compounds	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
21	Scandium-46	Y, all compounds	9E+2	2E+2	1E-7	3E-10	1E-5	1E-4
21	Scandium-47	Y, all compounds	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
21	Scandium-48	Y, all compounds	8E+2	1E+3	6E-7	2E-9	1E-5	1E-4
21	Scandium-49[2]	Y, all compounds	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
22	Titanium-44	D, all compounds except those given for W and Y	3E+2	1E+1	5E-9	2E-11	4E-6	4E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	3E+1	1E-8	4E-11	-	-
		Y, SrTiO	-	6E+0	2E-9	8E-12	-	-

22	Titanium-45	D, see ^{44}Ti	9E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		W, see ^{44}Ti	-	4E+4	1E-5	5E-8	-	-
		Y, see ^{44}Ti	-	3E+4	1E-5	4E-8	-	-
23	Vanadium-47[2]	D, all compounds except those given for W	3E+4	8E+4	3E-5	1E-7	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		W, oxides, hydroxides, carbides, and halides	-	1E+5	4E-5	1E-7	-	-
23	Vanadium-48	D, see ^{47}V	6E+2	1E+3	5E-7	2E-9	9E-6	9E-5
		W, see ^{47}V	-	6E+2	3E-7	9E-10	-	-
23	Vanadium-49	D, see ^{47}V	7E+4	3E+4	1E-5	-	-	-
			LLI wall (9E+4)	Bone surf (3E+4)	-	5E-8	1E-3	1E-2
		W, see ^{47}V	-	2E+4	8E-6	2E-8	-	-
24	Chromium-48	D, all compounds except those given for W and Y	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, halides and nitrates	-	7E+3	3E-6	1E-8	-	-
		Y, oxides and hydroxides	-	7E+3	3E-6	1E-8	-	-
24	Chromium-49[2]	D, see ^{48}Cr	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
		W, see ^{48}Cr	-	1E+5	4E-5	1E-7	-	-
		Y, see ^{48}Cr	-	9E+4	4E-5	1E-7	-	-
24	Chromium-51	D, see ^{48}Cr	4E+4	5E+4	2E-5	6E-8	5E-4	5E-3
		W, see ^{48}Cr	-	2E+4	1E-5	3E-8	-	-
		Y, see ^{48}Cr	-	2E+4	8E-6	3E-8	-	-
25	Manganese-51[2]	D, all compounds except those given for W	2E+4	5E+4	2E-5	7E-8	3E-4	3E-3
		W, oxides, hydroxides, halides, and nitrates	-	6E+4	3E-5	8E-8	-	-
25	Manganese-52m[2]	D, see ^{51}Mn	3E+4	9E+4	4E-5	1E-7	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
		W, see ^{51}Mn	-	1E+5	4E-5	1E-7	-	-
25	Manganese-52	D, see ^{51}Mn	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
		W, see ^{51}Mn	-	9E+2	4E-7	1E-9	-	-
25	Manganese-53	D, see ^{51}Mn	5E+4	1E+4	5E-6	-	7E-4	7E-3
			-	Bone surf (2E+4)	-	3E-8	-	-
		W, see ^{51}Mn	-	1E+4	5E-6	2E-8	-	-
25	Manganese-54	D, see ^{51}Mn	2E+3	9E+2	4E-7	1E-9	3E-5	3E-4
		W, see ^{51}Mn	-	8E+2	3E-7	1E-9	-	-
25	Manganese-56	D, see ^{51}Mn	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see ^{51}Mn	-	2E+4	9E-6	3E-8	-	-
26	Iron-52	D, all compounds except those given for W	9E+2	3E+3	1E-6	4E-9	1E-5	1E-4
		W, oxides, hydroxides, and halides	-	2E+3	1E-6	3E-9	-	-
26	Iron-55	D, see ^{52}Fe	9E+3	2E+3	8E-7	3E-9	1E-4	1E-3
		W, see ^{52}Fe	-	4E+3	2E-6	6E-9	-	-
26	Iron-59	D, see ^{52}Fe	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		W, see ^{52}Fe	-	5E+2	2E-7	7E-10	-	-
26	Iron-60	D, see ^{52}Fe	3E+1	6E+0	3E-9	9E-12	4E-7	4E-6
		W, see ^{52}Fe	-	2E+1	8E-9	3E-11	-	-
27	Cobalt-55	W, all compounds except those given for Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
27	Cobalt-56	W, see ^{55}Co	5E+2	3E+2	1E-7	4E-10	6E-6	6E-5
		Y, see ^{55}Co	4E+2	2E+2	8E-8	3E-10	-	-
27	Cobalt-57	W, see ^{55}Co	8E+3	3E+3	1E-6	4E-9	6E-5	6E-4
		Y, see ^{55}Co	4E+3	7E+2	3E-7	9E-10	-	-
27	Cobalt-58m	W, see ^{55}Co	6E+4	9E+4	4E-5	1E-7	8E-4	8E-3
		Y, see ^{55}Co	-	6E+4	3E-5	9E-8	-	-

27	Cobalt-58	W, see ^{55}Co	2E+3	1E+3	5E-7	2E-9	2E-5	2E-4
		Y, see ^{55}Co	1E+3	7E+2	3E-7	1E-9	-	-
27	Cobalt-60m[2]	W, see ^{55}Co	1E+6	4E+6	2E-3	6E-6	-	-
			St wall (1E+6)	-	-	-	2E-2	2E-1
		Y, see ^{55}Co	-	3E+6	1E-3	4E-6	-	-
27	Cobalt-60	W, see ^{55}Co	5E+2	2E+2	7E-8	2E-10	3E-6	3E-5
		Y, see ^{55}Co	2E+2	3E+1	1E-8	5E-11	-	-
27	Cobalt-61[2]	W, see ^{55}Co	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		Y, see ^{55}Co	2E+4	6E+4	2E-5	8E-8	-	-
27	Cobalt-62m[2]	W, see ^{55}Co	4E+4	2E+5	7E-5	2E-7	-	-
			St wall (5E+4)	-	-	-	7E-4	7E-3
		Y, see ^{55}Co	-	2E+5	6E-5	2E-7	-	-
28	Nickel-56	D, all compounds except those given for W	1E+3	2E+3	8E-7	3E-9	2E-5	2E-4
		W, oxides, hydroxides, and carbides	-	1E+3	5E-7	2E-9	-	-
		Vapor	-	1E+3	5E-7	2E-9	-	-
28	Nickel-57	D, see ^{56}Ni	2E+3	5E+3	2E-6	7E-9	2E-5	2E-4
		W, see ^{56}Ni	-	3E+3	1E-6	4E-9	-	-
		Vapor	-	6E+3	3E-6	9E-9	-	-
28	Nickel-59	D, see ^{56}Ni	2E+4	4E+3	2E-6	5E-9	3E-4	3E-3
		W, see ^{56}Ni	-	7E+3	3E-6	1E-8	-	-
		Vapor	-	2E+3	8E-7	3E-9	-	-
28	Nickel-63	D, see ^{56}Ni	9E+3	2E+3	7E-7	2E-9	1E-4	1E-3
		W, see ^{56}Ni	-	3E+3	1E-6	4E-9	-	-
		Vapor	-	8E+2	3E-7	1E-9	-	-
28	Nickel-65	D, see ^{56}Ni	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ^{56}Ni	-	3E+4	1E-5	4E-8	-	-
		Vapor	-	2E+4	7E-6	2E-8	-	-
28	Nickel-66	D, see ^{56}Ni	4E+2	2E+3	7E-7	2E-9	-	-
			LLI wall (5E+2)	-	-	-	6E-6	6E-5
		W, see ^{56}Ni	-	6E+2	3E-7	9E-10	-	-
		Vapor	-	3E+3	1E-6	4E-9	-	-
29	Copper-60[2]	D, all compounds except those given for W and Y	3E+4	9E+4	4E-5	1E-7	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		W, sulfides, halides, and nitrates	-	1E+5	5E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	4E-5	1E-7	-	-
29	Copper-61	D, see ^{60}Cu	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ^{60}Cu	-	4E+4	2E-5	6E-8	-	-
		Y, see ^{60}Cu	-	4E+4	1E-5	5E-8	-	-
29	Copper-64	D, see ^{60}Cu	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ^{60}Cu	-	2E+4	1E-5	3E-8	-	-
		Y, see ^{60}Cu	-	2E+4	9E-6	3E-8	-	-
29	Copper-67	D, see ^{60}Cu	5E+3	8E+3	3E-6	1E-8	6E-5	6E-4
		W, see ^{60}Cu	-	5E+3	2E-6	7E-9	-	-
		Y, see ^{60}Cu	-	5E+3	2E-6	6E-9	-	-
30	Zinc-62	Y, all compounds	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
30	Zinc-63[2]	Y, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
			St wall (3E+4)	-	-	-	3E-4	3E-3
30	Zinc-65	Y, all compounds	4E+2	3E+2	1E-7	4E-10	5E-6	5E-5
30	Zinc-69m	Y, all compounds	4E+3	7E+3	3E-6	1E-8	6E-5	6E-4
30	Zinc-69[2]	Y, all compounds	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
30	Zinc-71m	Y, all compounds	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
30	Zinc-72	Y, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
31	Gallium-65[2]	D, all compounds except						

		those given for W	5E+4	2E+5	7E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	9E-4	9E-3
		W, oxides, hydroxides, carbides, halides, and nitrates	-	2E+5	8E-5	3E-7	-	-
31	Gallium-66	D, see ^{65}Ga	1E+3	4E+3	1E-6	5E-9	1E-5	1E-4
		W, see ^{65}Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-67	D, see ^{65}Ga	7E+3	1E+4	6E-6	2E-8	1E-4	1E-3
		W, see ^{65}Ga	-	1E+4	4E-6	1E-8	-	-
31	Gallium-68[2]	D, see ^{65}Ga	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{65}Ga	-	5E+4	2E-5	7E-8	-	-
31	Gallium-70[2]	D, see ^{65}Ga	5E+4	2E+5	7E-5	2E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
		W, see ^{65}Ga	-	2E+5	8E-5	3E-7	-	-
31	Gallium-72	D, see ^{65}Ga	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ^{65}Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-73	D, see ^{65}Ga	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see ^{65}Ga	-	2E+4	6E-6	2E-8	-	-
32	Germanium-66	D, all compounds except those given for W	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
		W, oxides, sulfides, and halides	-	2E+4	8E-6	3E-8	-	-
32	Germanium-67[2]	D, see ^{66}Ge	3E+4	9E+4	4E-5	1E-7	-	-
			St wall (4E+4)	-	-	-	6E-4	6E-3
		W, see ^{66}Ge	-	1E+5	4E-5	1E-7	-	-
32	Germanium-68	D, see ^{66}Ge	5E+3	4E+3	2E-6	5E-9	6E-5	6E-4
		W, see ^{66}Ge	-	1E+2	4E-8	1E-10	-	-
32	Germanium-69	D, see ^{66}Ge	1E+4	2E+4	6E-6	2E-8	2E-4	2E-3
		W, see ^{66}Ge	-	8E+3	3E-6	1E-8	-	-
32	Germanium-71	D, see ^{66}Ge	5E+5	4E+5	2E-4	6E-7	7E-3	7E-2
		W, see ^{66}Ge	-	4E+4	2E-5	6E-8	-	-
32	Germanium-75[2]	D, see ^{66}Ge	4E+4	8E+4	3E-5	1E-7	-	-
			St wall (7E+4)	-	-	-	9E-4	9E-3
		W, see ^{66}Ge	-	8E+4	4E-5	1E-7	-	-
32	Germanium-77	D, see ^{66}Ge	9E+3	1E+4	4E-6	1E-8	1E-4	1E-3
		W, see ^{66}Ge	-	6E+3	2E-6	8E-9	-	-
32	Germanium-78[2]	D, see ^{66}Ge	2E+4	2E+4	9E-6	3E-8	-	-
			St wall (2E+4)	-	-	-	3E-4	3E-3
		W, see ^{66}Ge	-	2E+4	9E-6	3E-8	-	-
33	Arsenic-69[2]	W, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
			St wall (4E+4)	-	-	-	6E-4	6E-3
33	Arsenic-70[2]	W, all compounds	1E+4	5E+4	2E-5	7E-8	2E-4	2E-3
33	Arsenic-71	W, all compounds	4E+3	5E+3	2E-6	6E-9	5E-5	5E-4
33	Arsenic-72	W, all compounds	9E+2	1E+3	6E-7	2E-9	1E-5	1E-4
33	Arsenic-73	W, all compounds	8E+3	2E+3	7E-7	2E-9	1E-4	1E-3
33	Arsenic-74	W, all compounds	1E+3	8E+2	3E-7	1E-9	2E-5	2E-4
33	Arsenic-76	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
33	Arsenic-77	W, all compounds	4E+3	5E+3	2E-6	7E-9	-	-
			LLI wall (5E+3)	-	-	-	6E-5	6E-4
33	Arsenic-78[2]	W, all compounds	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
34	Selenium-70[2]	D, all compounds except those given for W	2E+4	4E+4	2E-5	5E-8	1E-4	1E-3

		W, oxides, hydroxides, carbides, and elemental Se	1E+4	4E+4	2E-5	6E-8	-	-
34	Selenium-73m[2]	D, see ^{70}Se	6E+4	2E+5	6E-5	2E-7	4E-4	4E-3
		W, see ^{70}Se	3E+4	1E+5	6E-5	2E-7	-	-
34	Selenium-73	D, see ^{70}Se	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
		W, see ^{70}Se	-	2E+4	7E-6	2E-8	-	-
34	Selenium-75	D, see ^{70}Se	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
		W, see ^{70}Se	-	6E+2	3E-7	8E-10	-	-
34	Selenium-79	D, see ^{70}Se	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
		W, see ^{70}Se	-	6E+2	2E-7	8E-10	-	-
34	Selenium-81m[2]	D, see ^{70}Se	4E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		W, see ^{70}Se	2E+4	7E+4	3E-5	1E-7	-	-
34	Selenium-81[2]	D, see ^{70}Se	6E+4	2E+5	9E-5	3E-7	-	-
			St wall (8E+4)	-	-	-	1E-3	1E-2
		W, see ^{70}Se	-	2E+5	1E-4	3E-7	-	-
34	Selenium-83[2]	D, see ^{70}Se	4E+4	1E+5	5E-5	2E-7	4E-4	4E-3
		W, see ^{70}Se	3E+4	1E+5	5E-5	2E-7	-	-
35	Bromine-74m[2]	D, bromides of H, Li, Na, K, Rb, Cs, and Fr	1E+4	4E+4	2E-5	5E-8	-	-
			St wall (2E+4)	-	-	-	3E-4	3E-3
		W, bromides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Mn, Tc, and Re	-	4E+4	2E-5	6E-8	-	-
35	Bromine-74[2]	D, see ^{74m}Br	2E+4	7E+4	3E-5	1E-7	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
		W, see ^{74m}Br	-	8E+4	4E-5	1E-7	-	-
35	Bromine-75[2]	D, see ^{74m}Br	3E+4	5E+4	2E-5	7E-8	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
		W, see ^{74m}Br	-	5E+4	2E-5	7E-8	-	-
35	Bromine-76	D, see ^{74m}Br	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
		W, see ^{74m}Br	-	4E+3	2E-6	6E-9	-	-
35	Bromine-77	D, see ^{74m}Br	2E+4	2E+4	1E-5	3E-8	2E-4	2E-3
		W, see ^{74m}Br	-	2E+4	8E-6	3E-8	-	-
35	Bromine-80m	D, see ^{74m}Br	2E+4	2E+4	7E-6	2E-8	3E-4	3E-3
		W, see ^{74m}Br	-	1E+4	6E-6	2E-8	-	-
35	Bromine-80[2]	D, see ^{74m}Br	5E+4	2E+5	8E-5	3E-7	-	-
			St wall (9E+4)	-	-	-	1E-3	1E-2
		W, see ^{74m}Br	-	2E+5	9E-5	3E-7	-	-
35	Bromine-82	D, see ^{74m}Br	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see ^{74m}Br	-	4E+3	2E-6	5E-9	-	-
35	Bromine-83	D, see ^{74m}Br	5E+4	6E+4	3E-5	9E-8	-	-
			St wall (7E+4)	-	-	-	9E-4	9E-3
		W, see ^{74m}Br	-	6E+4	3E-5	9E-8	-	-
35	Bromine-84[2]	D, see ^{74m}Br	2E+4	6E+4	2E-5	8E-8	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		W, see ^{74m}Br	-	6E+4	3E-5	9E-8	-	-
36	Krypton-74[2]	Submersion[1]	-	-	3E-6	1E-8	-	-
36	Krypton-76	Submersion[1]	-	-	9E-6	4E-8	-	-
36	Krypton-77[2]	Submersion[1]	-	-	4E-6	2E-8	-	-

36	Krypton-79	Submersion[1]	-	-	2E-5	7E-8	-	-
36	Krypton-81	Submersion[1]	-	-	7E-4	3E-6	-	-
36	Krypton-83m[2]	Submersion[1]	-	-	1E-2	5E-5	-	-
36	Krypton-85m	Submersion[1]	-	-	2E-5	1E-7	-	-
36	Krypton-85	Submersion[1]	-	-	1E-4	7E-7	-	-
36	Krypton-87[2]	Submersion[1]	-	-	5E-6	2E-8	-	-
36	Krypton-88	Submersion[1]	-	-	2E-6	9E-9	-	-
37	Rubidium-79[2]	D, all compounds	4E+4	1E+5	5E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	8E-4	8E-3
37	Rubidium-81m[2]	D, all compounds	2E+5	3E+5	1E-4	5E-7	-	-
			St wall (3E+5)	-	-	-	4E-3	4E-2
37	Rubidium-81	D, all compounds	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
37	Rubidium-82m	D, all compounds	1E+4	2E+4	7E-6	2E-8	2E-4	2E-3
37	Rubidium-83	D, all compounds	6E+2	1E+3	4E-7	1E-9	9E-6	9E-5
37	Rubidium-84	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-86	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-87	D, all compounds	1E+3	2E+3	6E-7	2E-9	1E-5	1E-4
37	Rubidium-88[2]	D, all compounds	2E+4	6E+4	3E-5	9E-8	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
37	Rubidium-89[2]	D, all compounds	4E+4	1E+5	6E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	9E-4	9E-3
38	Strontium-80[2]	D, all soluble compounds except SrTiO	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		Y, all insoluble compounds and SrTi0	-	1E+4	5E-6	2E-8	-	-
38	Strontium-81[2]	D, see ^{80}Sr	3E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		Y, see ^{80}Sr	2E+4	8E+4	3E-5	1E-7	-	-
38	Strontium-82	D, see ^{80}Sr	3E+2	4E+2	2E-7	6E-10	-	-
			LLI wall (2E+2)	-	-	-	3E-6	3E-5
		Y, see ^{80}Sr	2E+2	9E+1	4E-8	1E-10	-	-
38	Strontium-83	D, see ^{80}Sr	3E+3	7E+3	3E-6	1E-8	3E-5	3E-4
		Y, see ^{80}Sr	2E+3	4E+3	1E-6	5E-9	-	-
38	Strontium-85m[2]	D, see ^{80}Sr	2E+5	6E+5	3E-4	9E-7	3E-3	3E-2
		Y, see ^{80}Sr	-	8E+5	4E-4	1E-6	-	-
38	Strontium-85	D, see ^{80}Sr	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
		Y, see ^{80}Sr	-	2E+3	6E-7	2E-9	-	-
38	Strontium-87m	D, see ^{80}Sr	5E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		Y, see ^{80}Sr	4E+4	2E+5	6E-5	2E-7	-	-
38	Strontium-89	D, see ^{80}Sr	6E+2	8E+2	4E-7	1E-9	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
		Y, see ^{80}Sr	5E+2	1E+2	6E-8	2E-10	-	-
38	Strontium-90	D, see ^{80}Sr	3E+1	2E+1	8E-9	-	-	-
			Bone surf (4E+1)	Bone surf (2E+1)	-	3E-11	5E-7	5E-6
		Y, see ^{80}Sr	-	4E+0	2E-9	6E-12	-	-
38	Strontium-91	D, see ^{80}Sr	2E+3	6E+3	2E-6	8E-9	2E-5	2E-4
		Y, see ^{80}Sr	-	4E+3	1E-6	5E-9	-	-
38	Strontium-92	D, see ^{80}Sr	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ^{80}Sr	-	7E+3	3E-6	9E-9	-	-
39	Yttrium-86m[2]	W, all compounds except						

		those given for Y	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		Y, oxides and hydroxides	-	5E+4	2E-5	8E-8	-	-
39	Yttrium-86	W, see ^{86m}Y	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
		Y, see ^{86m}Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-87	W, see ^{86m}Y	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		Y, see ^{86m}Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-88	W, see ^{86m}Y	1E+3	3E+2	1E-7	3E-10	1E-5	1E-4
		Y, see ^{86m}Y	-	2E+2	1E-7	3E-10	-	-
39	Yttrium-90m	W, see ^{86m}Y	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
		Y, see ^{86m}Y	-	1E+4	5E-6	2E-8	-	-
39	Yttrium-90	W, see ^{86m}Y	4E+2	7E+2	3E-7	9E-10	-	-
			LLI wall (5E+2)	-	-	-	7E-6	7E-5
		Y, see ^{86m}Y	-	6E+2	3E-7	9E-10	-	-
39	Yttrium-91m[2]	W, see ^{86m}Y	1E+5	2E+5	1E-4	3E-7	2E-3	2E-2
		Y, see ^{86m}Y	-	2E+5	7E-5	2E-7	-	-
39	Yttrium-91	W, see ^{86m}Y	5E+2	2E+2	7E-8	2E-10	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
		Y, see ^{86m}Y	-	1E+2	5E-8	2E-10	-	-
39	Yttrium-92	W, see ^{86m}Y	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ^{86m}Y	-	8E+3	3E-6	1E-8	-	-
39	Yttrium-93	W, see ^{86m}Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see ^{86m}Y	-	2E+3	1E-6	3E-9	-	-
39	Yttrium-94[2]	W, see ^{86m}Y	2E+4	8E+4	3E-5	1E-7	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		Y, see ^{86m}Y	-	8E+4	3E-5	1E-7	-	-
39	Yttrium-95[2]	W, see ^{86m}Y	4E+4	2E+5	6E-5	2E-7	-	-
			St wall (5E+4)	-	-	-	7E-4	7E-3
		Y, see ^{86m}Y	-	1E+5	6E-5	2E-7	-	-
40	Zirconium-86	D, all compounds except those given for W and Y	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
		Y, carbide	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-88	D, see ^{86}Zr	4E+3	2E+2	9E-8	3E-10	5E-5	5E-4
		W, see ^{86}Zr	-	5E+2	2E-7	7E-10	-	-
		Y, see ^{86}Zr	-	3E+2	1E-7	4E-10	-	-
40	Zirconium-89	D, see ^{86}Zr	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ^{86}Zr	-	2E+3	1E-6	3E-9	-	-
		Y, see ^{86}Zr	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-93	D, see ^{86}Zr	1E+3	6E+0	3E-9	-	-	-
			Bone surf (3E+3)	Bone surf (2E+1)	-	2E-11	4E-5	4E-4
		W, see ^{86}Zr	-	2E+1	1E-8	-	-	-
			-	Bone surf (6E+1)	-	9E-11	-	-
		Y, see ^{86}Zr	-	6E+1	2E-8	-	-	-
			-	Bone surf (7E+1)	-	9E-11	-	-
40	Zirconium-95	D, see ^{86}Zr	1E+3	1E+2	5E-8	-	2E-5	2E-4
			-	Bone surf (3E+2)	-	4E-10	-	-
		W, see ^{86}Zr	-	4E+2	2E-7	5E-10	-	-
		Y, see ^{86}Zr	-	3E+2	1E-7	4E-10	-	-
40	Zirconium-97	D, see ^{86}Zr	6E+2	2E+3	8E-7	3E-9	9E-6	9E-5
		W, see ^{86}Zr	-	1E+3	6E-7	2E-9	-	-
		Y, see ^{86}Zr	-	1E+3	5E-7	2E-9	-	-
41	Niobium-88[2]	W, all compounds except those given for Y	5E+4	2E+5	9E-5	3E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
		Y, oxides and hydroxides	-	2E+5	9E-5	3E-7	-	-

41	Niobium-89[2] (66 min)	W, see ^{88}Nb	1E+4	4E+4	2E-5	6E-8	1E-4	1E-3
		Y, see ^{88}Nb	-	4E+4	2E-5	5E-8	-	-
41	Niobium-89 (122 min)	W, see ^{88}Nb	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		Y, see ^{88}Nb	-	2E+4	6E-6	2E-8	-	-
41	Niobium-90	W, see ^{88}Nb	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		Y, see ^{88}Nb	-	2E+3	1E-6	3E-9	-	-
41	Niobium-93m	W, see ^{88}Nb	9E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (1E+4)	-	-	-	2E-4	2E-3
		Y, see ^{88}Nb	-	2E+2	7E-8	2E-10	-	-
41	Niobium-94	W, see ^{88}Nb	9E+2	2E+2	8E-8	3E-10	1E-5	1E-4
		Y, see ^{88}Nb	-	2E+1	6E-9	2E-11	-	-
41	Niobium-95m	W, see ^{88}Nb	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		Y, see ^{88}Nb	-	2E+3	9E-7	3E-9	-	-
41	Niobium-95	W, see ^{88}Nb	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
		Y, see ^{88}Nb	-	1E+3	5E-7	2E-9	-	-
41	Niobium-96	W, see ^{88}Nb	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see ^{88}Nb	-	2E+3	1E-6	3E-9	-	-
41	Niobium-97[2]	W, see ^{88}Nb	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		Y, see ^{88}Nb	-	7E+4	3E-5	1E-7	-	-
41	Niobium-98[2]	W, see ^{88}Nb	1E+4	5E+4	2E-5	8E-8	2E-4	2E-3
		Y, see ^{88}Nb	-	5E+4	2E-5	7E-8	-	-
42	Molybdenum-90	D, all compounds except those given for Y	4E+3	7E+3	3E-6	1E-8	3E-5	3E-4
		Y, oxides, hydroxides, and MoS	2E+3	5E+3	2E-6	6E-9	-	-
42	Molybdenum-93m	D, see ^{90}Mo	9E+3	2E+4	7E-6	2E-8	6E-5	6E-4
		Y, see ^{90}Mo	4E+3	1E+4	6E-6	2E-8	-	-
42	Molybdenum-93	D, see ^{90}Mo	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
		Y, see ^{90}Mo	2E+4	2E+2	8E-8	2E-10	-	-
42	Molybdenum-99	D, see ^{90}Mo	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{90}Mo	1E+3	1E+3	6E-7	2E-9	-	-
42	Molybdenum-101[2]	D, see ^{90}Mo	4E+4	1E+5	6E-5	2E-7	-	-
			St wall (5E+4)	-	-	-	7E-4	7E-3
		Y, see ^{90}Mo	-	1E+5	6E-5	2E-7	-	-
43	Technetium-93m[2]	D, all compounds except those given for W	7E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, and nitrates	-	3E+5	1E-4	4E-7	-	-
43	Technetium-93	D, see ^{93m}Tc	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		W, see ^{93m}Tc	-	1E+5	4E-5	1E-7	-	-
43	Technetium-94m[2]	D, see ^{93m}Tc	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
		W, see ^{93m}Tc	-	6E+4	2E-5	8E-8	-	-
43	Technetium-94	D, see ^{93m}Tc	9E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see ^{93m}Tc	-	2E+4	1E-5	3E-8	-	-
43	Technetium-95m	D, see ^{93m}Tc	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
		W, see ^{93m}Tc	-	2E+3	8E-7	3E-9	-	-
43	Technetium-95	D, see ^{93m}Tc	1E+4	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{93m}Tc	-	2E+4	8E-6	3E-8	-	-
43	Technetium-96m[2]	D, see ^{93m}Tc	2E+5	3E+5	1E-4	4E-7	2E-3	2E-2
		W, see ^{93m}Tc	-	2E+5	1E-4	3E-7	-	-
43	Technetium-96	D, see ^{93m}Tc	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		W, see ^{93m}Tc	-	2E+3	9E-7	3E-9	-	-
43	Technetium-97m	D, see ^{93m}Tc	5E+3	7E+3	3E-6	-	6E-5	6E-4

			St wall					
			-	(7E+3)	-	1E-8	-	-
		W, see ^{93m}Tc	-	1E+3	5E-7	2E-9	-	-
43	Technetium-97	D, see ^{93m}Tc	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
		W, see ^{93m}Tc	-	6E+3	2E-6	8E-9	-	-
43	Technetium-98	D, see ^{93m}Tc	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see ^{93m}Tc	-	3E+2	1E-7	4E-10	-	-
43	Technetium-99m	D, see ^{93m}Tc	8E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, see ^{93m}Tc	-	2E+5	1E-4	3E-7	-	-
43	Technetium-99	D, see ^{93m}Tc	4E+3	5E+3	2E-6	-	6E-5	6E-4
				St wall				
			-	(6E+3)	-	8E-9	-	-
		W, see ^{93m}Tc	-	7E+2	3E-7	9E-10	-	-
43	Technetium-101[2]	D, see ^{93m}Tc	9E+4	3E+5	1E-4	5E-7	-	
			St wall					
			(1E+5)	-	-	-	2E-3	2E-2
		W, see ^{93m}Tc	-	4E+5	2E-4	5E-7	-	-
43	Technetium-104[2]	D, see ^{93m}Tc	2E+4	7E+4	3E-5	1E-7	-	-
			St wall					
			(3E+4)	-	-	-	4E-4	4E-3
		W, see ^{93m}Tc	-	9E+4	4E-5	1E-7	-	-
44	Ruthenium-94[2]	D, all compounds except						
		those given for W and Y	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, halides	-	6E+4	3E-5	9E-8	-	-
		Y, oxides and hydroxides	-	6E+4	2E-5	8E-8	-	-
44	Ruthenium-97	D, see ^{94}Ru	8E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see ^{94}Ru	-	1E+4	5E-6	2E-8	-	-
		Y, see ^{94}Ru	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-103	D, see ^{94}Ru	2E+3	2E+3	7E-7	2E-9	3E-5	3E-4
		W, see ^{94}Ru	-	1E+3	4E-7	1E-9	-	-
		Y, see ^{94}Ru	-	6E+2	3E-7	9E-10	-	-
44	Ruthenium-105	D, see ^{94}Ru	5E+3	1E+4	6E-6	2E-8	7E-5	7E-4
		W, see ^{94}Ru	-	1E+4	6E-6	2E-8	-	-
		Y, see ^{94}Ru	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-106	D, see ^{94}Ru	2E+2	9E+1	4E-8	1E-10	-	-
			LLI wall					
			(2E+2)	-	-	-	3E-6	3E-5
		W, see ^{94}Ru	-	5E+1	2E-8	8E-11	-	-
		Y, see ^{94}Ru	-	1E+1	5E-9	2E-11	-	-
45	Rhodium-99m	D, all compounds except						
		those given for W and Y	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		W, halides	-	8E+4	3E-5	1E-7	-	-
		Y, oxides and hydroxides	-	7E+4	3E-5	9E-8	-	-
45	Rhodium-99	D, see ^{99m}Rh	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ^{99m}Rh	-	2E+3	9E-7	3E-9	-	-
		Y, see ^{99m}Rh	-	2E+3	8E-7	3E-9	-	-
45	Rhodium-100	D, see ^{99m}Rh	2E+3	5E+3	2E-6	7E-9	2E-5	2E-4
		W, see ^{99m}Rh	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{99m}Rh	-	4E+3	2E-6	5E-9	-	-
45	Rhodium-101m	D, see ^{99m}Rh	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see ^{99m}Rh	-	8E+3	4E-6	1E-8	-	-
		Y, see ^{99m}Rh	-	8E+3	3E-6	1E-8	-	-
45	Rhodium-101	D, see ^{99m}Rh	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see ^{99m}Rh	-	8E+2	3E-7	1E-9	-	-
		Y, see ^{99m}Rh	-	2E+2	6E-8	2E-10	-	-
45	Rhodium-102m	D, see ^{99m}Rh	1E+3	5E+2	2E-7	7E-10	-	-
			LLI wall					
			(1E+3)	-	-	-	2E-5	2E-4
		W, see ^{99m}Rh	-	4E+2	2E-7	5E-10	-	-
		Y, see ^{99m}Rh	-	1E+2	5E-8	2E-10	-	-
45	Rhodium-102	D, see ^{99m}Rh	6E+2	9E+1	4E-8	1E-10	8E-6	8E-5
		W, see ^{99m}Rh	-	2E+2	7E-8	2E-10	-	-
		Y, see ^{99m}Rh	-	6E+1	2E-8	8E-11	-	-
45	Rhodium-103m[2]	D, see ^{99m}Rh	4E+5	1E+6	5E-4	2E-6	6E-3	6E-2
		W, see ^{99m}Rh	-	1E+6	5E-4	2E-6	-	-

		Y, see ^{99m}Rh	-	1E+6	5E-4	2E-6	-	-
45	Rhodium-105	D, see ^{99m}Rh	4E+3 LLI wall (4E+3)	1E+4	5E-6	2E-8	-	-
				-	-	-	5E-5	5E-4
		W, see ^{99m}Rh	-	6E+3	3E-6	9E-9	-	-
		Y, see ^{99m}Rh	-	6E+3	2E-6	8E-9	-	-
45	Rhodium-106m	D, see ^{99m}Rh	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, see ^{99m}Rh	-	4E+4	2E-5	5E-8	-	-
		Y, see ^{99m}Rh	-	4E+4	1E-5	5E-8	-	-
45	Rhodium-107[2]	D, see ^{99m}Rh	7E+4 St wall (9E+4)	2E+5	1E-4	3E-7	-	-
				-	-	-	1E-3	1E-2
		W, see ^{99m}Rh	-	3E+5	1E-4	4E-7	-	-
		Y, see ^{99m}Rh	-	3E+5	1E-4	3E-7	-	-
46	Palladium-100	D, all compounds except those given for W and Y	1E+3	1E+3	6E-7	2E-9	2E-5	2E-4
		W, nitrates	-	1E+3	5E-7	2E-9	-	-
		Y, oxides and hydroxides	-	1E+3	6E-7	2E-9	-	-
46	Palladium-101	D, see ^{100}Pd	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
		W, see ^{100}Pd	-	3E+4	1E-5	5E-8	-	-
		Y, see ^{100}Pd	-	3E+4	1E-5	4E-8	-	-
46	Palladium-103	D, see ^{100}Pd	6E+3 LLI wall (7E+3)	6E+3	3E-6	9E-9	-	-
				-	-	-	1E-4	1E-3
		W, see ^{100}Pd	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{100}Pd	-	4E+3	1E-6	5E-9	-	-
46	Palladium-107	D, see ^{100}Pd	3E+4 LLI wall (4E+4)	2E+4 Kidneys (2E+4)	9E-6	-	-	-
				-	-	3E-8	5E-4	5E-3
		W, see ^{100}Pd	-	7E+3	3E-6	1E-8	-	-
		Y, see ^{100}Pd	-	4E+2	2E-7	6E-10	-	-
46	Palladium-109	D, see ^{100}Pd	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
		W, see ^{100}Pd	-	5E+3	2E-6	8E-9	-	-
		Y, see ^{100}Pd	-	5E+3	2E-6	6E-9	-	-
47	Silver-102[2]	D, all compounds except those given for W and Y	5E+4 St wall (6E+4)	2E+5	8E-5	2E-7	-	-
				-	-	-	9E-4	9E-3
		W, nitrates and sulfides	-	2E+5	9E-5	3E-7	-	-
		Y, oxides and hydroxides	-	2E+5	8E-5	3E-7	-	-
47	Silver-103[2]	D, see ^{102}Ag	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
		Y, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
47	Silver-104m[2]	D, see ^{102}Ag	3E+4	9E+4	4E-5	1E-7	4E-4	4E-3
		W, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
		Y, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
47	Silver-104[2]	D, see ^{102}Ag	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see ^{102}Ag	-	1E+5	6E-5	2E-7	-	-
		Y, see ^{102}Ag	-	1E+5	6E-5	2E-7	-	-
47	Silver-105	D, see ^{102}Ag	3E+3	1E+3	4E-7	1E-9	4E-5	4E-4
		W, see ^{102}Ag	-	2E+3	7E-7	2E-9	-	-
		Y, see ^{102}Ag	-	2E+3	7E-7	2E-9	-	-
47	Silver-106m	D, see ^{102}Ag	8E+2	7E+2	3E-7	1E-9	1E-5	1E-4
		W, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
		Y, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
47	Silver-106[2]	D, see ^{102}Ag	6E+4 St. wall (6E+4)	2E+5	8E-5	3E-7	-	-
				-	-	-	9E-4	9E-3
		W, see ^{102}Ag	-	2E+5	9E-5	3E-7	-	-
		Y, see ^{102}Ag	-	2E+5	8E-5	3E-7	-	-
47	Silver-108m	D, see ^{102}Ag	6E+2	2E+2	8E-8	3E-10	9E-6	9E-5
		W, see ^{102}Ag	-	3E+2	1E-7	4E-10	-	-
		Y, see ^{102}Ag	-	2E+1	1E-8	3E-11	-	-
47	Silver-110m	D, see ^{102}Ag	5E+2	1E+2	5E-8	2E-10	6E-6	6E-5
		W, see ^{102}Ag	-	2E+2	8E-8	3E-10	-	-
		Y, see ^{102}Ag	-	9E+1	4E-8	1E-10	-	-

47	Silver-111	D, see ^{102}Ag	9E+2 LLI wall (1E+3)	2E+3 Liver (2E+3)	6E-7 -	- 2E-9	- 2E-5	- 2E-4
		W, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
		Y, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
47	Silver-112	D, see ^{102}Ag	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{102}Ag	-	1E+4	4E-6	1E-8	-	-
		Y, see ^{102}Ag	-	9E+3	4E-6	1E-8	-	-
47	Silver-115[2]	D, see ^{102}Ag	3E+4 St wall (3E+4)	9E+4 -	4E-5 -	1E-7 -	- 4E-4	- 4E-3
		W, see ^{102}Ag	-	9E+4	4E-5	1E-7	-	-
		Y, see ^{102}Ag	-	8E+4	3E-5	1E-7	-	-
48	Cadmium-104[2]	D, all compounds except those given for W and Y	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		W, sulfides, halides, and nitrates	-	1E+5	5E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
48	Cadmium-107	D, see ^{104}Cd	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
		W, see ^{104}Cd	-	6E+4	2E-5	8E-8	-	-
		Y, see ^{104}Cd	-	5E+4	2E-5	7E-8	-	-
48	Cadmium-109	D, see ^{104}Cd	3E+2 Kidneys (4E+2)	4E+1 Kidneys (5E+1)	1E-8 -	- 7E-11	- 6E-6	- 6E-5
		W, see ^{104}Cd	-	1E+2 Kidneys (1E+2)	5E-8 -	- 2E-10	- -	- -
		Y, see ^{104}Cd	-	1E+2	5E-8	2E-10	-	-
48	Cadmium-113m	D, see ^{104}Cd	2E+1 Kidneys (4E+1)	2E+0 Kidneys (4E+0)	1E-9 -	- 5E-12	- 5E-7	- 5E-6
		W, see ^{104}Cd	-	8E+0 Kidneys (1E+1)	4E-9 -	- 2E-11	- -	- -
		Y, see ^{104}Cd	-	1E+1	5E-9	2E-11	-	-
48	Cadmium-113	D, see ^{104}Cd	2E+1 Kidneys (3E+1)	2E+0 Kidneys (3E+0)	9E-10 -	- 5E-12	- 4E-7	- 4E-6
		W, see ^{104}Cd	-	8E+0 Kidneys (1E+1)	3E-9 -	- 2E-11	- -	- -
		Y, see ^{104}Cd	-	1E+1	6E-9	2E-11	-	-
48	Cadmium-115m	D, see ^{104}Cd	3E+2	5E+1 Kidneys (8E+1)	2E-8 -	- 1E-10	4E-6 -	4E-5 -
		W, see ^{104}Cd	-	1E+2	5E-8	2E-10	-	-
		Y, see ^{104}Cd	-	1E+2	6E-8	2E-10	-	-
48	Cadmium-115	D, see ^{104}Cd	9E+2 LLI wall (1E+3)	1E+3 -	6E-7 -	2E-9 -	- 1E-5	- 1E-4
		W, see ^{104}Cd	-	1E+3	5E-7	2E-9	-	-
		Y, see ^{104}Cd	-	1E+3	6E-7	2E-9	-	-
48	Cadmium-117m	D, see ^{104}Cd	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see ^{104}Cd	-	2E+4	7E-6	2E-8	-	-
		Y, see ^{104}Cd	-	1E+4	6E-6	2E-8	-	-
48	Cadmium-117	D, see ^{104}Cd	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see ^{104}Cd	-	2E+4	7E-6	2E-8	-	-
		Y, see ^{104}Cd	-	1E+4	6E-6	2E-8	-	-
49	Indium-109	D, all compounds except those given for W	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
		W, oxides, hydroxides, halides, and nitrates	-	6E+4	3E-5	9E-8	-	-
49	Indium-110[2] (69.1 min)	D, see ^{109}In	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{109}In	-	6E+4	2E-5	8E-8	-	-
49	Indium-110 (4.9 h)	D, see ^{109}In	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		W, see ^{109}In	-	2E+4	8E-6	3E-8	-	-
49	Indium-111	D, see ^{109}In	4E+3	6E+3	3E-6	9E-9	6E-5	6E-4
		W, see ^{109}In	-	6E+3	3E-6	9E-9	-	-

49	Indium-112[7]	D, see ^{109}In	2E+5	6E+5	3E-4	9E-7	2E-3	2E-2
		W, see ^{109}In	-	7E+5	3E-4	1E-6	-	-
49	Indium-113m[7]	D, see ^{109}In	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		W, see ^{109}In	-	2E+5	8E-5	3E-7	-	-
49	Indium-114m	D, see ^{109}In	3E+2	6E+1	3E-8	9E-11	-	-
			LLI wall					
			(4E+2)	-	-	-	5E-6	5E-5
		W, see ^{109}In	-	1E+2	4E-8	1E-10	-	-
49	Indium-115m	D, see ^{109}In	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{109}In	-	5E+4	2E-5	7E-8	-	-
49	Indium-115	D, see ^{109}In	4E+1	1E+0	6E-10	2E-12	5E-7	5E-6
		W, see ^{109}In	-	5E+0	2E-9	8E-12	-	-
49	Indium-116m[7]	D, see ^{109}In	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		W, see ^{109}In	-	1E+5	5E-5	2E-7	-	-
49	Indium-117m[7]	D, see ^{109}In	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
		W, see ^{109}In	-	4E+4	2E-5	6E-8	-	-
49	Indium-117[7]	D, see ^{109}In	6E+4	2E+5	7E-5	2E-7	8E-4	8E-3
		W, see ^{109}In	-	2E+5	9E-5	3E-7	-	-
49	Indium-119m[7]	D, see ^{109}In	4E+4	1E+5	5E-5	2E-7	-	-
			St wall					
			(5E+4)	-	-	-	7E-4	7E-3
		W, see ^{109}In	-	1E+5	6E-5	2E-7	-	-
50	Tin-110	D, all compounds except those given for W	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
		W, sulfides, oxides, hydroxides, halides, nitrates, and stannic phosphate	-	1E+4	5E-6	2E-8	-	
50	Tin-111[7]	D, see ^{110}Sn	7E+4	2E+5	9E-5	3E-7	1E-3	1E-2
		W, see ^{110}Sn	-	3E+5	1E-4	4E-7	-	-
50	Tin-113	D, see ^{110}Sn	2E+3	1E+3	5E-7	2E-9	-	-
			LLI wall					
			(2E+3)	-	-	-	3E-5	3E-4
		W, see ^{110}Sn	-	5E+2	2E-7	8E-10	-	-
50	Tin-117m	D, see ^{110}Sn	2E+3	1E+3	5E-7	-	-	-
			LLI wall	Bone surf				
			(2E+3)	(2E+3)	-	3E-9	3E-5	3E-4
		W, see ^{110}Sn	-	1E+3	6E-7	2E-9	-	-
50	Tin-119m	D, see ^{110}Sn	3E+3	2E+3	1E-6	3E-9	-	-
			LLI wall					
			(4E+3)	-	-	-	6E-5	6E-4
		W, see ^{110}Sn	-	1E+3	4E-7	1E-9	-	-
50	Tin-121m	D, see ^{110}Sn	3E+3	9E+2	4E-7	1E-9	-	-
			LLI wall					
			(4E+3)	-	-	-	5E-5	5E-4
		W, see ^{110}Sn	-	5E+2	2E-7	8E-10	-	-
50	Tin-121	D, see ^{110}Sn	6E+3	2E+4	6E-6	2E-8	-	-
			LLI wall					
			(6E+3)	-	-	-	8E-5	8E-4
		W, see ^{110}Sn	-	1E+4	5E-6	2E-8	-	-
50	Tin-123m[7]	D, see ^{110}Sn	5E+4	1E+5	5E-5	2E-7	7E-4	7E-3
		W, see ^{110}Sn	-	1E+5	6E-5	2E-7	-	-
50	Tin-123	D, see ^{110}Sn	5E+2	6E+2	3E-7	9E-10	-	-
			LLI wall					
			(6E+2)	-	-	-	9E-6	9E-5
		W, see ^{110}Sn	-	2E+2	7E-8	2E-10	-	-
50	Tin-125	D, see ^{110}Sn	4E+2	9E+2	4E-7	1E-9	-	-
			LLI wall					
			(5E+2)	-	-	-	6E-6	6E-5
		W, see ^{110}Sn	-	4E+2	1E-7	5E-10	-	-
50	Tin-126	D, see ^{110}Sn	3E+2	6E+1	2E-8	8E-11	4E-6	4E-5
		W, see ^{110}Sn	-	7E+1	3E-8	9E-11	-	-
50	Tin-127	D, see ^{110}Sn	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		W, see ^{110}Sn	-	2E+4	8E-6	3E-8	-	-

50	Tin-128[2]	D, see ^{110}Sn	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, see ^{110}Sn	-	4E+4	1E-5	5E-8	-	-
51	Antimony-115[2]	D, all compounds except those given for W	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, sulfides, sulfates, and nitrates	-	3E+5	1E-4	4E-7	-	-
51	Antimony-116m[2]	D, see ^{115}Sb	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see ^{115}Sb	-	1E+5	6E-5	2E-7	-	-
51	Antimony-116[2]	D, see ^{115}Sb	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (9E+4)	-	-	-	1E-3	1E-2
		W, see ^{115}Sb	-	3E+5	1E-4	5E-7	-	-
51	Antimony-117	D, see ^{115}Sb	7E+4	2E+5	9E-5	3E-7	9E-4	9E-3
		W, see ^{115}Sb	-	3E+5	1E-4	4E-7	-	-
51	Antimony-118m	D, see ^{115}Sb	6E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		W, see ^{115}Sb	5E+3	2E+4	9E-6	3E-8	-	-
51	Antimony-119	D, see ^{115}Sb	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{115}Sb	2E+4	3E+4	1E-5	4E-8	-	-
51	Antimony-120[2] (16 min)	D, see ^{115}Sb	1E+5	4E+5	2E-4	6E-7	-	-
			St wall (2E+5)	-	-	-	2E-3	2E-2
		W, see ^{115}Sb	-	5E+5	2E-4	7E-7	-	-
51	Antimony-120 (5.76 d)	D, see ^{115}Sb	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		W, see ^{115}Sb	9E+2	1E+3	5E-7	2E-9	-	-
51	Antimony-122	D, see ^{115}Sb	8E+2	2E+3	1E-6	3E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
		W, see ^{115}Sb	7E+2	1E+3	4E-7	2E-9	-	-
51	Antimony-124m[2]	D, see ^{115}Sb	3E+5	8E+5	4E-4	1E-6	3E-3	3E-2
		W, see ^{115}Sb	2E+5	6E+5	2E-4	8E-7	-	-
51	Antimony-124	D, see ^{115}Sb	6E+2	9E+2	4E-7	1E-9	7E-6	7E-5
		W, see ^{115}Sb	5E+2	2E+2	1E-7	3E-10	-	-
51	Antimony-125	D, see ^{115}Sb	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
		W, see ^{115}Sb	-	5E+2	2E-7	7E-10	-	-
51	Antimony-126m[2]	D, see ^{115}Sb	5E+4	2E+5	8E-5	3E-7	-	-
			St wall (7E+4)	-	-	-	9E-4	9E-3
		W, see ^{115}Sb	-	2E+5	8E-5	3E-7	-	-
51	Antimony-126	D, see ^{115}Sb	6E+2	1E+3	5E-7	2E-9	7E-6	7E-5
		W, see ^{115}Sb	5E+2	5E+2	2E-7	7E-10	-	-
51	Antimony-127	D, see ^{115}Sb	8E+2	2E+3	9E-7	3E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
		W, see ^{115}Sb	7E+2	9E+2	4E-7	1E-9	-	-
51	Antimony-128[2] (10.4 min)	D, see ^{115}Sb	8E+4	4E+5	2E-4	5E-7	-	-
			St wall (1E+5)	-	-	-	1E-3	1E-2
		W, see ^{115}Sb	-	4E+5	2E-4	6E-7	-	-
51	Antimony-128 (9.01 h)	D, see ^{115}Sb	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, see ^{115}Sb	-	3E+3	1E-6	5E-9	-	-
51	Antimony-129	D, see ^{115}Sb	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		W, see ^{115}Sb	-	9E+3	4E-6	1E-8	-	-
51	Antimony-130[2]	D, see ^{115}Sb	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, see ^{115}Sb	-	8E+4	3E-5	1E-7	-	-
51	Antimony-131[2]	D, see ^{115}Sb	1E+4 Thyroid (2E+4)	2E+4 Thyroid (4E+4)	1E-5 -	- 6E-8	- 2E-4	- 2E-3
		W, see ^{115}Sb	- -	2E+4 Thyroid (4E+4)	1E-5 -	6E-8	- -	- -
52	Tellurium-116	D, all compounds except those given for W	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3

		W, oxides, hydroxides, and nitrates	-	3E+4	1E-5	4E-8	-	-
52	Tellurium-121m	D, see ^{116}Te	5E+2 Bone surf (7E+2)	2E+2 Bone surf (4E+2)	8E-8 -	- 5E-10	- 1E-5	- 1E-4
		W, see ^{116}Te	-	4E+2	2E-7	6E-10	-	-
52	Tellurium-121	D, see ^{116}Te	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see ^{116}Te	-	3E+3	1E-6	4E-9	-	-
52	Tellurium-123m	D, see ^{116}Te	6E+2 Bone surf (1E+3)	2E+2 Bone surf (5E+2)	9E-8 -	- 8E-10	- 1E-5	- 1E-4
		W, see ^{116}Te	-	5E+2	2E-7	8E-10	-	-
52	Tellurium-123	D, see ^{116}Te	5E+2 Bone surf (1E+3)	2E+2 Bone surf (5E+2)	8E-8 -	- 7E-10	- 2E-5	- 2E-4
		W, see ^{116}Te	-	4E+2 Bone surf	2E-7	-	-	-
			-	(1E+3)	-	2E-9	-	-
52	Tellurium-125m	D, see ^{116}Te	1E+3 Bone surf (1E+3)	4E+2 Bone surf (1E+3)	2E-7 -	- 1E-9	- 2E-5	- 2E-4
		W, see ^{116}Te	-	7E+2	3E-7	1E-9	-	-
52	Tellurium-127m	D, see ^{116}Te	6E+2	3E+2 Bone surf	1E-7	-	9E-6	9E-5
			-	(4E+2)	-	6E-10	-	-
		W, see ^{116}Te	-	3E+2	1E-7	4E-10	-	-
52	Tellurium-127	D, see ^{116}Te	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{116}Te	-	2E+4	7E-6	2E-8	-	-
52	Tellurium-129m	D, see ^{116}Te	5E+2	6E+2	3E-7	9E-10	7E-6	7E-5
		W, see ^{116}Te	-	2E+2	1E-7	3E-10	-	-
52	Tellurium-129[2]	D, see ^{116}Te	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see ^{116}Te	-	7E+4	3E-5	1E-7	-	-
52	Tellurium-131m	D, see ^{116}Te	3E+2 Thyroid (6E+2)	4E+2 Thyroid (1E+3)	2E-7 -	- 2E-9	- 8E-6	- 8E-5
		W, see ^{116}Te	-	4E+2 Thyroid	2E-7	-	-	-
			-	(9E+2)	-	1E-9	-	-
52	Tellurium-131[2]	D, see ^{116}Te	3E+3 Thyroid (6E+3)	5E+3 Thyroid (1E+4)	2E-6 -	- 2E-8	- 8E-5	- 8E-4
		W, see ^{116}Te	-	5E+3 Thyroid	2E-6	-	-	-
			-	(1E+4)	-	2E-8	-	-
52	Tellurium-132	D, see ^{116}Te	2E+2 Thyroid (7E+2)	2E+2 Thyroid (8E+2)	9E-8 -	- 1E-9	- 9E-6	- 9E-5
		W, see ^{116}Te	-	2E+2 Thyroid	9E-8	-	-	-
			-	(6E+2)	-	9E-10	-	-
52	Tellurium-133m[2]	D, see ^{116}Te	3E+3 Thyroid (6E+3)	5E+3 Thyroid (1E+4)	2E-6 -	- 2E-8	- 9E-5	- 9E-4
		W, see ^{116}Te	-	5E+3 Thyroid	2E-6	-	-	-
			-	(1E+4)	-	2E-8	-	-
52	Tellurium-133[2]	D, see ^{116}Te	1E+4 Thyroid (3E+4)	2E+4 Thyroid (6E+4)	9E-6 -	- 8E-8	- 4E-4	- 4E-3
		W, see ^{116}Te	-	2E+4 Thyroid	9E-6	-	-	-
			-	(6E+4)	-	8E-8	-	-
52	Tellurium-134[2]	D, see ^{116}Te	2E+4 Thyroid (2E+4)	2E+4 Thyroid (5E+4)	1E-5 -	- 7E-8	- 3E-4	- 3E-3
		W, see ^{116}Te	-	2E+4 Thyroid	1E-5	-	-	-
			-	(5E+4)	-	7E-8	-	-

53	Iodine-120m[2]	D, all compounds	1E+4 Thyroid (1E+4)	2E+4 -	9E-6 -	3E-8 -	- 2E-4	- 2E-3
53	Iodine-120[2]	D, all compounds	4E+3 Thyroid (8E+3)	9E+3 Thyroid (1E+4)	4E-6 -	- 2E-8	- 1E-4	- 1E-3
53	Iodine-121	D, all compounds	1E+4 Thyroid (3E+4)	2E+4 Thyroid (5E+4)	8E-6 -	- 7E-8	- 4E-4	- 4E-3
53	Iodine-123	D, all compounds	3E+3 Thyroid (1E+4)	6E+3 Thyroid (2E+4)	3E-6 -	- 2E-8	- 1E-4	- 1E-3
53	Iodine-124	D, all compounds	5E+1 Thyroid (2E+2)	8E+1 Thyroid (3E+2)	3E-8 -	- 4E-10	- 2E-6	- 2E-5
53	Iodine-125	D, all compounds	4E+1 Thyroid (1E+2)	6E+1 Thyroid (2E+2)	3E-8 -	- 3E-10	- 2E-6	- 2E-5
53	Iodine-126	D, all compounds	2E+1 Thyroid (7E+1)	4E+1 Thyroid (1E+2)	1E-8 -	- 2E-10	- 1E-6	- 1E-5
53	Iodine-128[2]	D, all compounds	4E+4 St wall (6E+4)	1E+5 -	5E-5 -	2E-7 -	- 8E-4	- 8E-3
53	Iodine-129	D, all compounds	5E+0 Thyroid (2E+1)	9E+0 Thyroid (3E+1)	4E-9 -	- 4E-11	- 2E-7	- 2E-6
53	Iodine-130	D, all compounds	4E+2 Thyroid (1E+3)	7E+2 Thyroid (2E+3)	3E-7 -	- 3E-9	- 2E-5	- 2E-4
53	Iodine-131	D, all compounds	3E+1 Thyroid (9E+1)	5E+1 Thyroid (2E+2)	2E-8 -	- 2E-10	- 1E-6	- 1E-5
53	Iodine-132m[2]	D, all compounds	4E+3 Thyroid (1E+4)	8E+3 Thyroid (2E+4)	4E-6 -	- 3E-8	- 1E-4	- 1E-3
53	Iodine-132	D, all compounds	4E+3 Thyroid (9E+3)	8E+3 Thyroid (1E+4)	3E-6 -	- 2E-8	- 1E-4	- 1E-3
53	Iodine-133	D, all compounds	1E+2 Thyroid (5E+2)	3E+2 Thyroid (9E+2)	1E-7 -	- 1E-9	- 7E-6	- 7E-5
53	Iodine-134[2]	D, all compounds	2E+4 Thyroid (3E+4)	5E+4 -	2E-5 -	6E-8 -	- 4E-4	- 4E-3
53	Iodine-135	D, all compounds	8E+2 Thyroid (3E+3)	2E+3 Thyroid (4E+3)	7E-7 -	- 6E-9	- 3E-5	- 3E-4
54	Xenon-120[2]	Submersion[1]	-	-	1E-5	4E-8	-	-
54	Xenon-121[2]	Submersion[1]	-	-	2E-6	1E-8	-	-
54	Xenon-122	Submersion[1]	-	-	7E-5	3E-7	-	-
54	Xenon-123	Submersion[1]	-	-	6E-6	3E-8	-	-
54	Xenon-125	Submersion[1]	-	-	2E-5	7E-8	-	-
54	Xenon-127	Submersion[1]	-	-	1E-5	6E-8	-	-
54	Xenon-129m	Submersion[1]	-	-	2E-4	9E-7	-	-
54	Xenon-131m	Submersion[1]	-	-	4E-4	2E-6	-	-
54	Xenon-133m	Submersion[1]	-	-	1E-4	6E-7	-	-
54	Xenon-133	Submersion[1]	-	-	1E-4	5E-7	-	-

54	Xenon-135m[2]	Submersion[1]	-	-	9E-6	4E-8	-	-
54	Xenon-135	Submersion[1]	-	-	1E-5	7E-8	-	-
54	Xenon-138[2]	Submersion[1]	-	-	4E-6	2E-8	-	-
55	Cesium-125[2]	D, all compounds	5E+4	1E+5	6E-5	2E-7	-	-
			St wall (9E+4)	-	-	-	1E-3	1E-2
55	Cesium-127	D, all compounds	6E+4	9E+4	4E-5	1E-7	9E-4	9E-3
55	Cesium-129	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
55	Cesium-130[2]	D, all compounds	6E+4	2E+5	8E-5	3E-7	-	-
			St wall (1E+5)	-	-	-	1E-3	1E-2
55	Cesium-131	D, all compounds	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
55	Cesium-132	D, all compounds	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
55	Cesium-134m	D, all compounds	1E+5	1E+5	6E-5	2E-7	-	-
			St wall (1E+5)	-	-	-	2E-3	2E-2
55	Cesium-134	D, all compounds	7E+1	1E+2	4E-8	2E-10	9E-7	9E-6
55	Cesium-135m[2]	D, all compounds	1E+5	2E+5	8E-5	3E-7	1E-3	1E-2
55	Cesium-135	D, all compounds	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
55	Cesium-136	D, all compounds	4E+2	7E+2	3E-7	9E-10	6E-6	6E-5
55	Cesium-137	D, all compounds	1E+2	2E+2	6E-8	2E-10	1E-6	1E-5
55	Cesium-138[2]	D, all compounds	2E+4	6E+4	2E-5	8E-8	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
56	Barium-126[2]	D, all compounds	6E+3	2E+4	6E-6	2E-8	8E-5	8E-4
56	Barium-128	D, all compounds	5E+2	2E+3	7E-7	2E-9	7E-6	7E-5
56	Barium-131m[2]	D, all compounds	4E+5	1E+6	6E-4	2E-6	-	-
			St wall (5E+5)	-	-	-	7E-3	7E-2
56	Barium-131	D, all compounds	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
56	Barium-133m	D, all compounds	2E+3	9E+3	4E-6	1E-8	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
56	Barium-133	D, all compounds	2E+3	7E+2	3E-7	9E-10	2E-5	2E-4
56	Barium-135m	D, all compounds	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
56	Barium-139[2]	D, all compounds	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
56	Barium-140	D, all compounds	5E+2	1E+3	6E-7	2E-9	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
56	Barium-141[2]	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
56	Barium-142[2]	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
57	Lanthanum-131[2]	D, all compounds except those given for W	5E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		W, oxides and hydroxides	-	2E+5	7E-5	2E-7	-	-
57	Lanthanum-132	D, see ^{131}La	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
		W, see ^{131}La	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-135	D, see ^{131}La	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see ^{131}La	-	9E+4	4E-5	1E-7	-	-
57	Lanthanum-137	D, see ^{131}La	1E+4	6E+1 Liver	3E-8	-	2E-4	2E-3
			-	(7E+1)	-	1E-10	-	-
		W, see ^{131}La	-	3E+2	1E-7	-	-	-
			-	Liver (3E+2)	-	4E-10	-	-

57	Lanthanum-138	D, see ^{131}La	9E+2	4E+0	1E-9	5E-12	1E-5	1E-4
		W, see ^{131}La	-	1E+1	6E-9	2E-11	-	-
57	Lanthanum-140	D, see ^{131}La	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see ^{131}La	-	1E+3	5E-7	2E-9	-	-
57	Lanthanum-141	D, see ^{131}La	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		W, see ^{131}La	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-142[2]	D, see ^{131}La	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{131}La	-	3E+4	1E-5	5E-8	-	-
57	Lanthanum-143[2]	D, see ^{131}La	4E+4	1E+5	4E-5	1E-7	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
		W, see ^{131}La	-	9E+4	4E-5	1E-7	-	-
58	Cerium-134	W, all compounds except those given for Y	5E+2	7E+2	3E-7	1E-9	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
		Y, oxides, hydroxides, and fluorides	-	7E+2	3E-7	9E-10	-	-
58	Cerium-135	W, see ^{134}Ce	2E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		Y, see ^{134}Ce	-	4E+3	1E-6	5E-9	-	-
58	Cerium-137m	W, see ^{134}Ce	2E+3	4E+3	2E-6	6E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		Y, see ^{134}Ce	-	4E+3	2E-6	5E-9	-	-
58	Cerium-137	W, see ^{134}Ce	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		Y, see ^{134}Ce	-	1E+5	5E-5	2E-7	-	-
58	Cerium-139	W, see ^{134}Ce	5E+3	8E+2	3E-7	1E-9	7E-5	7E-4
		Y, see ^{134}Ce	-	7E+2	3E-7	9E-10	-	-
58	Cerium-141	W, see ^{134}Ce	2E+3	7E+2	3E-7	1E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		Y, see ^{134}Ce	-	6E+2	2E-7	8E-10	-	-
58	Cerium-143	W, see ^{134}Ce	1E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{134}Ce	-	2E+3	7E-7	2E-9		
58	Cerium-144	W, see ^{134}Ce	2E+2	3E+1	1E-8	4E-11	-	-
			LLI wall (3E+2)	-	-	-	3E-6	3E-5
		Y, see ^{134}Ce	-	1E+1	6E-9	2E-11	-	-
59	Praseodymium-136[2]	W, all compounds except those given for Y	5E+4	2E+5	1E-4	3E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
		Y, oxides, hydroxides, carbides, and fluorides	-	2E+5	9E-5	3E-7	-	-
59	Praseodymium-137[2]	W, see ^{136}Pr	4E+4	2E+5	6E-5	2E-7	5E-4	5E-3
		Y, see ^{136}Pr	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-138m	W, see ^{136}Pr	1E+4	5E+4	2E-5	8E-8	1E-4	1E-3
		Y, see ^{136}Pr	-	4E+4	2E-5	6E-8	-	-
59	Praseodymium-139	W, see ^{136}Pr	4E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		Y, see ^{136}Pr	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-142m[2]	W, see ^{136}Pr	8E+4	2E+5	7E-5	2E-7	1E-3	1E-2
		Y, see ^{136}Pr	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-142	W, see ^{136}Pr	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		Y, see ^{136}Pr	-	2E+3	8E-7	3E-9	-	-
59	Praseodymium-143	W, see ^{136}Pr	9E+2	8E+2	3E-7	1E-9	-	-
			LLI wall (1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{136}Pr	-	7E+2	3E-7	9E-10	-	-
59	Praseodymium-144[2]	W, see ^{136}Pr	3E+4	1E+5	5E-5	2E-7	-	-
			St wall (4E+4)	-	-	-	6E-4	6E-3
		Y, see ^{136}Pr	-	1E+5	5E-5	2E-7	-	-

59	Praseodymium-145	W, see ^{136}Pr	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ^{136}Pr	-	8E+3	3E-6	1E-8	-	-
59	Praseodymium-147[2]	W, see ^{136}Pr	5E+4	2E+5	8E-5	3E-7	-	-
			St wall					
			(8E+4)	-	-	-	1E-3	1E-2
		Y, see ^{136}Pr	-	2E+5	8E-5	3E-7	-	-
60	Neodymium-136[2]	W, all compounds except						
		those given for Y	1E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		Y, oxides, hydroxides,						
		carbides, and fluorides	-	5E+4	2E-5	8E-8	-	-
60	Neodymium-138	W, see ^{136}Nd	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
		Y, see ^{136}Nd	-	5E+3	2E-6	7E-9	-	-
60	Neodymium-139m	W, see ^{136}Nd	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		Y, see ^{136}Nd	-	1E+4	6E-6	2E-8	-	-
60	Neodymium-139[2]	W, see ^{136}Nd	9E+4	3E+5	1E-4	5E-7	1E-3	1E-2
		Y, see ^{136}Nd	-	3E+5	1E-4	4E-7	-	-
60	Neodymium-141	W, see ^{136}Nd	2E+5	7E+5	3E-4	1E-6	2E-3	2E-2
		Y, see ^{136}Nd	-	6E+5	3E-4	9E-7	-	-
60	Neodymium-147	W, see ^{136}Nd	1E+3	9E+2	4E-7	1E-9	-	-
			LLI wall					
			(1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{136}Nd	-	8E+2	4E-7	1E-9	-	-
60	Neodymium-149[2]	W, see ^{136}Nd	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
		Y, see ^{136}Nd	-	2E+4	1E-5	3E-8	-	-
60	Neodymium-151[2]	W, see ^{136}Nd	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
		Y, see ^{136}Nd	-	2E+5	8E-5	3E-7	-	-
61	Promethium-141[2]	W, all compounds except						
		those given for Y	5E+4	2E+5	8E-5	3E-7	-	-
			St wall					
			(6E+4)	-	-	-	8E-4	8E-3
		Y, oxides, hydroxides,						
		carbides, and fluorides	-	2E+5	7E-5	2E-7	-	-
61	Promethium-143	W, see ^{141}Pm	5E+3	6E+2	2E-7	8E-10	7E-5	7E-4
		Y, see ^{141}Pm	-	7E+2	3E-7	1E-9	-	-
61	Promethium-144	W, see ^{141}Pm	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
		Y, see ^{141}Pm	-	1E+2	5E-8	2E-10	-	-
61	Promethium-145	W, see ^{141}Pm	1E+4	2E+2	7E-8	-	1E-4	1E-3
				Bone surf				
			-	(2E+2)	-	3E-10	-	-
		Y, see ^{141}Pm	-	2E+2	8E-8	3E-10	-	-
61	Promethium-146	W, see ^{141}Pm	2E+3	5E+1	2E-8	7E-11	2E-5	2E-4
		Y, see ^{141}Pm	-	4E+1	2E-8	6E-11	-	-
61	Promethium-147	W, see ^{141}Pm	4E+3	1E+2	5E-8	-	-	-
			LLI wall	Bone surf				
			(5E+3)	(2E+2)	-	3E-10	7E-5	7E-4
		Y, see ^{141}Pm	-	1E+2	6E-8	2E-10	-	-
61	Promethium-148m	W, see ^{141}Pm	7E+2	3E+2	1E-7	4E-10	1E-5	1E-4
		Y, see ^{141}Pm	-	3E+2	1E-7	5E-10	-	-
61	Promethium-148	W, see ^{141}Pm	4E+2	5E+2	2E-7	8E-10	-	-
			LLI wall					
			(5E+2)	-	-	-	7E-6	7E-5
		Y, see ^{141}Pm	-	5E+2	2E-7	7E-10	-	-
61	Promethium-149	W, see ^{141}Pm	1E+3	2E+3	8E-7	3E-9	-	-
			LLI wall					
			(1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{141}Pm	-	2E+3	8E-7	2E-9	-	-
61	Promethium-150	W, see ^{141}Pm	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		Y, see ^{141}Pm	-	2E+4	7E-6	2E-8	-	-
61	Promethium-151	W, see ^{141}Pm	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		Y, see ^{141}Pm	-	3E+3	1E-6	4E-9	-	-
62	Samarium-141m[2]	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
62	Samarium-141[2]	W, all compounds	5E+4	2E+5	8E-5	2E-7	-	-

			St wall (6E+4)	-	-	-	8E-4	8E-3
62	Samarium-142[2]	W, all compounds	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
62	Samarium-145	W, all compounds	6E+3	5E+2	2E-7	7E-10	8E-5	8E-4
62	Samarium-146	W, all compounds	1E+1	4E2	1E-11	-	-	-
			Bone surf (3E+1)	Bone surf (6E-2)	-	9E-14	3E-7	3E-6
62	Samarium-147	W, all compounds	2E+1	4E2	2E-11	-	-	-
			Bone surf (3E+1)	Bone surf (7E-2)	-	1E-13	4E-7	4E-6
62	Samarium-151	W, all compounds	1E+4	1E+2	4E-8	-	-	-
			LLI wall (1E+4)	Bone surf (2E+2)	-	2E-10	2E-4	2E-3
62	Samarium-153	W, all compounds	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
62	Samarium-155[2]	W, all compounds	6E+4	2E+5	9E-5	3E-7	-	-
			St wall (8E+4)	-	-	-	1E-3	1E-2
62	Samarium-156	W, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
63	Europium-145	W, all compounds	2E+3	2E+3	8E-7	3E-9	2E-5	2E-4
63	Europium-146	W, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
63	Europium-147	W, all compounds	3E+3	2E+3	7E-7	2E-9	4E-5	4E-4
63	Europium-148	W, all compounds	1E+3	4E+2	1E-7	5E-10	1E-5	1E-4
63	Europium-149	W, all compounds	1E+4	3E+3	1E-6	4E-9	2E-4	2E-3
63	Europium-150 (12.62 h)	W, all compounds	3E+3	8E+3	4E-6	1E-8	4E-5	4E-4
63	Europium-150 (34.2 y)	W, all compounds	8E+2	2E+1	8E-9	3E-11	1E-5	1E-4
63	Europium-152m	W, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
63	Europium-152	W, all compounds	8E+2	2E+1	1E-8	3E-11	1E-5	1E-4
63	Europium-154	W, all compounds	5E+2	2E+1	8E-9	3E-11	7E-6	7E-5
63	Europium-155	W, all compounds	4E+3	9E+1	4E-8	-	5E-5	5E-4
			-	Bone surf (1E+2)	-	2E-10	-	-
63	Europium-156	W, all compounds	6E+2	5E+2	2E-7	6E-10	8E-6	8E-5
63	Europium-157	W, all compounds	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
63	Europium-158[2]	W, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
64	Gadolinium-145[2]	D, all compounds except those given for W	5E+4	2E+5	6E-5	2E-7	-	-
			St wall (5E+4)	-	-	-	6E-4	6E-3
		W, oxides, hydroxides, and fluorides	-	2E+5	7E-5	2E-7	-	-
64	Gadolinium-146	D, see ^{145}Gd	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
		W, see ^{145}Gd	-	3E+2	1E-7	4E-10	-	-
64	Gadolinium-147	D, see ^{145}Gd	2E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		W, see ^{145}Gd	-	4E+3	1E-6	5E-9	-	-
64	Gadolinium-148	D, see ^{145}Gd	1E+1	8E+3	3E-12	-	-	-
			Bone surf (2E+1)	Bone surf (2E+2)	-	2E-14	3E-7	3E-6
		W, see ^{145}Gd	-	3E-2	1E-11	-	-	-
			-	Bone surf (6E-2)	-	8E-14	-	-
64	Gadolinium-149	D, see ^{145}Gd	3E+3	2E+3	9E-7	3E-9	4E-5	4E-4
		W, see ^{145}Gd	-	2E+3	1E-6	3E-9	-	-

64	Gadolinium-151	D, see ^{145}Gd	6E+3	4E+2	2E-7	-	9E-5	9E-4
			-	Bone surf (6E+2)	-	9E-10	-	-
		W, see ^{145}Gd	-	1E+3	5E-7	2E-9	-	-
64	Gadolinium-152	D, see ^{145}Gd	2E+1	1E-2	4E-12	-	-	-
			Bone surf (3E+1)	Bone surf (2E-2)	-	3E-14	4E-7	4E-6
		W, see ^{145}Gd	-	4E-2	2E-11	-	-	-
			-	Bone surf (8E-2)	-	1E-13	-	-
64	Gadolinium-153	D, see ^{145}Gd	5E+3	1E+2	6E-8	-	6E-5	6E-4
			-	Bone surf (2E+2)	-	3E-10	-	-
		W, see ^{145}Gd	-	6E+2	2E-7	8E-10	-	-
64	Gadolinium-159	D, see ^{145}Gd	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{145}Gd	-	6E+3	2E-6	8E-9	-	-
65	Terbium-147[2]	W, all compounds	9E+3	3E+4	1E-5	5E-8	1E-4	1E-3
65	Terbium-149	W, all compounds	5E+3	7E+2	3E-7	1E-9	7E-5	7E-4
65	Terbium-150	W, all compounds	5E+3	2E+4	9E-6	3E-8	7E-5	7E-4
65	Terbium-151	W, all compounds	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
65	Terbium-153	W, all compounds	5E+3	7E+3	3E-6	1E-8	7E-5	7E-4
65	Terbium-154	W, all compounds	2E+3	4E+3	2E-6	6E-9	2E-5	2E-4
65	Terbium-155	W, all compounds	6E+3	8E+3	3E-6	1E-8	8E-5	8E-4
65	Terbium-156m (5.0 h)	W, all compounds	2E+4	3E+4	1E-5	4E-8	2E-4	2E-3
65	Terbium-156m (24.4 h)	W, all compounds	7E+3	8E+3	3E-6	1E-8	1E-4	1E-3
65	Terbium-156	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
65	Terbium-157	W, all compounds	5E+4	3E+2	1E-7	-	-	-
			LLI wall (5E+4)	Bone surf (6E+2)	-	8E-10	7E-4	7E-3
65	Terbium-158	W, all compounds	1E+3	2E+1	8E-9	3E-11	2E-5	2E-4
65	Terbium-160	W, all compounds	8E+2	2E+2	9E-8	3E-10	1E-5	1E-4
65	Terbium-161	W, all compounds	2E+3	2E+3	7E-7	2E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
66	Dysprosium-155	W, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
66	Dysprosium-157	W, all compounds	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
66	Dysprosium-159	W, all compounds	1E+4	2E+3	1E-6	3E-9	2E-4	2E-3
66	Dysprosium-165	W, all compounds	1E+4	5E+4	2E-5	6E-8	2E-4	2E-3
66	Dysprosium-166	W, all compounds	6E+2	7E+2	3E-7	1E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
67	Holmium-155[2]	W, all compounds	4E+4	2E+5	6E-5	2E-7	6E-4	6E-3
67	Holmium-157[2]	W, all compounds	3E+5	1E+6	6E-4	2E-6	4E-3	4E-2
67	Holmium-159[2]	W, all compounds	2E+5	1E+6	4E-4	1E-6	3E-3	3E-2
67	Holmium-161	W, all compounds	1E+5	4E+5	2E-4	6E-7	1E-3	1E-2
67	Holmium-162m[2]	W, all compounds	5E+4	3E+5	1E-4	4E-7	7E-4	7E-3
67	Holmium-162[2]	W, all compounds	5E+5	2E+6	1E-3	3E-6	-	-
			St wall (8E+5)	-	-	-	1E-2	1E-1
67	Holmium-164m[2]	W, all compounds	1E+5	3E+5	1E-4	4E-7	1E-3	1E-2
67	Holmium-164[2]	W, all compounds	2E+5	6E+5	3E-4	9E-7	-	-
			St wall					

			(2E+5)	-	-	-	3E-3	3E-2
67	Holmium-166m	W, all compounds	6E+2	7E+0	3E-9	9E-12	9E-6	9E-5
67	Holmium-166	W, all compounds	9E+2	2E+3	7E-7	2E-9	-	-
			LLI wall (9E+2)	-	-	-	1E-5	1E-4
67	Holmium-167	W, all compounds	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
68	Erbium-161	W, all compounds	2E+4	6E+4	3E-5	9E-8	2E-4	2E-3
68	Erbium-165	W, all compounds	6E+4	2E+5	8E-5	3E-7	9E-4	9E-3
68	Erbium-169	W, all compounds	3E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (4E+3)	-	-	-	5E-5	5E-4
68	Erbium-171	W, all compounds	4E+3	1E+4	4E-6	1E-8	5E-5	5E-4
68	Erbium-172	W, all compounds	1E+3	1E+3	6E-7	2E-9	-	-
			LLI wall (E+3)	-	-	-	2E-5	2E-4
69	Thulium-162[2]	W, all compounds	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
69	Thulium-166	W, all compounds	4E+3	1E+4	6E-6	2E-8	6E-5	6E-4
69	Thulium-167	W, all compounds	2E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
69	Thulium-170	W, all compounds	8E+2	2E+2	9E-8	3E-10	-	-
			LLI wall (1E+3)	-	-	-	1E-5	1E-4
69	Thulium-171	W, all compounds	1E+4	3E+2	1E-7	-	-	-
			LLI wall (1E+4)	Bone surf (6E+2)	-	8E-10	2E-4	2E-3
69	Thulium-172	W, all compounds	7E+2	1E+3	5E-7	2E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
69	Thulium-173	W, all compounds	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
69	Thulium-175[2]	W, all compounds	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (9E+4)	-	-	-	1E-3	1E-2
70	Ytterbium-162[2]	W, all compounds except those given for Y	7E+4	3E+5	1E-4	4E-7	1E-3	1E-2
		Y, oxides, hydroxides, and fluorides	-	3E+5	1E-4	4E-7	-	-
70	Ytterbium-166	W, see ^{162}Yb	1E+3	2E+3	8E-7	3E-9	2E-5	2E-4
		Y, see ^{162}Yb	-	2E+3	8E-7	3E-9	-	-
70	Ytterbium-167[2]	W, see ^{162}Yb	3E+5	8E+5	3E-4	1E-6	4E-3	4E-2
		Y, see ^{162}Yb	-	7E+5	3E-4	1E-6	-	-
70	Ytterbium-169	W, see ^{162}Yb	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
		Y, see ^{162}Yb	-	7E+2	3E-7	1E-9	-	-
70	Ytterbium-175	W, see ^{162}Yb	3E+3	4E+3	1E-6	5E-9	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
		Y, see ^{162}Yb	-	3E+3	1E-6	5E-9	-	-
70	Ytterbium-177[2]	W, see ^{162}Yb	2E+4	5E+4	2E-5	7E-8	2E-4	2E-3
		Y, see ^{162}Yb	-	5E+4	2E-5	6E-8	-	-
70	Ytterbium-178[2]	W, see ^{162}Yb	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		Y, see ^{162}Yb	-	4E+4	2E-5	5E-8	-	-
71	Lutetium-169	W, all compounds except those given for Y	3E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		Y, oxides, hydroxides, and fluorides	-	4E+3	2E-6	6E-9	-	-
71	Lutetium-170	W, see ^{169}Lu	1E+3	2E+3	9E-7	3E-9	2E-5	2E-4
		Y, see ^{169}Lu	-	2E+3	8E-7	3E-9	-	-

71	Lutetium-171	W, see ^{169}Lu	2E+3	2E+3	8E-7	3E-9	3E-5	3E-4
		Y, see ^{169}Lu	-	2E+3	8E-7	3E-9	-	-
71	Lutetium-172	W, see ^{169}Lu	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
		Y, see ^{169}Lu	-	1E+3	5E-7	2E-9	-	-
71	Lutetium-173	W, see ^{169}Lu	5E+3	3E+2 Bone surf	1E-7	-	7E-5	7E-4
			-	(5E+2)	-	6E-10	-	-
		Y, see ^{169}Lu	-	3E+2	1E-7	4E-10	-	-
71	Lutetium-174m	W, see ^{169}Lu	2E+3 LLI wall	2E+2 Bone surf	1E-7	-	-	-
			(3E+3)	(3E+2)	-	5E-10	4E-5	4E-4
		Y, see ^{169}Lu	-	2E+2	9E-8	3E-10	-	-
71	Lutetium-174	W, see ^{169}Lu	5E+3	1E+2 Bone surf	5E-8	-	7E-5	7E-4
			-	(2E+2)	-	3E-10	-	-
		Y, see ^{169}Lu	-	2E+2	6E-8	2E-10	-	-
71	Lutetium-176m	W, see ^{169}Lu	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		Y, see ^{169}Lu	-	2E+4	9E-6	3E-8	-	-
71	Lutetium-176	W, see ^{169}Lu	7E+2	5E+0 Bone surf	2E-9	-	1E-5	1E-4
			-	(1E+1)	-	2E-11	-	-
		Y, see ^{169}Lu	-	8E+0	3E-9	1E-11	-	-
71	Lutetium-177m	W, see ^{169}Lu	7E+2	1E+2 Bone surf	5E-8	-	1E-5	1E-4
			-	(1E+2)	-	2E-10	-	-
		Y, see ^{169}Lu	-	8E+1	3E-8	1E-10	-	-
71	Lutetium-177	W, see ^{169}Lu	2E+3 LLI wall	2E+3	9E-7	3E-9	-	-
			(3E+3)	-	-	-	4E-5	4E-4
		Y, see ^{169}Lu	-	2E+3	9E-7	3E-9	-	-
71	Lutetium-178m[2]	W, see ^{169}Lu	5E+4 St. wall	2E+5	8E-5	3E-7	-	-
			(6E+4)	-	-	-	8E-4	8E-3
		Y, see ^{169}Lu	-	2E+5	7E-5	2E-7	-	-
71	Lutetium-178[2]	W, see ^{169}Lu	4E+4 St wall	1E+5	5E-5	2E-7	-	-
			(4E+4)	-	-	-	6E-4	6E-3
		Y, see ^{169}Lu	-	1E+5	5E-5	2E-7	-	-
71	Lutetium-179	W, see ^{169}Lu	6E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see ^{169}Lu	-	2E+4	6E-6	3E-8	-	-
72	Hafnium-170	D, all compounds except those given for W	3E+3	6E+3	2E-6	8E-9	4E-5	4E-4
		W, oxides, hydroxides, carbides, and nitrates	-	5E+3	2E-6	6E-9	-	-
72	Hafnium-172	D, see ^{170}Hf	1E+3	9E+0 Bone surf	4E-9	-	2E-5	2E-4
			-	(2E+1)	-	3E-11	-	-
		W, see ^{170}Hf	-	4E+1 Bone surf	2E-8	-	-	-
			-	(6E+1)	-	8E-11	-	-
72	Hafnium-173	D, see ^{170}Hf	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ^{170}Hf	-	1E+4	5E-6	2E-8	-	-
72	Hafnium-175	D, see ^{170}Hf	3E+3	9E+2 Bone surf	4E-7	-	4E-5	4E-4
			-	(1E+3)	-	1E-9	-	-
		W, see ^{170}Hf	-	1E+3	5E-7	2E-9	-	-
72	Hafnium-177m[2]	D, see ^{170}Hf	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		W, see ^{170}Hf	-	9E+4	4E-5	1E-7	-	-
72	Hafnium-178m	D, see ^{170}Hf	3E+2	1E+0 Bone surf	5E-10	-	3E-6	3E-5
			-	(2E+0)	-	3E-12	-	-
		W, see ^{170}Hf	-	5E+0 Bone surf	2E-9	-	-	-
			-	(9E+0)	-	1E-11	-	-
72	Hafnium-179m	D, see ^{170}Hf	1E+3	3E+2 Bone surf	1E-7	-	1E-5	1E-4

			-	(6E+2)	-	8E-10	-	-
		W, see ^{170}Hf	-	6E+2	3E-7	8E-10	-	-
72	Hafnium-180m	D, see ^{170}Hf	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{170}Hf	-	3E+4	1E-5	4E-8	-	-
72	Hafnium-181	D, see ^{170}Hf	1E+3	2E+2	7E-8	-	2E-5	2E-4
			-	Bone surf (4E+2)	-	6E-10	-	-
		W, see ^{170}Hf	-	4E+2	2E-7	6E-10	-	-
72	Hafnium-182m[2]	D, see ^{170}Hf	4E+4	9E+4	4E-5	1E-7	5E-4	5E-3
		W, see ^{170}Hf	-	1E+5	6E-5	2E-7	-	-
72	Hafnium-182	D, see ^{170}Hf	2E+2	8E-1	3E-10	-	-	-
			Bone surf (4E+2)	Bone surf (2E+0)	-	2E-12	5E-6	5E-5
		W, see ^{170}Hf	-	3E+0	1E-9	-	-	-
			-	Bone surf (7E+0)	-	1E-11	-	-
72	Hafnium-183[2]	D, see ^{170}Hf	2E+4	5E+4	2E-5	6E-8	3E-4	3E-3
		W, see ^{170}Hf	-	6E+4	2E-5	8E-8	-	-
72	Hafnium-184	D, see ^{170}Hf	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		W, see ^{170}Hf	-	6E+3	3E-6	9E-9	-	-
73	Tantalum-172[2]	W, all compounds except those given for Y	4E+4	1E+5	5E-5	2E-7	5E-4	5E-3
		Y, elemental Ta, oxides, hydroxides, halides, carbides, nitrates, and nitrides	-	1E+5	4E-5	1E-7	-	-
73	Tantalum-173	W, see ^{172}Ta	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see ^{172}Ta	-	2E+4	7E-6	2E-8	-	-
73	Tantalum-174[2]	W, see ^{172}Ta	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
		Y, see ^{172}Ta	-	9E+4	4E-5	1E-7	-	-
73	Tantalum-175	W, see ^{172}Ta	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
		Y, see ^{172}Ta	-	1E+4	6E-6	2E-8	-	-
73	Tantalum-176	W, see ^{172}Ta	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
		Y, see ^{172}Ta	-	1E+4	5E-6	2E-8	-	-
73	Tantalum-177	W, see ^{172}Ta	1E+4	2E+4	8E-6	3E-8	2E-4	2E-3
		Y, see ^{172}Ta	-	2E+4	7E-6	2E-8	-	-
73	Tantalum-178	W, see ^{172}Ta	2E+4	9E+4	4E-5	1E-7	2E-4	2E-3
		Y, see ^{172}Ta	-	7E+4	3E-5	1E-7	-	-
73	Tantalum-179	W, see ^{172}Ta	2E+4	5E+3	2E-6	8E-9	3E-4	3E-3
		Y, see ^{172}Ta	-	9E+2	4E-7	1E-9	-	-
73	Tantalum-180m	W, see ^{172}Ta	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		Y, see ^{172}Ta	-	6E+4	2E-5	8E-8	-	-
73	Tantalum-180	W, see ^{172}Ta	1E+3	4E+2	2E-7	6E-10	2E-5	2E-4
		Y, see ^{172}Ta	-	2E+1	1E-8	3E-11	-	-
73	Tantalum-182m[2]	W, see ^{172}Ta	2E+5	5E+5	2E-4	8E-7	-	-
			St wall (2E+5)	-	-	-	3E-3	3E-2
		Y, see ^{172}Ta	-	4E+5	2E-4	6E-7	-	-
73	Tantalum-182	W, see ^{172}Ta	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		Y, see ^{172}Ta	-	1E+2	6E-8	2E-10	-	-
73	Tantalum-183	W, see ^{172}Ta	9E+2	1E+3	5E-7	2E-9	-	-
			LLI wall (1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{172}Ta	-	1E+3	4E-7	1E-9	-	-
73	Tantalum-184	W, see ^{172}Ta	2E+3	5E+3	2E-6	8E-9	3E-5	3E-4
		Y, see ^{172}Ta	-	5E+3	2E-6	7E-9	-	-
73	Tantalum-185[2]	W, see ^{172}Ta	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		Y, see ^{172}Ta	-	6E+4	3E-5	9E-8	-	-
73	Tantalum-186[2]	W, see ^{172}Ta	5E+4	2E+5	1E-4	3E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
		Y, see ^{172}Ta	-	2E+5	9E-5	3E-7	-	-

74	Tungsten-176	D, all compounds	1E+4	5E+4	2E-5	7E-8	1E-4	1E-3
74	Tungsten-177	D, all compounds	2E+4	9E+4	4E-5	1E-7	3E-4	3E-3
74	Tungsten-178	D, all compounds	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
74	Tungsten-179[2]	D, all compounds	5E+5	2E+6	7E-4	2E-6	7E-3	7E-2
74	Tungsten-181	D, all compounds	2E+4	3E+4	1E-5	5E-8	2E-4	2E-3
74	Tungsten-185	D, all compounds	2E+3	7E+3	3E-6	9E-9	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
74	Tungsten-187	D, all compounds	2E+3	9E+3	4E-6	1E-8	3E-5	3E-4
74	Tungsten-188	D, all compounds	4E+2	1E+3	5E-7	2E-9	-	-
			LLI wall (5E+2)	-	-	-	7E-6	7E-5
75	Rhenium-177[2]	D, all compounds except those given for W	9E+4	3E+5	1E-4	4E-7	-	-
			St wall (1E+5)	-	-	-	2E-3	2E-2
		W, oxides, hydroxides, and nitrates	-	4E+5	1E-4	5E-7	-	-
75	Rhenium-178[2]	D, see ^{177}Re	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (1E+5)	-	-	-	1E-3	1E-2
		W, see ^{177}Re	-	3E+5	1E-4	4E-7	-	-
75	Rhenium-181	D, see ^{177}Re	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
		W, see ^{177}Re	-	9E+3	4E-6	1E-8	-	-
75	Rhenium-182 (12.7 h)	D, see ^{177}Re	7E+3	1E+4	5E-6	2E-8	9E-5	9E-4
		W, see ^{177}Re	-	2E+4	6E-6	2E-8	-	
75	Rhenium-182 (64.0 h)	D, see ^{177}Re	1E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		W, see ^{177}Re	-	2E+3	9E-7	3E-9	-	-
75	Rhenium-184m	D, see ^{177}Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ^{177}Re	-	4E+2	2E-7	6E-10	-	-
75	Rhenium-184	D, see ^{177}Re	2E+3	4E+3	1E-6	5E-9	3E-5	3E-4
		W, see ^{177}Re	-	1E+3	6E-7	2E-9	-	-
75	Rhenium-186m	D, see ^{177}Re	1E+3	2E+3	7E-7			
			St wall (2E+3)	St wall (2E+3)	-	3E-9	2E-5	2E-4
		W, see ^{177}Re	-	2E+2	6E-8	2E-10	-	-
75	Rhenium-186	D, see ^{177}Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ^{177}Re	-	2E+3	7E-7	2E-9	-	-
75	Rhenium-187	D, see ^{177}Re	6E+5	8E+5	4E-4	-	8E-3	8E-2
			St wall -	(9E+5)	-	1E-6	-	-
		W, see ^{177}Re	-	1E+5	4E-5	1E-7	-	-
75	Rhenium-188m[2]	D, see ^{177}Re	8E+4	1E+5	6E-5	2E-7	1E-3	1E-2
		W, see ^{177}Re	-	1E+5	6E-5	2E-7	-	-
75	Rhenium-188	D, see ^{177}Re	2E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		W, see ^{177}Re	-	3E+3	1E-6	4E-9	-	-
75	Rhenium-189	D, see ^{177}Re	3E+3	5E+3	2E-6	7E-9	4E-5	4E-4
		W, see ^{177}Re	-	4E+3	2E-6	6E-9	-	-
76	Osmium-180[2]	D, all compounds except those given for W and Y	1E+5	4E+5	2E-4	5E-7	1E-3	1E-2
		W, halides and nitrates	-	5E+5	2E-4	7E-7	-	-
		Y, oxides and hydroxides	-	5E+5	2E-4	6E-7	-	-
76	Osmium-181[2]	D, see ^{180}Os	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{180}Os	-	5E+4	2E-5	6E-8	-	-
		Y, see ^{180}Os	-	4E+4	2E-5	6E-8	-	-
76	Osmium-182	D, see ^{180}Os	2E+3	6E+3	2E-6	8E-9	3E-5	3E-4
		W, see ^{180}Os	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{180}Os	-	4E+3	2E-6	6E-9	-	-
76	Osmium-185	D, see ^{180}Os	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see ^{180}Os	-	8E+2	3E-7	1E-9	-	-

		Y, see ^{180}Os	-	8E+2	3E-7	1E-9	-	-
76	Osmium-189m	D, see ^{180}Os	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, see ^{180}Os	-	2E+5	9E-5	3E-7	-	-
		Y, see ^{180}Os	-	2E+5	7E-5	2E-7	-	-
76	Osmium-191m	D, see ^{180}Os	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ^{180}Os	-	2E+4	8E-6	3E-8	-	-
		Y, see ^{180}Os	-	2E+4	7E-6	2E-8	-	-
76	Osmium-191	D, see ^{180}Os	2E+3	2E+3	9E-7	3E-9	-	-
			LLI wall (3E+3)	-	-	-	3E-5	3E-4
		W, see ^{180}Os	-	2E+3	7E-7	2E-9	-	-
		Y, see ^{180}Os	-	1E+3	6E-7	2E-9	-	-
76	Osmium-193	D, see ^{180}Os	2E+3	5E+3	2E-6	6E-9	-	-
			LLI wall (2E+3)	-	-	-	2E-5	2E-4
		W, see ^{180}Os	-	3E+3	1E-6	4E-9	-	-
		Y, see ^{180}Os	-	3E+3	1E-6	4E-9	-	-
76	Osmium-194	D, see ^{180}Os	4E+2	4E+1	2E-8	6E-11	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
		W, see ^{180}Os	-	6E+1	2E-8	8E-11	-	-
		Y, see ^{180}Os	-	8E+0	3E-9	1E-11	-	-
77	Iridium-182[2]	D, all compounds except those given for W and Y	4E+4	1E+5	6E-5	2E-7	-	-
			St wall (4E+4)	-	-	-	6E-4	6E-3
		W, halides, nitrates, and metallic iridium	-	2E+5	6E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
77	Iridium-184	D, see ^{182}Ir	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ^{182}Ir	-	3E+4	1E-5	5E-8	-	-
		Y, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
77	Iridium-185	D, see ^{182}Ir	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ^{182}Ir	-	1E+4	5E-6	2E-8	-	-
		Y, see ^{182}Ir	-	1E+4	4E-6	1E-8	-	-
77	Iridium-186	D, see ^{182}Ir	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		W, see ^{182}Ir	-	6E+3	3E-6	9E-9	-	-
		Y, see ^{182}Ir	-	6E+3	2E-6	8E-9	-	-
77	Iridium-187	D, see ^{182}Ir	1E+4	3E+4	1E-5	5E-8	1E-4	1E-3
		W, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
		Y, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
77	Iridium-188	D, see ^{182}Ir	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
		W, see ^{182}Ir	-	4E+3	1E-6	5E-9	-	-
		Y, see ^{182}Ir	-	3E+3	1E-6	5E-9	-	-
77	Iridium-189	D, see ^{182}Ir	5E+3	5E+3	2E-6	7E-9	-	-
			LLI wall (5E+3)	-	-	-	7E-5	7E-4
		W, see ^{182}Ir	-	4E+3	2E-6	5E-9	-	-
		Y, see ^{182}Ir	-	4E+3	1E-6	5E-9	-	-
77	Iridium-190m[2]	D, see ^{182}Ir	2E+5	2E+5	8E-5	3E-7	2E-3	2E-2
		W, see ^{182}Ir	-	2E+5	9E-5	3E-7	-	-
		Y, see ^{182}Ir	-	2E+5	8E-5	3E-7	-	-
77	Iridium-190	D, see ^{182}Ir	1E+3	9E+2	4E-7	1E-9	1E-5	1E-4
		W, see ^{182}Ir	-	1E+3	4E-7	1E-9	-	-
		Y, see ^{182}Ir	-	9E+2	4E-7	1E-9	-	-
77	Iridium-192m	D, see ^{182}Ir	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
		W, see ^{182}Ir	-	2E+2	9E-8	3E-10	-	-
		Y, see ^{182}Ir	-	2E+1	6E-9	2E-11	-	-
77	Iridium-192	D, see ^{182}Ir	9E+2	3E+2	1E-7	4E-10	1E-5	1E-4
		W, see ^{182}Ir	-	4E+2	2E-7	6E-10	-	-
		Y, see ^{182}Ir	-	2E+2	9E-8	3E-10	-	-
77	Iridium-194m	D, see ^{182}Ir	6E+2	9E+1	4E-8	1E-10	9E-6	9E-5
		W, see ^{182}Ir	-	2E+2	7E-8	2E-10	-	-
		Y, see ^{182}Ir	-	1E+2	4E-8	1E-10	-	-
77	Iridium-194	D, see ^{182}Ir	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W, see ^{182}Ir	-	2E+3	9E-7	3E-9	-	-

		Y, see ^{182}Ir	-	2E+3	8E-7	3E-9	-	-
77	Iridium-195m	D, see ^{182}Ir	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
		Y, see ^{182}Ir	-	2E+4	9E-6	3E-8	-	-
77	Iridium-195	D, see ^{182}Ir	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{182}Ir	-	5E+4	2E-5	7E-8	-	-
		Y, see ^{182}Ir	-	4E+4	2E-5	6E-8	-	-
78	Platinum-186	D, all compounds	1E+4	4E+4	2E-5	5E-8	2E-4	2E-3
78	Platinum-188	D, all compounds	2E+3	2E+3	7E-7	2E-9	2E-5	2E-4
78	Platinum-189	D, all compounds	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
78	Platinum-191	D, all compounds	4E+3	8E+3	4E-6	1E-8	5E-5	5E-4
78	Platinum-193m	D, all compounds	3E+3	6E+3	3E-6	8E-9	-	-
			LLI wall					
			(3E+4)	-	-	-	4E-5	4E-4
78	Platinum-193	D, all compounds	4E+4	2E+4	1E-5	3E-8	-	-
			LLI wall					
			(5E+4)	-	-	-	6E-4	6E-3
78	Platinum-195m	D, all compounds	2E+3	4E+3	2E-6	6E-9	-	-
			LLI wall					
			(2E+3)	-	-	-	3E-5	3E-4
78	Platinum-197m[2]	D, all compounds	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
78	Platinum-197	D, all compounds	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
78	Platinum-199[2]	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
78	Platinum-200	D, all compounds	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
79	Gold-193	D, all compounds except						
		those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, halides and nitrates	-	2E+4	9E-6	3E-8	-	-
		Y, oxides and hydroxides	-	2E+4	8E-6	3E-8	-	-
79	Gold-194	D, see ^{193}Au	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{193}Au	-	5E+3	2E-6	8E-9	-	-
		Y, see ^{193}Au	-	5E+3	2E-6	7E-9	-	-
79	Gold-195	D, see ^{193}Au	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ^{193}Au	-	1E+3	6E-7	2E-9	-	-
		Y, see ^{193}Au	-	4E+2	2E-7	6E-10	-	-
79	Gold-198m	D, see ^{193}Au	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W, see ^{193}Au	-	1E+3	5E-7	2E-9	-	-
		Y, see ^{193}Au	-	1E+3	5E-7	2E-9	-	-
79	Gold-198	D, see ^{193}Au	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W, see ^{193}Au	-	2E+3	8E-7	3E-9	-	-
		Y, see ^{193}Au	-	2E+3	7E-7	2E-9	-	-
79	Gold-199	D, see ^{193}Au	3E+3	9E+3	4E-6	1E-8	-	-
			LLI wall					
			(3E+3)	-	-	-	4E-5	4E-4
		W, see ^{193}Au	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{193}Au	-	4E+3	2E-6	5E-9	-	-
79	Gold-200m	D, see ^{193}Au	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ^{193}Au	-	3E+3	1E-6	4E-9	-	-
		Y, see ^{193}Au	-	2E+4	1E-6	3E-9	-	-
79	Gold-200[2]	D, see ^{193}Au	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see ^{193}Au	-	8E+4	3E-5	1E-7	-	-
		Y, see ^{193}Au	-	7E+4	3E-5	1E-7	-	-
79	Gold-201[2]	D, see ^{193}Au	7E+4	2E+5	9E-5	3E-7	-	-
			St wall					
			(9E+4)	-	-	-	1E-3	1E-2
		W, see ^{193}Au	-	2E+5	1E-4	3E-7	-	-
		Y, see ^{193}Au	-	2E+5	9E-5	3E-7	-	-
80	Mercury-193m	Vapor	-	8E+3	4E-6	1E-8	-	-
		Organic D	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		D, sulfates	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		W, oxides, hydroxides, halides, nitrates, and						

		sulfides	-	8E+3	3E-6	1E-8	-	-
80	Mercury-193	Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		D, see ^{193m}Hg	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{193m}Hg	-	4E+4	2E-5	6E-8	-	-
80	Mercury-194	Vapor	-	3E+1	1E-8	4E-11	-	-
		Organic D	2E+1	3E+1	1E-8	4E-11	2E-7	2E-6
		D, see ^{193m}Hg	8E+2	4E+1	2E-8	6E-11	1E-5	1E-4
		W, see ^{193m}Hg	-	1E+2	5E-8	2E-10	-	-
80	Mercury-195m	Vapor	-	4E+3	2E-6	6E-9	-	-
		Organic D	3E+3	6E+3	3E-6	8E-9	4E-5	4E-4
		D, see ^{193m}Hg	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
		W, see ^{193m}Hg	-	4E+3	2E-6	5E-9	-	-
80	Mercury-195	Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
		D, see ^{193m}Hg	1E+4	4E+4	1E-5	5E-8	2E-4	2E-3
		W, see ^{193m}Hg	-	3E+4	1E-5	5E-8	-	-
80	Mercury-197m	Vapor	-	5E+3	2E-6	7E-9	-	-
		Organic D	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		D, see ^{193m}Hg	3E+3	7E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{193m}Hg	-	5E+3	2E-6	7E-9	-	-
80	Mercury-197	Vapor	-	8E+3	4E-6	1E-8	-	-
		Organic D	7E+3	1E+4	6E-6	2E-8	9E-5	9E-4
		D, see ^{193m}Hg	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see ^{193m}Hg	-	9E+3	4E-6	1E-8	-	-
80	Mercury-199m[2]	Vapor	-	8E+4	3E-5	1E-7	-	-
		Organic D	6E+4	2E+5	7E-5	2E-7	-	-
			St wall (1E+5)	-	-	-	1E-3	1E-2
		D, see ^{193m}Hg	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
		W, see ^{193m}Hg	-	2E+5	7E-5	2E-7	-	-
80	Mercury-203	Vapor	-	8E+2	4E-7	1E-9	-	-
		Organic D	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
		D, see ^{193m}Hg	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
		W, see ^{193m}Hg	-	1E+3	5E-7	2E-9	-	-
81	Thallium-194m[2]	D, all compounds	5E+4	2E+5	6E-5	2E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
81	Thallium-194[2]	D, all compounds	3E+5	6E+5	2E-4	8E-7	-	-
			St wall (3E+5)	-	-	-	4E-3	4E-2
81	Thallium-195[2]	D, all compounds	6E+4	1E+5	5E-5	2E-7	9E-4	9E-3
81	Thallium-197	D, all compounds	7E+4	1E+5	5E-5	2E-7	1E-3	1E-2
81	Thallium-198m[2]	D, all compounds	3E+4	5E+4	2E-5	8E-8	4E-4	4E-3
81	Thallium-198	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
81	Thallium-199	D, all compounds	6E+4	8E+4	4E-5	1E-7	9E-4	9E-3
81	Thallium-200	D, all compounds	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
81	Thallium-201	D, all compounds	2E+4	2E+4	9E-6	3E-8	2E-4	2E-3
81	Thallium-202	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
81	Thallium-204	D, all compounds	2E+3	2E+3	9E-7	3E-9	2E-5	2E-4
82	Lead-195m[2]	D, all compounds	6E+4	2E+5	8E-5	3E-7	8E-4	8E-3
82	Lead-198	D, all compounds	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
82	Lead-199[2]	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
82	Lead-200	D, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
82	Lead-201	D, all compounds	7E+3	2E+4	8E-6	3E-8	1E-4	1E-3
82	Lead-202m	D, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
82	Lead-202	D, all compounds	1E+2	5E+1	2E-8	7E-11	2E-6	2E-5

82	Lead-203	D, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
82	Lead-205	D, all compounds	4E+3	1E+3	6E-7	2E-9	5E-5	5E-4
82	Lead-209	D, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
82	Lead-210	D, all compounds	6E1 Bone surf (1E+0)	2E1 Bone surf (4E-1)	1E-10 -	- 6E-13	- 1E-8	- 1E-7
82	Lead-211[7]	D, all compounds	1E+4	6E+2	3E-7	9E-10	2E-4	2E-3
82	Lead-212	D, all compounds	8E+1 Bone surf (1E+2)	3E+1 -	1E-8 -	5E-11 -	- 2E-6	- 2E-5
82	Lead-214[7]	D, all compounds	9E+3	8E+2	3E-7	1E-9	1E-4	1E-3
83	Bismuth-200[7]	D, nitrates W, all other compounds	3E+4 -	8E+4 1E+5	4E-5 4E-5	1E-7 1E-7	4E-4 -	4E-3 -
83	Bismuth-201[7]	D, see ^{200}Bi W, see ^{200}Bi	1E+4 -	3E+4 4E+4	1E-5 2E-5	4E-8 5E-8	2E-4 -	2E-3 -
83	Bismuth-202[7]	D, see ^{200}Bi W, see ^{200}Bi	1E+4 -	4E+4 8E+4	2E-5 3E-5	6E-8 1E-7	2E-4 -	2E-3 -
83	Bismuth-203	D, see ^{200}Bi W, see ^{200}Bi	2E+3 -	7E+3 6E+3	3E-6 3E-6	9E-9 9E-9	3E-5 -	3E-4 -
83	Bismuth-205	D, see ^{200}Bi W, see ^{200}Bi	1E+3 -	3E+3 1E+3	1E-6 5E-7	3E-9 2E-9	2E-5 -	2E-4 -
83	Bismuth-206	D, see ^{200}Bi W, see ^{200}Bi	6E+2 -	1E+3 9E+2	6E-7 4E-7	2E-9 1E-9	9E-6 -	9E-5 -
83	Bismuth-207	D, see ^{200}Bi W, see ^{200}Bi	1E+3 -	2E+3 4E+2	7E-7 1E-7	2E-9 5E-10	1E-5 -	1E-4 -
83	Bismuth-210m	D, see ^{200}Bi	4E+1 Kidneys (6E+1)	5E+0 Kidneys (6E+0)	2E-9 -	- 9E-12	- 8E-7	- 8E-6
		W, see ^{200}Bi	-	7E-1	3E-10	9E-13	-	-
83	Bismuth-210	D, see ^{200}Bi	8E+2 -	2E+2 Kidneys (4E+2)	1E-7 -	- 5E-10	1E-5 -	1E-4 -
		W, see ^{200}Bi	-	3E+1	1E-8	4E-11	-	-
83	Bismuth-212[7]	D, see ^{200}Bi W, see ^{200}Bi	5E+3 -	2E+2 3E+2	1E-7 1E-7	3E-10 4E-10	7E-5 -	7E-4 -
83	Bismuth-213[7]	D, see ^{200}Bi W, see ^{200}Bi	7E+3 -	3E+2 4E+2	1E-7 1E-7	4E-10 5E-10	1E-4 -	1E-3 -
83	Bismuth-214[7]	D, see ^{200}Bi	2E+4 St wall (2E+4)	8E+2 -	3E-7 -	1E-9 -	- 3E-4	- 3E-3
		W, see ^{200}Bi	-	9E-2	4E-7	1E-9	-	-
84	Polonium-203[7]	D, all compounds except those given for W W, oxides, hydroxides, and nitrates	3E+4 -	6E+4 9E+4	3E-5 4E-5	9E-8 1E-7	3E-4 -	3E-3 -
84	Polonium-205[7]	D, see ^{203}Po W, see ^{203}Po	2E+4 -	4E+4 7E+4	2E-5 3E-5	5E-8 1E-7	3E-4 -	3E-3 -
84	Polonium-207	D, see ^{203}Po W, see ^{203}Po	8E+3 -	3E+4 3E+4	1E-5 1E-5	3E-8 4E-8	1E-4 -	1E-3 -
84	Polonium-210	D, see ^{203}Po W, see ^{203}Po	3E+0 -	6E-1 6E-1	3E-10 3E-10	9E-13 9E-13	4E-8 -	4E-7 -
85	Astatine-207[7]	D, halides W	6E+3 -	3E+3 2E+3	1E-6 9E-7	4E-9 3E-9	8E-5 -	8E-4 -
85	Astatine-211	D, halides W	1E+2 -	8E+1 5E+1	3E-8 2E-8	1E-10 8E-11	2E-6 -	2E-5 -
86	Radon-220	With daughters removed With daughters present	- -	2E+4 2E+1 (or 12 working level months)	7E-6 9E-9	2E-8 3E-11 (or 1.0 working	- -	- -

						level)		
86	Radon-222	With daughters removed	-	1E+4	4E-6	1E-8	-	-
		With daughters present	-	1E+2 (or 4 working level months)	3E-8	1E-10 (or 0.33 working level)	-	-
87	Francium-222[2]	D, all compounds	2E+3	5E+2	2E-7	6E-10	3E-5	3E-4
87	Francium-223[2]	D, all compounds	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
88	Radium-223	W, all compounds	5E+0	7E-1	3E-10	9E-13	-	-
			Bone surf (9E+0)	-	-	-	1E-7	1E-6
88	Radium-224	W, all compounds	8E+0	2E+0	7E-10	2E-12	-	-
			Bone surf (2E+1)	-	-	-	2E-7	2E-6
88	Radium-225	W, all compounds	8E+0	7E-1	3E-10	9E-13	-	-
			Bone surf (2E+1)	-	-	-	2E-7	2E-6
88	Radium-226	W, all compounds	2E+0	6E-1	3E-10	9E-13	-	-
			Bone surf (5E+0)	-	-	-	6E-8	6E-7
88	Radium-227[2]	W, all compounds	2E+4	1E+4	6E-6	-	-	-
			Bone surf (2E+4)	Bone surf (2E+4)	-	3E-8	3E-4	3E-3
88	Radium-228	W, all compounds	2E+0	1E+0	5E-10	2E-12	-	-
			Bone surf (4E+0)	-	-	-	6E-8	6E-7
89	Actinium-224	D, all compounds except those given for W and Y	2E+3	3E+1	1E-8	-	-	-
			LLI wall (2E+3)	Bone surf (4E+1)	-	5E-11	3E-5	3E-4
		W, halides and nitrates	-	5E+1	2E-8	7E-11	-	-
		Y, oxides and hydroxides	-	5E+1	2E-8	6E-11	-	-
89	Actinium-225	D, see ^{224}Ac	5E+1	3E-1	1E-10	-	-	-
			LLI wall (5E+1)	Bone surf (5E-1)	-	7E-13	7E-7	7E-6
		W, see ^{224}Ac	-	6E-1	3E-10	9E-13	-	-
		Y, see ^{224}Ac	-	6E-1	3E-10	9E-13	-	-
89	Actinium-226	D, see ^{224}Ac	1E+2	3E+0	1E-9	-	-	-
			LLI wall (1E+2)	Bone surf (4E+0)	-	5E-12	2E-6	2E-5
		W, see ^{224}Ac	-	5E+0	2E-9	7E-12	-	-
		Y, see ^{224}Ac	-	5E+0	2E-9	6E-12	-	-
89	Actinium-227	D, see ^{224}Ac	2E-1	4E-4	2E-13	-	-	-
			Bone surf (4E-1)	Bone surf (8E-4)	-	1E-15	5E-9	5E-8
		W, see ^{224}Ac	-	2E-3	7E-13	-	-	-
			-	Bone surf (3E-3)	-	4E-15	-	-
		Y, see ^{224}Ac	-	4E-3	2E-12	6E-15	-	-
89	Actinium-228	D, see ^{224}Ac	2E+3	9E+0	4E-9	-	3E-5	3E-4
			-	Bone surf (2E+1)	-	2E-11	-	-
		W, see ^{224}Ac	-	4E+1	2E-8	-	-	-
			-	Bone surf (6E+1)	-	8E-11	-	-
		Y, see ^{224}Ac	-	4E+1	2E-8	6E-11	-	-
90	Thorium-226[2]	W, all compounds except those given for Y	5E+3	2E+2	6E-8	2E-10	-	-
			St wall (5E+3)	-	-	-	7E-5	7E-4
		Y, oxides and hydroxides	-	1E+2	6E-8	2E-10	-	-
90	Thorium-227	W, see ^{226}Th	1E+2	3E-1	1E-10	5E-13	2E-6	2E-5
		Y, see ^{226}Th	-	3E-1	1E-10	5E-13	-	-
90	Thorium-228	W, see ^{226}Th	6E+0	1E-2	4E-12	-	-	-
			Bone surf (1E+1)	Bone surf (2E-2)	-	3E-14	2E-7	2E-6
		Y, see ^{226}Th	-	2E-2	7E-12	2E-14	-	-

90	Thorium-229	W, see ^{226}Th	6E-1	9E-4	4E-13	-	-	-
			Bone surf	Bone surf				
			(1E+0)	(2E-3)	-	3E-15	2E-8	2E-7
		Y, see ^{226}Th	-	2E-3	1E-12	-	-	-
				Bone surf				
			-	(3E-3)	-	4E-15	-	-
90	Thorium-230	W, see ^{226}Th	4E+0	6E-3	3E-12	-	-	-
			Bone surf	Bone surf				
			(9E+0)	(2E-2)	-	2E-14	1E-7	1E-6
		Y, see ^{226}Th	-	2E-2	6E-12	-	-	-
				Bone surf				
			-	(2E-2)	-	3E-14	-	-
90	Thorium-231	W, see ^{226}Th	4E+3	6E+3	3E-6	9E-9	5E-5	5E-4
		Y, see ^{226}Th	-	6E+3	3E-6	9E-9	-	-
90	Thorium-232	W, see ^{226}Th	7E-1	1E-3	5E-13	-	-	-
			Bone surf	Bone surf				
			(2E+0)	(3E-3)	-	4E-15	3E-8	3E-7
		Y, see ^{226}Th	-	3E-3	1E-12	-	-	-
				Bone surf				
			-	(4E-3)	-	6E-15	-	-
90	Thorium-234	W, see ^{226}Th	3E+2	2E+2	8E-8	3E-10	-	-
			LLI wall					
			(4E+2)	-	-	-	5E-6	5E-5
		Y, see ^{226}Th	-	2E+2	6E-8	2E-10	-	-
91	Protactinium-227[2]	W, all compounds except						
		those given for Y	4E+3	1E+2	5E-8	2E-10	5E-5	5E-4
		Y, oxides and hydroxides	-	1E+2	4E-8	1E-10	-	-
91	Protactinium-228	W, see ^{227}Pa	1E+3	1E+1	5E-9	-	2E-5	2E-4
				Bone surf				
			-	(2E+1)	-	3E-11	-	-
		Y, see ^{227}Pa	-	1E+1	5E-9	2E-11	-	-
91	Protactinium-230	W, see ^{227}Pa	6E+2	5E+0	2E-9	7E-12	-	-
			Bone surf					
			(9E+2)	-	-	-	1E-5	1E-4
		Y, see ^{227}Pa	-	4E+0	1E-9	5E-12	-	-
91	Protactinium-231	W, see ^{227}Pa	2E-1	2E-3	6E-13	-	-	-
			Bone surf	Bone surf				
			(5E-1)	(4E-3)	-	6E-15	6E-9	6E-8
		Y, see ^{227}Pa	-	4E-3	2E-12	-	-	-
				Bone surf				
			-	(6E-3)	-	8E-15	-	-
91	Protactinium-232	W, see ^{227}Pa	1E+3	2E+1	9E-9	-	2E-5	2E-4
				Bone surf				
			-	(6E+1)	-	8E-11	-	-
		Y, see ^{227}Pa	-	6E+1	2E-8	-	-	-
				Bone surf				
			-	(7E+1)	-	1E-10	-	-
91	Protactinium-233	W, see ^{227}Pa	1E+3	7E+2	3E-7	1E-9	-	-
			LLI wall					
			(2E+3)	-	-	-	2E-5	2E-4
		Y, see ^{227}Pa	-	6E+2	2E-7	8E-10	-	-
91	Protactinium-234	W, see ^{227}Pa	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		Y, see ^{227}Pa	-	7E+3	3E-6	9E-9	-	-
92	Uranium-230	D, UF, UOF, UO(NO)	4E+0	4E-1	2E-10	-	-	-
			Bone surf	Bone surf				
			(6E+0)	(6E-1)	-	8E-13	8E-8	8E-7
		W, UO, UF, UCl	-	4E-1	1E-10	5E-13	-	-
		Y, UO, UO	-	3E-1	1E-10	4E-13	-	-
92	Uranium-231	D, see ^{230}U	5E+3	8E+3	3E-6	1E-8	-	-
			LLI wall					
			(4E+3)	-	-	-	6E-5	6E-4
		W, see ^{230}U	-	6E+3	2E-6	8E-9	-	-
		Y, see ^{230}U	-	5E+3	2E-6	6E-9	-	-
92	Uranium-232	D, see ^{230}U	2E+0	2E-1	9E-11	-	-	-
			Bone surf	Bone surf				
			(4E+0)	(4E-1)	-	6E-13	6E-8	6E-7
		W, see ^{230}U	-	4E-1	2E-10	5E-13	-	-
		Y, see ^{230}U	-	8E-3	3E-12	1E-14	-	-
92	Uranium-233	D, see ^{230}U	1E+1	1E+0	5E-10	-	-	-

			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	7E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	5E-14	-	-
92	Uranium-234[3]	D, see ^{230}U	1E+1	1E+0	5E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	7E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	5E-14	-	-
92	Uranium-235[3]	D, see ^{230}U	1E+1	1E+0	6E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	8E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-236	D, see ^{230}U	1E+1	1E+0	5E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	8E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-237	D, see ^{230}U	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		W, see ^{230}U	-	2E+3	7E-7	2E-9	-	-
		Y, see ^{230}U	-	2E+3	6E-7	2E-9	-	-
92	Uranium-238[3]	D, see ^{230}U	1E+1	1E+0	6E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	8E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-239[2]	D, see ^{230}U	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
		W, see ^{230}U	-	2E+5	7E-5	2E-7	-	-
		Y, see ^{230}U	-	2E+5	6E-5	2E-7	-	-
92	Uranium-240	D, see ^{230}U	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W, see ^{230}U	-	3E+3	1E-6	4E-9	-	-
		Y, see ^{230}U	-	2E+3	1E-6	3E-9	-	-
92	Uranium-natural[3]	D, see ^{230}U	1E+1	1E+0	5E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	8E-1	3E-10	9E-13	-	-
		Y, see ^{230}U	-	5E-2	2E-11	9E-14	-	-
93	Neptunium-232[2]	W, all compounds	1E+5	2E+3	7E-7	-	2E-3	2E-2
			-	Bone surf (5E+2)	-	6E-9	-	-
93	Neptunium-233[2]	W, all compounds	8E+5	3E+6	1E-3	4E-6	1E-2	1E-1
93	Neptunium-234	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
93	Neptunium-235	W, all compounds	2E+4	8E+2	3E-7	-	-	-
			LLI wall (2E+4)	Bone surf (1E+3)	-	2E-9	3E-4	3E-3
93	Neptunium-236 (1.15E+5 y)	W, all compounds	3E+0	2E-2	9E-12	-	-	-
			Bone surf (6E+0)	Bone surf (5E-2)	-	8E-14	9E-8	9E-7
93	Neptunium-236 (22.5 h)	W, all compounds	3E+3	3E+1	1E-8	-	-	-
			Bone surf (4E+3)	Bone surf (7E+1)	-	1E-10	5E-5	5E-4
93	Neptunium-237	W, all compounds	5E-1	4E-3	2E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	1E-14	2E-8	2E-7
93	Neptunium-238	W, all compounds	1E+3	6E+1	3E-8	-	2E-5	2E-4
			-	Bone surf (2E+2)	-	2E-10	-	-
93	Neptunium-239	W, all compounds	2E+3	2E+3	9E-7	3E-9	-	-
			LLI wall (2E+3)	-	-	-	2E-5	2E-4
93	Neptunium-240[2]	W, all compounds	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
94	Plutonium-234	W, all compounds						

		except PuO	8E+3	2E+2	9E-8	3E-10	1E-4	1E-3
		Y, PuO	-	2E+2	8E-8	3E-10	-	-
94	Plutonium-235[2]	W, see ^{234}Pu	9E+5	3E+6	1E-3	4E-6	1E-2	1E-1
		Y, see ^{234}Pu	-	3E+6	1E-3	3E-6	-	-
94	Plutonium-236	W, see ^{234}Pu	2E+0	2E-2	8E-12	-	-	-
			Bone surf (4E+0)	Bone surf (4E-2)	-	5E-14	6E-8	6E-7
		Y, see ^{234}Pu	-	4E-2	2E-11	6E-14	-	-
94	Plutonium-237	W, see ^{234}Pu	1E+4	3E+3	1E-6	5E-9	2E-4	2E-3
		Y, see ^{234}Pu	-	3E+3	1E-6	4E-9	-	-
94	Plutonium-238	W, see ^{234}Pu	9E-1	7E-3	3E-12	-	-	-
			Bone surf (2E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	8E-12	2E-14	-	-
94	Plutonium-239	W, see ^{234}Pu	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-240	W, see ^{234}Pu	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-241	W, see ^{234}Pu	4E+1	3E-1	1E-10	-	-	-
			Bone surf (7E+1)	Bone surf (6E-1)	-	8E-13	1E-6	1E-5
		Y, see ^{234}Pu	-	8E-1	3E-10	-	-	-
			-	Bone surf (1E+0)	-	1E-12	-	-
94	Plutonium-242	W, see ^{234}Pu	8E-1	7E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-243	W, see ^{234}Pu	2E+4	4E+4	2E-5	5E-8	2E-4	2E-3
		Y, see ^{234}Pu	-	4E+4	2E-5	5E-8	-	-
94	Plutonium-244	W, see ^{234}Pu	8E-1	7E-3	3E-12	-	-	-
			Bone surf (2E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-245	W, see ^{234}Pu	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
		Y, see ^{234}Pu	-	4E+3	2E-6	6E-9	-	-
94	Plutonium-246	W, see ^{234}Pu	4E+2	3E+2	1E-7	4E-10	-	-
			LLI wall (4E+2)	-	-	-	6E-6	6E-5
		Y, see ^{234}Pu	-	3E+2	1E-7	4E-10	-	-
95	Americium-237[2]	W, all compounds	8E+4	3E+5	1E-4	4E-7	1E-3	1E-2
95	Americium-238[2]	W, all compounds	4E+4	3E+3	1E-6	-	5E-4	5E-3
			-	Bone surf (6E+3)	-	9E-9	-	-
95	Americium-239	W, all compounds	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
95	Americium-240	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
95	Americium-241	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
95	Americium-242m	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
95	Americium-242	W, all compounds	4E+3	8E+1	4E-8	-	5E-5	5E-4

			-	Bone surf (9E+1)	-	1E-10	-	-
95	Americium-243	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
95	Americium-244m[2]	W, all compounds	6E+4	4E+3	2E-6	-	-	-
			St wall (8E+4)	Bone surf (7E+3)	-	1E-8	1E-3	1E-2
95	Americium-244	W, all compounds	3E+3	2E+2	8E-8	-	4E-5	4E-4
			-	Bone surf (3E+2)	-	4E-10	-	-
95	Americium-245	W, all compounds	3E+4	8E+4	3E-5	1E-7	4E-4	4E-3
95	Americium-246m[2]	W, all compounds	5E+4	2E+5	8E-5	3E-7	-	-
			St wall (6E+4)	-	-	-	8E-4	8E-3
95	Americium-246[2]	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
96	Curium-238	W, all compounds	2E+4	1E+3	5E-7	2E-9	2E-4	2E-3
96	Curium-240	W, all compounds	6E+1	6E-1	2E-10	-	-	-
			Bone surf (8E+1)	Bone surf (6E-1)	-	9E-13	1E-6	1E-5
96	Curium-241	W, all compounds	1E+3	3E+1	1E-8	-	2E-5	2E-4
			-	Bone surf (4E+1)	-	5E-11	-	-
96	Curium-242	W, all compounds	3E+1	3E-1	1E-10	-	-	-
			Bone surf (5E+1)	Bone surf (3E-1)	-	4E-13	7E-7	7E-6
96	Curium-243	W, all compounds	1E+0	9E-3	4E-12	-	-	-
			Bone surf (2E+0)	Bone surf (2E-2)	-	2E-14	3E-8	3E-7
96	Curium-244	W, all compounds	1E+0	1E-2	5E-12	-	-	-
			Bone surf (3E+0)	Bone surf (2E-2)	-	3E-14	3E-8	3E-7
96	Curium-245	W, all compounds	7E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-246	W, all compounds	7E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-247	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-248	W, all compounds	2E-1	2E-3	7E-13	-	-	-
			Bone surf (4E-1)	Bone surf (3E-3)	-	4E-15	5E-9	5E-8
96	Curium-249[2]	W, all compounds	5E+4	2E+4	7E-6	-	7E-4	7E-3
			-	Bone surf (3E+4)	-	4E-8	-	-
96	Curium-250	W, all compounds	4E-2	3E-4	1E-13	-	-	-
			Bone surf (6E-2)	Bone surf (5E-4)	-	8E-16	9E-10	9E-9
97	Berkelium-245	W, all compounds	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
97	Berkelium-246	W, all compounds	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
97	Berkelium-247	W, all compounds	5E-1	4E-3	2E-12	-	-	-
			Bone surf (1E+0)	Bone surf (9E-3)	-	1E-14	2E-8	2E-7
97	Berkelium-249	W, all compounds	2E+2	2E+0	7E-10	-	-	-
			Bone surf (5E+2)	Bone surf (4E+0)	-	5E-12	6E-6	6E-5
97	Berkelium-250	W, all compounds	9E+3	3E+2	1E-7	-	1E-4	1E-3
			-	Bone surf (7E+2)	-	1E-9	-	-

98	Californium-244[2]	W, all compounds except those given for Y	3E+4	6E+2	2E-7	8E-10	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		Y, oxides and hydroxides	-	6E+2	2E-7	8E-10	-	-
98	Californium-246	W, see ^{244}Cf	4E+2	9E+0	4E-9	1E-11	5E-6	5E-5
		Y, see ^{244}Cf	-	9E+0	4E-9	1E-11	-	-
98	Californium-248	W, see ^{244}Cf	8E+0	6E-2	3E-11	-	-	-
			Bone surf (2E+1)	Bone surf (1E-1)	-	2E-13	2E-7	2E-6
		Y, see ^{244}Cf	-	1E-1	4E-11	1E-13	-	-
98	Californium-249	W, see ^{244}Cf	5E-1	4E-3	2E-12	-	-	-
			Bone surf (1E+0)	Bone surf (9E-3)	-	1E-14	2E-8	2E-7
		Y, see ^{244}Cf	-	1E-2	4E-12	-	-	-
			-	Bone surf (1E-2)	-	2E-14	-	-
98	Californium-250	W, see ^{244}Cf	1E+0	9E-3	4E-12	-	-	-
			Bone surf (2E+0)	Bone surf (2E-2)	-	3E-14	3E-8	3E-7
		Y, see ^{244}Cf	-	3E-2	1E-11	4E-14	-	-
98	Californium-251	W, see ^{244}Cf	5E-1	4E-3	2E-12	-	-	-
			Bone surf (1E+0)	Bone surf (9E-3)	-	1E-14	2E-8	2E-7
		Y, see ^{244}Cf	-	1E-2	4E-12	-	-	-
			-	Bone surf (1E-2)	-	2E-14	-	-
98	Californium-252	W, see ^{244}Cf	2E+0	2E-2	8E-12	-	-	-
			Bone surf (5E+0)	Bone surf (4E-2)	-	5E-14	7E-8	7E-7
		Y, see ^{244}Cf	-	3E-2	1E-11	5E-14	-	-
98	Californium-253	W, see ^{244}Cf	2E+2	2E+0	8E-10	3E-12	-	-
			Bone surf (4E+2)	-	-	-	5E-6	5E-5
		Y, see ^{244}Cf	-	2E+0	7E-10	2E-12	-	-
98	Californium-254	W, see ^{244}Cf	2E+0	2E-2	9E-12	3E-14	3E-8	3E-7
		Y, see ^{244}Cf	-	2E-2	7E-12	2E-14	-	-
99	Einsteinium-250	W, all compounds	4E+4	5E+2	2E-7	-	6E-4	6E-3
			-	Bone surf (1E+3)	-	2E-9	-	-
99	Einsteinium-251	W, all compounds	7E+3	9E+2	4E-7	-	1E-4	1E-3
			-	Bone surf (1E+3)	-	2E-9	-	-
99	Einsteinium-253	W, all compounds	2E+2	1E+0	6E-10	2E-12	2E-6	2E-5
99	Einsteinium-254m	W, all compounds	3E+2	1E+1	4E-9	1E-11	-	-
			LLI wall (3E+2)	-	-	-	4E-6	4E-5
99	Einsteinium-254	W, all compounds	8E+0	7E-2	3E-11	-	-	-
			Bone surf (2E+1)	Bone surf (1E-1)	-	2E-13	2E-7	2E-6
100	Fermium-252	W, all compounds	5E+2	1E+1	5E-9	2E-11	6E-6	6E-5
100	Fermium-253	W, all compounds	1E+3	1E+1	4E-9	1E-11	1E-5	1E-4
100	Fermium-254	W, all compounds	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
100	Fermium-255	W, all compounds	5E+2	2E+1	9E-9	3E-11	7E-6	7E-5
100	Fermium-257	W, all compounds	2E+1	2E-1	7E-11	-	-	-
			Bone surf (4E+1)	Bone surf (2E-1)	-	3E-13	5E-7	5E-6
101	Mendelevium-257	W, all compounds	7E+3	8E+1	4E-8	-	1E-4	1E-3
			-	Bone surf (9E+1)	-	1E-10	-	-
101	Mendelevium-258		W, all compounds		3E+1	2E-1	1E-10	---
			Bone surf (5E+1)	Bone surf (3E-1)	-	5E-13	6E-7	6E-6

- A single radionuclide not listed above with decay mode other than alpha emission or spontaneous fis sion and with radioactive half-life less than 2 hours	Submersion[1]	-	2E+2	1E-7	1E-9	-	-
- A single radionuclide not listed above with decay mode other than alpha emission or spontaneous fis sion and with radioactive half-life greater than 2 hours	....	-	2E-1	1E-10	1E-12	1E-8	1E-7
- A single radionuclide not listed above that decays by alpha emission or spontaneous fission, or a mixture for which either the identity or the concentration of a radionuclide in the mixture is not known	....	-	4E-4	2E-13	1E-15	2E-9	2E-8
If it is known that Ac-227-D and Cm-250-W are not present		-	7E-4	3E-13	-	-	-
If, in addition, it is known that Ac-227-W,Y, Th-229-W,Y, Th-230-W, Th-232-W,Y, Pa-231-W,Y, Np-237-W, Pu-239-W, Pu-240-W, Pu-242-W, Am-241-W, Am-242m-W, Am-243-W, Cm-245-W, Cm-246-W, Cm-247-W, Cm-248-W, Bk-247-W, Cf-249-W, and Cf-251-W are not present		-	7E-3	3E-12	-	-	-
If, in addition, it is known that Sm-146-W, Sm-147-W, Gd-148-D,W, Gd-152-D,W, Th-228-W,Y, Th-230-Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, Np-236-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-Y, Pu-240-Y, Pu-242-Y, Pu-244-W,Y, Cm-243-W, Cm-244-W, Cf-248-W, Cf-249-Y, Cf-250-W,Y, Cf-251-Y, Cf-252-W,Y, and Cf-254-W,Y are not present		-	7E-2	3E-11	-	-	-
If, in addition, it is known that Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-Y, Es-254-W, Fm-257-W, and Md-258-W are not present		-	7E-1	3E-10	-	-	-
If, in addition, it is known that Si-32-Y, Ti-44-Y, Fe-60-D, Sr-90-Y, Zr-93-D, Cd-113m-D, Cd-113-D, In-115-D,W, La-138-D, Lu-176-W, Hf-178m-D,W, Hf-182-D,W, Bi-210m-D, Ra-224-W, Ra-228-W, Ac-226-D,W,Y, Pa-230-W,Y, U-233-D,W, U-234-D,W, U-235-D,W, U-236-D,W, U-238-D,W, Pu-241-Y, Bk-249-W, Cf-253-W,Y, and Es-253-W are not present		-	7E+0	3E-9	-	-	-
If it is known that Ac-227-D,W,Y, Th-229-W,Y, Th-232-W,Y, Pa-231-W,Y, Cm-248-W, and Cm-250-W are not present		-	-	-	1E-14	-	-
If, in addition, it is known that Sm-146-W, Gd-148-D,W, Gd-152-D, Th-228-W,Y, Th-230-W,Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, U-Nat-Y, Np-236-W, Np-237-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-W,Y, Pu-240-W,Y, Pu-242-W,Y, Pu-244-W,Y, Am-241-W, Am-242m-W, Am-243-W, Cm-243-W, Cm-244-W, Cm-245-W, Cm-246-W, Cm-247-W, Bk-247-W, Cf-249-W,Y, Cf-250-W,Y, Cf-251-W,Y, Cf-252-W,Y, and Cf-254-W,Y are not present		-	-	-	1E-13	-	-
If, in addition, it is known that Sm-147-W, Gd-152-W, Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, U-Nat-W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-W,Y, Es-254-W, Fm-257-W, and Md-258-W are not present		-	-	-	1E-12	-	
If, in addition it is known that Fe-60, Sr-90, Cd-113m, Cd-113, In-115, I-129, Cs-134, Sm-145, Sm-147, Gd-148, Gd-152, Hg-194 (organic), Bi-210m, Ra-223, Ra-224, Ra-225, Ac-225, Th-228, Th-230, U-233, U-234, U-235, U-236, U-238, U-Nat, Cm-242, Cf-248, Es-254, Fm-257, and Md-258 are not present		-	-	-	-	1E-6	1E-5

FOOTNOTES:
[1]"Submersion" means that values given are for submersion in a hemispherical semi-infinite cloud of airborne material.
[2]These radionuclides have radiological half-lives of less than 2 hours. The total effective dose equivalent received during operations with these radionuclides may include a significant contribution from external exposure. The DAC values for all radionuclides, other than those designated Class "Submersion," are based upon the committed effective dose equivalent due to the intake of the radionuclide into the body and do NOT include potentially significant contributions to dose equivalent from external exposures. The licensee may substitute 1E-7 μCi/ml for the listed DAC to account for the submersion dose prospectively, but may use individual monitoring devices or other radiation measuring instruments that measure external exposure to demonstrate compliance with the limits. (See Section 43 of this administrative regulation)
[3]For soluble mixtures of U-238, U-234, and U-235 in air, chemical toxicity may be the limiting factor (Section 3(5) of this administrative regulation). If the percent by weight (enrichment) of U-235 is not greater than five (5), the concentration value for a forty (40) hour workweek is two-tenths (0.2) milligrams uranium per cubic meter of air average. For enrichment, the product of the average concentration and time of exposure during a forty (40) hour workweek shall not exceed 8E-3 (SA) μCi-hr/ml, if SA is the specific activity of the uranium inhaled. The specific activity for natural uranium is 6.77E-7 curies per gram U. The specific activity for other mixtures of U-238, U-235, and U-234, if not known, shall be:

SA = 3.6E-7 curies/gram U U-depleted
SA = [0.4 + 0.38 (enrichment) + 0.0034 (enrichment)^2] E- , enrichment ≥ 0.72

if enrichment is the percentage by weight of U-235, expressed as percent.
NOTE:

1. If the identity of each radionuclide in a mixture is known but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture shall be the most restrictive DAC of a radionuclide in the mixture.

2. If the identity of each radionuclide in the mixture is not known, but it is known that certain radionuclides specified in this appendix are not present in the mixture, the inhalation ALI, DAC, and effluent and sewage concentrations for the mixture shall be the lowest values specified in this appendix for a radionuclide that is not known to be absent from the mixture; or

3. If a mixture of radionuclides consists of uranium and its daughters in ore dust (ten (10) μm AMAD particle distribution assumed) prior to chemical separation of the uranium from the ore, the following values may be used for the DAC of the mixture: 6E-11 μCi of gross alpha activity from uranium-238, uranium-234, thorium-230, and radium-226 per milliliter of air; 3E-11 μCi of natural uranium per milliliter of air; or forty-five (45) micrograms of natural uranium per cubic meter of air.

4. If the identity and concentration of each radionuclide in a mixture are known, the limiting values may be derived as follows: determine, for each radionuclide in the mixture, the ratio between the concentration present in the mixture and the concentration otherwise established in Section 44 of this administrative regulation for the specific radionuclide if not in a mixture. The sum of ratios for the radionuclides in the mixture shall not exceed "1" (i.e., "unity").

Example: If radionuclides "A," "B," and "C" are present in concentrations CA, CB, and CC, and if the applicable DACs are DAC_A, DAC_B, and DAC_C, respectively, then the concentrations shall be limited so that the following relationship exists:

$$\frac{C_A}{DAC_A} + \frac{C_B}{DAC_B} + \frac{C_C}{DAC_C}$$

Section 45. Material Incorporated by Reference. (1) The following forms are incorporated by reference:

(a) NRC Form 4, "Cumulative Occupational Exposure History," (June 1992)"; and

(b) NRC Form 5, "Occupational Exposure Record for a Monitoring Period," (June 1992).

(2) The forms in subsection (1) of this section may be viewed or copied at the Office of the Commissioner of Health Services, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. until 4:30 p.m., Monday through Friday.

Section 46. 902 KAR 100:020, Standards for Protection Against Radiation, and 902 KAR 100:025, Concentration Above Natural Background for Air and Water, are hereby repealed.

RICE C. LEACH, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 9, 1993
FILED WITH LRC: January 26, 1994 at 3 p.m.

STATEMENT OF EMERGENCY
902 KAR 100:021E

Emergency regulation 902 KAR 100:021E is necessary in order to provide conformity with federal regulation 10 CFR 20. In order to continue enforcement of compatible standards for protection against radiation in waste disposal, as required by the Commonwealth's Agreement with the U.S. Nuclear Regulatory Commission, the Cabinet for Human Resources is required to implement this administrative regulation. An ordinary administrative regulation will not suffice due to the effective date required by the U.S. Nuclear Regulatory Commission. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed with the Regulations Compiler on or before January 15, 1994.

BRERETON C. JONES, Governor
FONTAINE BANKS, JR., Secretary

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

902 KAR 100:021E. Disposal of radioactive material.

RELATES TO: KRS 211.842 to 211.852, 211.990(4), 10 CFR 20.2001-.2007, Appendix F to 20.2001-.2401, 49 CFR 173, Subpart I

STATUTORY AUTHORITY: KRS 194.050, 211.090, 211.844, 211.846, 211.8524), 10 CFR 20.2001-.2007, Appendix F to 20.2001-.2401, 49 CFR 173, Subpart I

EFFECTIVE: January 26, 1994

NECESSITY AND FUNCTION: [~~The Cabinet for Human Resources is empowered by~~] KRS 211.844 authorizes the Cabinet for Human Resources to provide by administrative regulation for the registration and licensing of the possession or use of [~~any~~] sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. [~~The purpose of~~] This administrative regulation [~~is to~~] provides waste disposal limitations for radioactive material, and applies to [~~:~~

~~Section 1. Applicability. This regulation applies to all~~] persons

disposing of radioactive material or waste [licensed pursuant to the cabinet's radiation regulations].

Section 1. [2.] General Requirements. (1) A person or [No] licensee shall dispose of any radioactive material or waste only [except]:

(a) [(1)] By transfer to an authorized recipient as provided in 902 KAR 100:040, Section 13, [;] or 902 KAR 100:022;

(b) By decay in storage;

(c) By release in effluents within the limits in 902 KAR 100:019, Section 10; or

(d) As authorized under Sections 2, 3, 4, or 5 of this administrative regulation.

(2) A person shall be specifically licensed to receive waste containing radioactive material or waste from other persons for:

(a) Treatment prior to disposal;

(b) Treatment or disposal by incineration;

(c) Decay in storage; or

(d) Disposal at a land disposal facility licensed under 902 KAR 100:022.

[(2) Pursuant to 902 KAR 100:020, Section 8; 902 KAR 100:022; or this regulation.]

Section 2. [3.] Method for [of] Obtaining Approval of Proposed Disposal Procedures. A person, licensee, or applicant for a license [(1) Any person] may apply to the cabinet for approval of proposed procedures, not otherwise authorized in 902 KAR 100:020, 100:021, 100:022, 100:050, and 100:073, to dispose of radioactive material or waste generated by their activities [in a manner not otherwise authorized in these regulations]. An [Each] application shall include:

(1) A description of the waste containing radioactive material to be disposed of, including the:

(a) Physical and chemical properties important to risk evaluation; and

(b) Proposed manner and conditions of waste disposal.

(2) An analysis and evaluation of pertinent information on the nature of the environment.

(3) The nature and location of other potentially affected licensed and unlicensed facilities.

(4) Analyses and procedures to ensure that doses are maintained ALARA and within the dose limits in 902 KAR 100:019, Sections 3, 8, 9, and 10. [, including the quantities and kinds of radioactive material and levels of radioactivity involved, and the proposed manner and conditions of disposal. The application, where appropriate, should also include an analysis and evaluation of pertinent information as to the nature of the environment, including topographical, geological, meteorological, and hydrological characteristics; usage of ground and surface waters in the general area; the nature and location of other potentially affected facilities; and procedures to be observed to minimize the risk of unexpected or hazardous exposures.

(2) The cabinet shall not approve any application for a license to receive radioactive material from other persons for disposal on land not owned by the Commonwealth of Kentucky or the federal government.]

Section 3. [4.] Disposal by Release into Sanitary Sewerage [Systems]. (1) A person or [No] licensee may [shall] discharge licensed [radioactive] material into [a] sanitary sewerage if the following conditions are satisfied [system unless]:

(a) The material [It] is readily soluble, or is readily dispersible biological material, in water;

(b) [The quantity of any radioactive material released into the system by the licensee in any one (1) day does not exceed the larger of:

1. The quantity which, if diluted by the average daily quantity of sewage released into the sewer by the licensee, will result in an average concentration equal to the limits specified in 902 KAR 100:025, Table I, Column 2; or

2. Ten (10) times the quantity of such material specified in 902 KAR 100:030;

(c)] The quantity of licensed or other [any] radioactive material that the licensee released into the sewer in [any] one (1) month, divided [if diluted] by the average monthly volume [quantity] of water released into the sewer by the licensee, shall [will] not exceed the [result in an average] concentration listed in 902 KAR 100:019, Section 44, Table III; [exceeding the limits specified in 902 KAR 100:025, Table I, Column 2; and]

(c) If more than one (1) radionuclide is released, the following conditions shall be satisfied:

1. The licensee shall determine the fraction of the limit in 902 KAR 100:019, Section 44, Table III, represented by discharges into the sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee into the sewer by the concentration of that radionuclide listed in 902 KAR 100:019, Section 44, Table III; and

2. The sum of the fractions for each radionuclide required by subsection (1)(c)1 of this section does not exceed unity; and

(d) The total [gross] quantity of licensed and other radioactive material that the licensee releases [, excluding hydrogen-3 and carbon-14, released] into the sewerage system in a year shall [by the licensee does] not exceed [one (1) curie per year. The quantities of hydrogen-3 and carbon-14 released into the sanitary sewerage system may not exceed] five (5) curies (185 GBq) of [per year for] hydrogen-3, [and] one (1) curie (37 GBq) of [per year for] carbon-14, and one (1) curie of other radioactive materials combined.

(2) [No licensee shall discharge radioactive material into an individual sewerage disposal system used for the treatment of waste water serving only a single dwelling, office building, industrial plant, or institution except as specifically approved by the cabinet pursuant to Section 3 of this regulation and 902 KAR 100:020, Section 8.

(3)] Excreta from individuals undergoing medical diagnosis or therapy with radioactive material shall not be subject to the [exempt from any] limitations contained in subsection (1) of this section.

Section 4. Treatment or [5.] Disposal by Incineration. A licensee may treat or dispose of licensed material by incineration only:

(1) In the amounts and forms specified in Section 5 of this administrative regulation; or

(2) As specifically approved by the cabinet and authorized by Section 2 of this administrative regulation. [No licensee shall incinerate radioactive material for the purpose of disposal or preparation for disposal except as specifically approved by the cabinet pursuant to Section 3 of this regulation and 902 KAR 100:020, Section 8.]

Section 5. [6.] Disposal of Specific De Minimis Waste. (1) A person or [Any] licensee may dispose of the following radioactive material without regard to its radioactivity:

(a) 0.05 microcurie or less of hydrogen-3(tritium), carbon -14, or iodine-125 per gram of medium used for liquid scintillation counting or in vitro clinical or in vivo laboratory testing; and

(b) 0.05 microcurie (1.85 kBq) or less of hydrogen-3, carbon-14, or iodine-125 per gram of animal tissue averaged over the weight of the entire animal.

(2) A licensee shall not dispose of [; provided, however,] tissue pursuant to subsection (1)(b) of this section [may not be disposed of under this subsection] in a manner that may [would] permit its use [either] as food for humans or as animal feed.

(3) A licensee shall maintain records pursuant to Section 11 of this administrative regulation.

[(2) Nothing in this section relieves the licensee from maintaining records showing the receipt, transfer and disposal of such radioactive material as specified in 902 KAR 100:015, Section 4 of these regulations.]

(4) A [~~(3) Nothing in this section relieves the~~] licensee shall comply [~~from complying~~] with other applicable federal, state, and local regulations governing [~~any~~] other toxic or hazardous properties [~~property~~] of these materials.

Section 6. [~~7.~~] Classification of Radioactive Waste for Near-surface Disposal. (1) Considerations. Determination of the classification of waste shall be given the following [~~involves two (2)~~] considerations:

(a) [~~Consideration must be given to~~] The concentration of long-lived radionuclides, and their shorter-lived precursors, whose potential hazard will persist long after [~~such~~] precautions such as institutional controls, improved waste form, and deeper disposal have ceased to be effective. These precautions delay the time [~~when~~] long-lived radionuclides may [~~could~~] cause exposures. [~~In addition,~~] The magnitude of the potential dose is limited by the concentration and availability of the radionuclide at the time of exposure; and

(b) [~~Consideration must be given to~~] The concentration of shorter-lived radionuclides for which requirements on institutional controls, waste form, and disposal methods are effective.

(2) Classes of waste.

(a) Class A waste shall be [~~is waste that is~~] usually segregated from other waste classes at the disposal site. The physical form and characteristics of Class A waste shall [~~must~~] meet the minimum requirements set forth in Section 7 [8] of this administrative regulation. If Class A waste also meets the stability requirements set forth in Section 7 [8] (2) of this administrative regulation, it shall [is] not be necessary to segregate the waste for disposal.

(b) Class B waste shall [~~is waste that must~~] meet more rigorous requirements on waste form to ensure stability after disposal. The physical form and characteristics of Class B waste shall [~~must~~] meet both the minimum and stability requirements set forth in Section 7 [8] of this administrative regulation.

(c) Class C waste shall [~~is waste that not only must~~] meet more rigorous requirements on waste form to ensure stability and shall require [~~but also requires~~] additional measures at the disposal facility to protect against inadvertent intrusion. The physical form and characteristics of Class C waste shall [~~must~~] meet both the minimum and stability requirements set forth in Section 7 [8] of this administrative regulation.

(3) Classification determined by long-lived radionuclides. If the waste contains only radionuclides listed in Table 1 of this subsection, classification shall be determined as follows:

(a) If the concentration does not exceed one-tenth (0.1) times the value in Table 1, the waste shall be [is] Class A.

(b) If the concentration exceeds one-tenth (0.1) times the value, but does not exceed the value in Table 1, the waste shall be [is] Class C.

(c) If the concentration exceeds the value in Table 1, the waste shall [is] not generally be acceptable for near-surface disposal.

(d) For waste containing mixtures of radionuclides listed in Table 1, the total concentration shall be determined by the sum of fractions rule described in subsection (7) of this section.

TABLE 1

Radionuclide	Concentration curies/cubic meter
C-14	8
C-14 in activated metal	80
Ni-59 in activated metal	220
Nb-94 in activated metal	0.2
Tc-99	3
I-129	0.08
Alpha emitting transuranic radionuclides with half-life greater than five (5) years	100*
Pu-241	3500*
Cm-242	20000*
Ra-226	100*

*Units are nanocuries per gram.

(4) Classification determined by short-lived radionuclides. If the waste contains none [~~does not contain any~~] of the radionuclides listed in Table 1 of subsection (3) of this section, classification shall be determined based on the concentrations shown in Table 2 of this subsection. If a nuclide is not listed in Table 2, it shall [~~does~~] not need to be considered in determining the waste class.

(a) If the concentration does not exceed the value in Column 1, the waste shall be [is] Class A.

(b) If the concentration exceeds the value in Column 1, but does not exceed the value in Column 2, the waste shall be [is] Class B.

(c) If the concentration exceeds the value in Column 2, but does not exceed the value in Column 3, the waste shall be [is] Class C.

(d) If the concentration exceeds the value in Column 3, the waste shall [is] not generally be acceptable for near-surface disposal.

(e) For waste containing mixtures of the radionuclides listed in Table 2, the total concentration shall be determined by the sum of fractions rule described in subsection (7) of this section.

TABLE 2

Radionuclide	Concentration, curies/cubic meter Column 1	Column 2	Column 3
Total of all radionuclides with less than five (5) year half-life	700	*	*
H-3	40	*	*
Co-60	700	*	*
Ni-63	3.5	70	700
Ni-63 in activated metal	35	700	7000
Sr-90	0.04	150	7000
Cs-137	1	44	4600

*There are not limits established for [~~these~~] radionuclides in Class B or C waste. Practical considerations, such as the effects of external radiation and internal heat generation on transportation, handling, and disposal, [~~will~~] limit the concentrations for these wastes. This waste shall be Class B unless the concentrations of other radionuclides in Table 2 determine the waste to be Class C independent of these radionuclides.

(5) Classification determined by both long-lived and short-lived radionuclides. If the waste contains a mixture of radionuclides, some [~~of which are~~] listed in Table 1 of this section, and some [~~of which are~~] listed in Table 2 of this section, classification shall be determined as follows:

(a) If the concentration of a radionuclide listed in Table 1 does not exceed one-tenth (0.1) times the value listed in Table 1, the class shall be [~~that~~] determined by the concentration of radionuclides listed in Table 2.

(b) If the concentration of a radionuclide listed in Table 1 exceeds one-tenth (0.1) times the value, but does not exceed the value listed in Table 1, the waste shall be Class C, if [~~provided~~] the concentration of radionuclides listed in Table 2 does not exceed the value shown in Column 3 of Table 2.

(6) Classification of waste with radionuclides other than those listed in Tables 1 and 2. If the waste contains none of the [~~does not contain any~~] radionuclides listed in [~~either~~] Table 1 or 2 of this section, it shall be [is] Class A.

(7) The sum of fractions rule for mixtures of radionuclides. The following shall be considered in [~~For~~] determining classification for waste that contains a mixture of radionuclides:

(a) [~~, it is necessary to determine~~] The sum of fractions shall be

determined by dividing each radionuclide's concentration by the appropriate limit and adding the resulting values.

(b) The appropriate limits shall [~~must all~~] be taken from the same column of the same table.

(c) The sum of the fractions for the column shall [~~must~~] be less than one (1.0) if the waste class is [~~to be~~] determined by that column.

(d) Example: A waste contains Sr-90 in a concentration of fifty (50) Ci/cubic meter and Cs-137 in a concentration of twenty-two (22) Ci/cubic meter. Since the concentrations both exceed the values in Column 1, Table 2, they shall [~~must~~] be compared to Column 2 values. For Sr-90 fraction, 50/150 = 0.33; for Cs-137 fraction, 22/44 = 0.5; the sum of the fractions = 0.83. Since the sum is less than one (1.0), the waste shall be [~~is~~] Class B.

(8) Determination of concentrations in waste.

(a) If there is reasonable assurance that indirect methods may be correlated with actual measurements, the concentration of a radionuclide may be determined by indirect methods such as use of scaling factors which relate the inferred concentration of one (1) radionuclide to another that is measured or radionuclide material accountability[~~, if there is reasonable assurance that the indirect methods can be correlated with actual measurements~~].

(b) If the units are expressed as nanocuries per gram, the concentration of a radionuclide may be averaged over the volume [~~of the waste,~~] or weight of the waste [~~if the units are expressed as nanocuries per gram~~].

Section 7. [~~8.~~] Radioactive Waste Characteristics. (1) The following shall be [~~are~~] minimum requirements for all classes of waste and are intended to facilitate handling and provide protection of health and safety of personnel at the disposal site:

(a) Waste shall be packaged in conformance with the conditions of the license issued to the site operator to which the waste will be shipped. If [~~Where~~] the conditions of the site license are more restricted than the provisions of this administrative regulation [~~these regulations~~], the site license conditions shall govern.

(b) Waste shall not be packaged for disposal in cardboard or fiberboard boxes.

(c) Liquid waste shall be solidified or packaged in sufficient absorbent material to absorb twice the volume of the liquid.

(d) Solid waste containing liquid shall contain as little freestanding and noncorrosive liquid as is reasonably achievable. [~~, but in no case shall~~] The liquid shall not exceed one (1) percent of the volume.

(e) Waste shall not be readily capable of:

1. Detonation; [~~or of~~]

2. Explosive decomposition or reaction at normal pressures and temperatures; or [~~of~~]

3. Explosive reaction with water.

(f) Waste shall not contain, or be capable of generating, quantities of toxic gases, vapors, or fumes harmful to persons transporting, handling, or disposing of the waste. This shall [~~does~~] not apply to radioactive gaseous waste packaged in accordance with paragraph (h) of this subsection.

(g) Waste shall not be pyrophoric. Pyrophoric materials contained in waste shall be treated, prepared, and packaged to be nonflammable.

(h) Waste in a gaseous form shall be packaged at a pressure that shall [~~does~~] not exceed one and five-tenths (1.5) atmospheres at twenty (20) degrees Centigrade. Total activity shall not exceed 100 curies per container.

(i) Waste containing hazardous, biological, pathogenic, or infectious material shall be treated to reduce to the maximum extent practicable the potential hazard from the nonradiological materials.

(2) [~~The following requirements are intended to provide stability of the waste.~~] Stability is intended to ensure that the waste shall [~~does~~] not structurally degrade and affect overall stability of the site through slumping, collapse, or other failure of the disposal unit and [~~thereby~~] lead to water infiltration. Stability shall [~~is~~] also be a factor in limiting exposure to an inadvertent intruder, since it provides a recognizable and nondispersible waste. The following requirements shall provide stability of the waste:

(a) Waste shall have structural stability.

1. A structurally stable waste form shall [~~will generally~~] maintain its physical dimensions and its form under [~~the~~] expected disposal conditions such as:

a. Weight of overburden and compaction equipment;

b. [~~the~~] Presence of moisture and microbial activity; and

c. Internal factors such as radiation effects and chemical changes.

2. Structural stability may [~~can~~] be provided by:

a. The waste form itself;

b. Processing the waste to a stable form; or [~~by~~]

c. Placing the waste in a disposal container or structure that provides stability after disposal.

(b) Unless otherwise exempted [~~Notwithstanding the provisions~~] in subsection (1)(c) and (d) of this section, liquid waste, or waste containing liquid, shall be converted into a form that contains as little free standing and noncorrosive liquid as is reasonably achievable. [~~, but in no case shall~~] The liquid shall not exceed one (1) percent of the volume of the waste if [~~when~~] the waste is in a disposal container designed to ensure stability, or five-tenths (0.5) percent of the volume of the waste for waste processed to a stable form.

(c) Void spaces within [~~the waste~~] and between the waste and its package shall be eliminated [~~reduced to the extent practicable~~].

Section 8. [~~9.~~] Labeling. Each package of waste shall be clearly labeled to identify if [~~whether~~] it is Class A, Class B, or Class C waste, in accordance with Section 6 [~~7~~] of this administrative regulation.

Section 9. Transfer for Disposal and Manifests. (1) The requirements of this section and Section 10 of this administrative regulation shall:

(a) Control transfers of low-level radioactive waste intended for disposal at a land disposal facility defined in 902 KAR 100:022;

(b) Establish a manifest tracking system; and

(c) Supplement existing requirements concerning transfers and recordkeeping for the wastes being transferred.

(2) A shipment of radioactive waste intended for disposal at a licensed land disposal facility shall be accompanied by a shipment manifest as specified in Section 10(1) of this administrative regulation.

(3) The shipment manifest shall include a certification by the waste generator as specified in Section 10(3) of this administrative regulation.

(4) A person involved in the transfer for disposal and disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, shall comply with the requirements specified in Section 10(4) of this administrative regulation.

Section 10. Requirements for Low-level Waste Transfer for Disposal at Land Disposal Facilities and Manifests. (1) A [~~Each~~] shipment of waste to a licensed land disposal facility shall be accompanied by a shipment manifest. The shipment manifest may be legible carbon copies or photocopies.

(a) The shipment manifest shall contain:

1. [~~that contains~~] The name, address, and telephone number of the person generating the waste; and

2. [~~. The manifest shall also include~~] The name, address, and telephone number, or the name and U.S. Environmental Protection Agency hazardous identification number, of the person transporting the waste to the land disposal facility.

(b) The manifest shall [~~also~~] indicate as completely as practicable:

1. A physical description of the waste;

2. [~~the~~] Waste volume;

3. Radionuclide identity and quantity;

4. [~~the~~] Total radioactivity; and

5. [the] Principal chemical form.

(c) The solidification agent shall be specified.

(d) Waste containing more than one-tenth (0.1) percent chelating agents by weight shall be identified and the weight percentage of the chelating agent estimated.

(e) Waste classified as Class A, Class B, or Class C in Section 6 [7] of this administrative regulation shall be clearly identified [as such] in the manifest.

(f) The total quantity of the specifically indicated radionuclides H-3, C-14, Tc-99, and I-129 shall be shown on the manifest.

(2) The manifest required in subsection (1) of this section may be shipping papers used to meet U.S. Department of Transportation or U.S. Environmental Protection Agency regulations or requirements of the receiver if [, provided] all the required information is included. [Copies of manifest required by this subsection may be legible carbon copies or legible photocopies.]

(3) A [Each] manifest shall include a certification by the waste generator that the transported materials are properly classified, described, packaged, marked, [and] labeled, and conditioned [are in proper condition] for transportation in compliance with 49 CFR 173, Subpart I and 902 KAR 100:070. [according to the applicable regulations of the U.S. Department of Transportation and the cabinet.] An authorized representative of the waste generator shall sign and date the manifest.

(4) A [Any licensee who transfers waste to a land disposal facility or a licensed waste collector shall comply with the following requirements. Any] licensee who transfers waste to a licensed waste processor who treats or repackages waste shall comply with the requirements of paragraphs (d) through (h) of this subsection. A licensee who transfers waste to a land disposal facility or a licensed waste collector shall comply with the following requirements:

(a) Prepare [all] waste so that the waste is classified according to Section 6 [7] of this administrative regulation and meets the waste characteristics requirements in Section 7 [8] of this administrative regulation.

(b) Label each package of waste to identify if the waste [whether it] is Class A [waste], Class B [waste], or Class C [waste], in accordance with Section 6 [7] of this administrative regulation.

(c) Conduct a quality control program to include management evaluation of audits to assure compliance with Sections 6 [7] and 7 [8] of this administrative regulation.

(d) Prepare shipping manifests to meet the requirements of subsection (1) and (3) of this section.

(e) Forward a copy of the manifest to the intended recipient, at the time of shipment, or deliver to a collector at the time the waste is collected, obtaining acknowledgment of receipt in the form of a signed copy of the manifest or equivalent documentation from the collector.

(f) Include one (1) copy of the manifest with the shipment.

(g) Retain a copy of the manifest with documentation of acknowledgment of receipt as the record of transfer of licensed material as required by 902 KAR 100:040. [these regulations;]

(h) For [any] shipments or parts [any part] of a shipment for which acknowledgment of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with subsection (8) of this section.

(5) A [Any] waste collector licensee who handles only prepackaged waste shall:

(a) Acknowledge receipt of the waste from the generator within one (1) week of receipt by returning a signed copy of the manifest or equivalent documentation to the generator.

(b) Prepare a new manifest to reflect consolidated shipments.

1. The new manifest shall serve as a listing or index for the detailed generator manifests.

2. Copies of the generator manifests shall be a part of the new manifest.

3. The waste collector may prepare a new manifest without attaching the generator manifests if [, provided] the new manifest contains for each package the information specified in subsection (2) of this section.

4. The collector licensee shall certify that nothing has been done to the waste which would invalidate the generator's certification.

(c) Forward a copy of the new manifest to the land disposal facility operator at the time of shipment.

(d) Include the new manifest with the shipment to the disposal site.

(e) Retain a copy of the manifest with documentation of acknowledgment of receipt as the record of transfer of licensed material as required by 902 KAR 100:040, [these regulations,] and retain information from generator manifests until disposition is authorized by the cabinet. [; and]

(f) For [any] shipments or parts [any part] of a shipment for which acknowledgment of receipt is not received within the times set forth in this section, conduct an investigation in accordance with subsection (8) of this section.

(6) A [Any] licensed waste processor who treats or repackages waste shall:

(a) Acknowledge receipt of the waste from the generator within one (1) week of receipt by returning a signed copy of the manifest or equivalent documentation to the generator.

(b) Prepare a new manifest that meets the requirements of subsections (1), (2), and (3) of this section. Preparation of the new manifest shall reflect that the processor is responsible for the waste.

(c) Prepare [all] waste so [that] the waste is classified according to Section 6 [7] of this administrative regulation and meets the waste characteristics requirement in Section 7 [8] of this administrative regulation.

(d) Label each package of waste to identify if the waste [whether it] is Class A, Class B, or Class C, in accordance with Sections 6 and 8 [7 and 9] of this administrative regulation.

(e) A quality control program shall be conducted to assure compliance with Sections 6 and 7 [and 8] of this administrative regulation. The program shall include management evaluation of audits.

(f) Forward a copy of the new manifest to the disposal site operator or waste collector at the time of shipment, or deliver to a collector at the time the waste is collected, obtaining acknowledgment of receipt in the form of a signed copy of the manifest or equivalent documentation by the collector.

(g) Include the new manifest with the shipment.

(h) Retain copies of original manifests and new manifests with documentation of acknowledgment of receipt as the record of transfer of licensed material required by 902 KAR 100:040 [these regulations].

(i) For a [any] shipment or part of a shipment for which acknowledgment is not received within the times set forth in this section, conduct an investigation in accordance with subsection (8) of this section.

(7) The land disposal facility operator shall:

(a) Acknowledge receipt of the waste within one (1) week of receipt by returning a signed copy of the manifest or equivalent documentation to the [shipper. The shipper to be notified is the] licensee that [who] last possessed the waste and transferred the waste to the operator. The returned copy of the manifest or equivalent documentation shall indicate [any] discrepancies between materials listed on the manifest and materials received.

(b) Maintain copies of [all] completed manifests or equivalent documentation until the cabinet authorizes [their] disposition. [; and]

(c) Notify the shipper (i.e., the generator, the collector, or processor) and the cabinet if a [when any] shipment or part of a shipment has not arrived within sixty (60) days after the advance manifest was received.

(8) A [Any] shipment or part of a shipment for which acknowledgment is not received within the times set forth in this section shall be [must]:

(a) [Be] Investigated by the shipper if the shipper has not received

notification of receipt within twenty (20) days after transfer; and

(b) [Be] Traced and reported.

1. The investigation shall include tracing the shipment and filing a report with the cabinet.

2. A [Each] licensee who conducts a trace investigation shall file a written report with the cabinet within two (2) weeks of completion of the investigation.

Section 11. Records. (1) A [Each] licensee shall maintain records in the same units used in this administrative regulation.

(2) Records of disposal of licensed material made pursuant to this administrative regulation shall [are to] be maintained until the cabinet authorizes [their] disposition or in accordance with 902 KAR 100:073, Section 28.

(3) A licensee shall maintain records of the disposal of licensed materials made pursuant to 902 KAR 100:022 and Sections 2, 3, 4, and 5 of this administrative regulation, and disposal by burial in soil, including burials authorized before January 28, 1981.

(4) A licensee shall retain the records required in subsection (3) of this section until the cabinet terminates each pertinent license requiring the record.

Section 12. Annual Report of Waste Generated. (1) A [Each] licensee issued a specific license, pursuant to 902 KAR 100:040 [these regulations] shall file an annual report with the cabinet containing information regarding low-level radioactive waste associated with activities authorized by the license. This report shall be filed if the [regardless of whether that] licensee was, or was not, a waste generator during the reporting [report] period.

(2) The report shall contain information regarding the [such] waste for a [the] period of one (1) calendar year and shall be filed no later than January 15 of the following year.

(3) The report shall be filed on a form provided by the cabinet and shall contain[, but not be limited to,] types and amounts of generated waste and estimates of future wastes to be generated.

RICE C. LEACH, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 9, 1993
FILED WITH LRC: January 26, 1994 at 3 p.m.

STATEMENT OF EMERGENCY
902 KAR 1:041E

Emergency regulation 902 KAR 100:041E is necessary in order to provide conformity with federal regulation 10 CFR 30, 40, and 70. In order to continue enforcement of compatible standards for protection against radiation in waste disposal, as required by the Commonwealth's Agreement with the U.S. Nuclear Regulatory Commission, the Cabinet for Human Resources is required to implement this administrative regulation. An ordinary administrative regulation will not suffice due to the effective date required by the U.S. Nuclear Regulatory Commission. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed with the Regulations Compiler on or before January 15, 1994.

BRERETON C. JONES, Governor
FONTAINE BANKS, JR., Secretary

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

902 KAR 100:041E. Quantities of radioactive materials requiring consideration of the need for an emergency plan.

RELATES TO: KRS 211.842 to 211.852, 211.990(4), 42 USC 11001, 10 CFR 30.32, 30.72

STATUTORY AUTHORITY: KRS 194.050, 211.090, 211.844, 42 USC 11001, 10 CFR 30.32, 30.72

EFFECTIVE: January 26, 1994

NECESSITY AND FUNCTION: KRS 211.844 authorizes the Cabinet for Human Resources to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation, and the handling and disposal of radioactive waste. This administrative regulation provides requirements for emergency plans for responding to a release of radioactive material or waste, and shall apply to a person, applicant, or licensee required to submit an emergency plan.

Section 1. General Requirements. A license application to possess or a license authorizing the possession of radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Section 4(1) of this administrative regulation shall contain:

(1) An evaluation showing the maximum dose to a person off site due to a release of radioactive materials shall not exceed one (1) rem effective dose equivalent or five (5) rems to the thyroid; or

(2) An emergency plan for responding to a release of radioactive material.

Section 2. Factors Supporting an Evaluation. One (1) or more of the following factors may be used to support an evaluation submitted pursuant to Section 1(1) of this administrative regulation:

(1) The radioactive material is physically separated that only a portion may be involved in an accident.

(2) The radioactive material, or part of the radioactive material, shall not be subject to release during an accident because of storage or packaging.

(3) The release fraction in the respirable size range may be lower than the release fraction shown in Section 4(1) of this administrative regulation due to the chemical or physical form of the material.

(4) The solubility of the radioactive material may reduce the dose received.

(5) Facility design or engineered safety features in the facility may cause the release fraction to be lower than the limits in Section 4(1) of this administrative regulation.

(6) Operating restrictions or procedures may prevent a release fraction as large as that shown in Section 4(1) of this administrative regulation.

(7) Other factors appropriate for the specific facility as determined by the cabinet.

Section 3. Emergency Plan Information. (1) An emergency plan for responding to a release of radioactive material submitted pursuant to Section 1(2) of this administrative regulation shall include:

(a) Facility description. A brief description of the licensee's facility and area near the site.

(b) Types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed.

(c) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(d) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

(e) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of

accident, including those provided to protect workers on site, and the program for maintaining the equipment.

(f) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(g) Responsibilities. A brief description of the responsibilities of licensee personnel if an accident occurs, including identification of personnel responsible for promptly notifying off site response organizations and the Radiation Control Branch, and responsibilities for developing, maintaining, and updating the plan.

(h) Notification and coordination. A brief description of the means to promptly notify off site response organizations and request off site assistance, including medical assistance for the treatment of contaminated injured on site workers, if appropriate.

1. A control point shall be established.

2. Unavailability of personnel, parts of a facility, and equipment shall not exempt the licensee from notification and coordination requirements.

3. The licensee shall notify the appropriate off site response organizations immediately after the licensee declares an emergency and the Radiation Control Branch within one (1) hour.

(i) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to off site response organizations and the Radiation Control Branch.

(j) Training. A brief description of the frequency, performance objectives, and licensee's plan for training workers to respond to an emergency, including special instructions and orientation tours offered by licensee to fire, police, medical, and other emergency personnel. Training shall:

1. Familiarize personnel with site-specific emergency procedures; and

2. Thoroughly prepare site personnel for responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for the scenarios.

(k) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(l) Exercises.

1. Provisions for conducting quarterly communication checks with off site response organizations, and biennial on site exercises to test response to simulated emergencies.

a. Quarterly communication checks with off site response organizations shall include the check and update of necessary telephone numbers.

b. The licensee shall invite off site response organizations to participate in the biennial exercises. Participation of off site response organizations in biennial exercises, although recommended, is not required.

2. Exercises shall use accident scenarios postulated as most probable for the specific site, and the scenarios shall not be known to most exercise participants.

3. The licensee shall critique each exercise using individuals without direct implementation responsibility for the plan. Critiques of exercises shall evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response.

4. Deficiencies found by the critiques shall be corrected.

(m) Hazardous chemicals. A certification stating the applicant has met responsibilities pursuant to 42 USC 11001, Emergency Planning and Community Right-to-Know Act of 1986, if applicable to the applicant's activities at the proposed place of use of the radioactive material.

(2) The licensee shall allow off site response organizations expected to respond if an accident occurs sixty (60) days to comment on the licensee's emergency plan before submitting the plan to Radiation Control Branch. The licensee shall provide comments received within the sixty (60) days to the Radiation Control Branch with the emergency plan.

Section 4. Quantities of Radioactive Materials. (1) The following table provides the quantities of radioactive materials requiring consideration of the need of an emergency plan for responding to a release:

Radioactive Material	Release fraction	Quantity (curies)
Actinium-228	0.001	4,000
Americium-241	.001	2
Americium-242	.001	2
Americium-243	.001	2
Antimony-124	.01	4,000
Antimony-126	.01	6,000
Barium-133	.01	10,000
Barium-140	.01	30,000
Bismuth-207	.01	5,000
Bismuth-210	.01	600
Cadmium-109	.01	1,000
Cadmium-113	.01	80
Calcium-45	.01	20,000
Californium-252	.001	9(20 mg)
Carbon-14 Non CO	.01	50,000
Cerium-141	.01	10,000
Cerium-144	.01	300
Cesium-134	.01	2,000
Cesium-137	.01	3,000
Chlorine-36	.5	100
Chromium-51	.01	300,000
Cobalt-60	.001	5,000
Copper-64	.01	20,000
Curium-242	.001	60
Curium-243	.001	3
Curium-244	.001	4
Curium-245	.001	2
Europium-152	.01	500
Europium-154	.01	400
Europium-155	.01	3,000
Germanium-68	.01	2,000
Gadolinium-153	.01	5,000
Gold-198	.01	30,000
Hafnium-172	.01	400
Hafnium-181	.01	7,000
Holmium166m	.01	7,000
Hydrogen-3	.5	100
Iodine-125	.5	20,000
Iodine-131	.5	10
Indium-114m	.01	1,000
Iridium-192	.001	40,000
Iron-55	.01	40,000
Iron-59	.01	7,000
Krypton-85	1.0	6,00,000
Lead-210	.01	8
Manganese-56	.01	60,000
Mercury-203	.01	10,000
Molybdenum-99	.01	30,000
Neptunium-237	.001	2
Nickel-63	.01	20,000
Niobium-94	.01	300
Phosphorus-32	.5	100
Phosphorus-33	.5	1,000
Polonium-32	.01	10
Potassium-42	.01	9,000
Promethium-145	.01	4,000
Promethium-147	.01	4,000
Ruthenium-106	.01	200
Samarium-151	.01	4,000

Scandium-46	.01	3,000
Selenium-75	.01	10,000
Silver-110m	.01	1,000
Sodium-22	.01	9,000
Sodium-24	.01	10,000
Strontium-89	.01	3,000
Strontium-90	.01	90
Sulfur-35	.5	900
Technetium-99	.01	10,000
Technetium-99m	.01	400,000
Tellurium-127m	.01	5,000
Tellurium-129m	.01	5,000
Terbium-160	.01	4,000
Thulium-170	.01	4,000
Tin-113	.01	10,000
Tin-123	.01	3,000
Tin-126	.01	1,000
Titanium-44	.01	100
Vanadium-48	.01	7,000
Xenon-133	1.0	900,000
Yttrium-91	.01	2,000
Zinc-65	.01	5,000
Zirconium-93	.01	400
Zirconium-95	.01	5,000
Other beta-gamma emitter	.01	10,000
Mixed corrosion products	.01	10,000
Mixed fission products	.01	1,000
Contaminated equipment beta gamma	.001	10,000
Irradiated material, forms other than solid noncombustible	.01	1,000
Irradiated material, solid noncombustible	.001	10,000
Mixed radioactive waste, beta-gamma	.01	1,000
Packaged mixed waste, beta-gamma	.001	10,000
Other alpha emitter	.001	2
Contaminated equipment, alpha	.0001	20
Packaged waste, alpha	.0001	20

(2) For combinations of radioactive materials, consideration of the need for an emergency plan shall be required if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material in subsection (1) of this section exceeds one (1).

(3) Waste packaged in Type B containers shall not require an emergency plan.

RICE C. LEACH, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 9, 1993
FILED WITH LRC: January 16, 1994 at 3 p.m.

STATEMENT OF EMERGENCY
902 KAR 100:073E

Emergency regulation 902 KAR 100:073E is necessary in order to provide conformity with federal regulation 10 CFR 35. In order to continue enforcement of compatible standards for protection against ionizing radiation, as required by the Commonwealth's Agreement with the U.S. Nuclear Regulatory Commission, the Cabinet for Human Resources is required to implement this administrative regulation. An ordinary administrative regulation will not suffice due to the effective date required by the U.S. Nuclear Regulatory Commission. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed with the Regulations Compiler on or before January 15, 1994.

BRERETON C. JONES, Governor
FONTAINE BANKS, JR., Secretary

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

902 KAR 100:073E. Use of radionuclides in the healing arts.

RELATES TO: KRS 211.842 to 211.852, 211.990(4), 10 CFR 35
STATUTORY AUTHORITY: KRS 194.050, 211.090, 211.844, 10 CFR 35
EFFECTIVE: Januaru 26, 1994
NECESSITY AND FUNCTION: [~~The Cabinet for Human Resources is empowered by~~] KRS 211.844 authorizes the Cabinet for Human Resources to provide by administrative regulation for the registration and licensing of the possession or use of sources [~~any source~~] of ionizing or electronic product radiation and the handling and disposal of radioactive waste. [~~The purpose of~~] This administrative regulation provides [~~is to provide~~] requirements and provisions for the use of radioactive material in the healing arts and for issuance of licenses authorizing the medical use of radioactive material; and [~~.~~

~~Section 1. Applicability. This regulation~~] establishes requirements for specific licensees to possess, use, and transfer radioactive material for medical uses.

Section 1. [~~2.~~] License Required. (1) A [~~No~~] person shall not manufacture, produce, acquire, receive, possess, use, or transfer radioactive material for medical use except in accordance with a specific license issued pursuant to 902 KAR Chapter 100 [~~these regulations~~].

(2) Unless prohibited by license condition, an individual may receive, possess, use, or transfer radioactive material in accordance with the requirements in this administrative regulation under the supervision of an authorized user as provided in Section 8 [~~9~~] of this administrative regulation.

Section 2. [~~3.~~] License Amendments. A licensee shall apply for and receive a license amendment before:

(1) [~~Before~~] Using radioactive material for a method or type of medical use not permitted by the license issued under this administrative regulation;

(2) [~~Before~~] Permitting anyone, except a visiting authorized user described in Section 10 of this administrative regulation, to work as an authorized user under the license;

(3) [~~Before~~] Changing a radiation safety officer or teletherapy physicist;

(4) [~~Before~~] Ordering radioactive material in excess of the amount specified on the license;

(5) [~~Before~~] Adding to or changing the areas of use or address [~~or addresses~~] of use identified in the application or on the license; and

(6) [~~Before~~] Changing statements, representations, and procedures which are incorporated into the license.

Section 3. [~~4.~~] Notifications. A licensee shall notify the cabinet in writing within thirty (30) days if [~~when~~] an authorized user, radiation safety officer, or teletherapy physicist permanently discontinues performance of duties under the license.

Section 4. As Low as Reasonably Achievable ([~~5.~~] ALARA) Program. (1) A [~~Each~~] licensee shall develop and implement a written program to maintain radiation doses and releases of radioactive material in effluents to unrestricted areas as low as reasonably

achievable (ALARA) in accordance with 902 KAR 100:015, Section 2 [~~of these regulations~~].

(2) To satisfy the requirement of this section:

(a) The management, radiation safety officer, and [~~all~~] authorized users shall participate in the establishment, implementation, and operation of the program as required by this administrative regulation [~~these regulations~~] or the Radiation Safety Committee; or

(b) For licensees that are not medical institutions, management and [~~all~~] authorized users shall participate in the program as required by the radiation safety officer.

(3) The ALARA program shall include an annual review by the Radiation Safety Committee for licensees that are medical institutions or management, and the radiation safety officer for licensees that are not medical institutions.

(a) The review shall consist of:

1. Summaries of the types and amounts of radioactive material used;

2. Occupational dose reports; and

3. Continuing education and training for [~~all~~] personnel who work with, or in the vicinity of, radioactive material.

(b) The purpose of the review shall be [~~is~~] to ensure that individuals make every reasonable effort to maintain occupational doses, doses to the general public, and releases of radioactive material ALARA [~~as low as reasonably achievable~~], taking into account the state of technology and the cost of improvements in relation to benefits.

(4) The licensee shall retain a current written description of the ALARA program for the duration of the license. The written description shall include:

(a) A commitment by management to keep occupational doses ALARA [~~as low as reasonably achievable~~];

(b) A requirement that the radiation safety officer brief management once each year on the radiation safety program;

(c) [~~Personnel exposure investigational levels that, when exceeded, will initiate an investigation by the radiation safety officer of the cause of the exposure; and~~

~~(d)~~] Personnel exposure investigational levels that, if [~~when~~] exceeded, will initiate a prompt investigation by the radiation safety officer of the cause of the exposure and a consideration of actions that may [~~might~~] be taken to reduce the probability of recurrence.

Section 5. [~~6.~~] Radiation Safety Officer. (1) A licensee shall appoint a radiation safety officer responsible for implementing the radiation safety program. The licensee, through the radiation safety officer, shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's radioactive material program.

(2) The radiation safety officer shall:

(a) Investigate overexposures, accidents, spills, losses, thefts, unauthorized receipts, uses, transfers, [~~and~~] disposals, and other deviations from approved radiation safety practice and implement corrective actions as necessary;

(b) Implement written policy and procedures for:

1. Authorizing the purchase of radioactive material;

2. Receiving and opening packages of radioactive material;

3. Storing radioactive material;

4. Keeping an inventory record of radioactive material;

5. Using radioactive material safely;

6. Taking emergency action if control of radioactive material is lost;

7. Performing periodic radiation surveys;

8. Performing checks of survey instruments and other safety equipment;

9. Disposing of radioactive material;

10. Training personnel who work in or frequent areas where radioactive material is used or stored; and

11. Keeping a copy of:

a. [~~all~~] Records and reports required by 902 KAR 100:017, 902 KAR 100:020, 902 KAR 100:021, 902 KAR 100:035, 902 KAR 100:040, 902 KAR 100:050, 902 KAR 100:052, 902 KAR 100:058, 902 KAR 100:060, 902 KAR 100:070, 902 KAR 100:073, and 902 KAR 100:165;

b. This administrative regulation;

c. [~~cabinet regulations, a copy of these regulations, a copy of~~] Each licensing request; [~~and~~]

d. License and amendments; and

e. [~~the~~] Written policy and procedures required by 902 KAR 100:017, 902 KAR 100:020, 902 KAR 100:021, 902 KAR 100:035, 902 KAR 100:040, 902 KAR 100:050, 902 KAR 100:052, 902 KAR 100:058, 902 KAR 100:060, 902 KAR 100:070, 902 KAR 100:073, and 902 KAR 100:165 [~~the regulations~~]; and

(c) For medical use not sited at a medical institution, approve or disapprove radiation safety program changes with the advice and consent of management prior to submittal to the cabinet for licensing action; or

(d) For medical use sited at a medical institution, assist the Radiation Safety Committee in the performance of its duties.

Section 6. [~~7.~~] Radiation Safety Committee. A [~~Each~~] medical institution licensee shall establish a Radiation Safety Committee to oversee the use of radioactive material.

(1) The committee shall meet the following administrative requirements:

(a) Membership shall [~~must~~] consist of at least three (3) individuals and shall include:

1. An authorized user of each type of use permitted by the license;

2. The radiation safety officer;

3. A representative of the nursing service; [~~and~~]

4. A representative of management who is not [~~neither~~] an authorized user or [~~nor~~] a radiation safety officer; and

5. Other members [~~may be included~~] as the licensee deems appropriate.

(b) The committee shall meet at least once each calendar quarter.

(c) To establish a quorum and to conduct business, one-half (1/2) of the committee's membership shall be present, including the radiation safety officer and the management's representative.

(d) The minutes of each Radiation Safety Committee meeting shall include:

1. [~~The~~] Date of the meeting;

2. Members present;

3. Members absent;

4. Summary of deliberations and discussions;

5. Recommended actions and the numerical results of all ballots; and

6. Document [~~any~~] reviews required in Sections 2 [~~3~~] and 6(2) [~~Section 7(2)~~] of this administrative regulation.

(e) The committee shall provide each member with a copy of the meeting minutes and retain one (1) copy until the cabinet authorizes its disposition.

(2) To oversee the use of licensed material, the committee shall:

(a) Be responsible for monitoring the institutional program to maintain occupational doses ALARA [~~as low as reasonably achievable~~];

(b) Review, on the basis of safety and with regard to the training and experience standards of this administrative regulation, and approve or disapprove an [~~any~~] individual who is to be listed as an authorized user, the radiation safety officer, or teletherapy physicist before submitting a license application or request for amendment or renewal;

(c) Review on the basis of safety, and approve or disapprove each proposed method of use of radioactive material;

(d) Review on the basis of safety, and approve with the advice

and consent of the radiation safety officer and the management representative, or disapprove procedures and radiation safety program changes prior to submittal to the cabinet for licensing action;

(e) Review quarterly, with the assistance of the radiation safety officer, occupational radiation exposure records of [~~all~~] personnel working with radioactive material;

(f) Review quarterly, with the assistance of the radiation safety officer, [~~all~~] incidents involving radioactive material with respect to cause and subsequent actions taken;

(g) Review annually, with the assistance of the radiation safety officer, the radioactive material program; and

(h) Establish a table of investigational levels for occupational dose that, if [~~when~~] exceeded, shall [~~will~~] initiate investigations and considerations of action by the radiation safety officer.

Section 7. [~~8.~~] Statement of Authorities and Responsibilities. (1) A licensee shall provide sufficient authority and organizational freedom to the radiation safety officer and the Radiation Safety Committee to:

(a) Identify radiation safety problems;

(b) Initiate, recommend, or provide solutions; and

(c) Verify implementation of corrective actions.

(2) A licensee shall:

(a) Establish in writing the authorities, duties, responsibilities, and radiation safety activities of the radiation safety officer and the Radiation Safety Committee; and

(b) Retain the current edition of these statements as a record until the cabinet terminates the license.

Section 8. [~~9.~~] Supervision. (1) A licensee who permits the receipt, possession, use, or transfer of radioactive material by an individual under the supervision of an authorized user as allowed by Section 1 [~~2~~] of this administrative regulation shall:

(a) Instruct the supervised individual in the principles of radiation safety appropriate to that individual's use of radioactive material and provide reinstruction as needed;

(b) Review the supervised individual's use of radioactive material[~~, provide reinstruction as needed and~~]

(c) Review records kept to reflect [~~this~~] use of radioactive materials;

(d) [~~(c)~~] Require the authorized user to be immediately available to communicate with the supervised individual;

(e) [~~(d)~~] Require the authorized user to be [~~able to be~~] physically present and available to the supervised individual on one (1) hour notice; and

(f) [~~(e)~~] Require that only those individuals specifically trained, and designated by the authorized user, shall be permitted to administer radionuclides or radiation to patients.

(2) A licensee shall require the supervised individual receiving, possessing, using, or transferring radioactive material under Section 1 [~~2~~] of this administrative regulation to:

(a) Follow the instructions of the supervising authorized user;

(b) Follow the procedures established by the radiation safety officer; and

(c) Comply with 902 KAR Chapter 100 [~~these regulations~~] and the license conditions with respect to the use of radioactive material.

Section 9. Quality Management Program. (1) An applicant or licensee shall establish and maintain a written quality management program to provide high confidence that radioactive material or radiation from radioactive material shall be administered as directed by the authorized user, unless otherwise excepted by the cabinet.

(2) The quality management program shall include written policies and procedures to meet the following specific objectives:

(a) Prior to administration, a written directive is prepared for:

1. A teletherapy radiation dose;

2. A gamma stereotactic radiosurgery radiation dose;

3. A brachytherapy radiation dose;

4. An administration of quantities greater than thirty (30) microcuries of either sodium iodide I-125 or I-131; or

5. A therapeutic administration of a radiopharmaceutical, other than sodium iodide I-125 or I-131;

(b) If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive shall be acceptable. The oral revision shall be documented immediately in the patient's record, and a revised written directive shall be signed by the authorized user within forty-eight (48) hours of the oral revision;

(c) A written revision to an existing written directive may be made for a diagnostic or therapeutic procedure if the revision is dated and signed by an authorized user prior to the administration of the radiopharmaceutical dosage, brachytherapy dose, gamma stereotactic radiosurgery dose, teletherapy dose, or next teletherapy fractional dose;

(d) Prior to each administration, the patient's identity shall be verified by more than one (1) method as the individual named in the written directive;

(e) Final plans for treatment and related calculations for brachytherapy, teletherapy, and gamma stereotactic radiosurgery shall be as specified in the respective written directives;

(f) Each administration shall be specified in the written directive; and

(g) An unintended deviation from the written directive shall be identified and evaluated, and appropriate action shall be taken.

(3) A licensee shall develop procedures for, and conduct a review of, the quality management program. The review shall include, since the last review, an evaluation of a representative sample of patient administrations, recordable events, and misadministrations to verify compliance with the quality management programs.

(a) Reviews shall be conducted at intervals not to exceed twelve (12) months;

(b) Reviews shall be evaluated to determine the effectiveness of the quality management program and, if required, modifications shall be made to meet the objectives of subsection (1) of this section; and

(c) Records of each review shall be retained, including the evaluations and findings, for three (3) years. The records shall be in an auditable form.

(4) A licensee shall evaluate and respond, within thirty (30) days after discovery of the recordable event, to each recordable event. The licensee shall:

(a) Assemble relevant facts, including the cause;

(b) Identify corrective action required to prevent recurrence; and

(c) Retain a record of the relevant facts and corrective action taken for three (3) years. The records shall be in an auditable form.

(5) If a written directive is required in subsection (1)(a) of this section, the licensee shall retain the written directive and a record of each administered radiation dose or radiopharmaceutical dosage for three (3) years after the date of administration. The written directive shall be in an auditable form.

(6) A licensee shall modify the quality management program to increase the program's efficiency if the program's effectiveness is not decreased. The licensee shall furnish the modification to the Radiation Control Branch within thirty (30) days after the modification has been made.

(7) An applicant for a new license shall submit to the Radiation Control Branch a quality management program as part of the application for a license, and implement the program upon issuance of the license by the Radiation Control Branch.

(8) An existing licensee shall submit to the Radiation Control Branch, by December 31, 1994, a written certification that the quality management program has been implemented and a copy of the program.

Section 10. Visiting Authorized User. (1) A licensee may permit a [any] visiting authorized user to use licensed material for medical use under the terms of the licensee's license for sixty (60) days each year if:

(a) The visiting authorized user has the prior written permission of the licensee's management and, if the use occurs on behalf of an institution, the institution's Radiation Safety Committee;

(b) The licensee has a copy of the cabinet, another agreement state, or U.S. Nuclear Regulatory Commission license that identifies the visiting authorized user by name as an authorized user for medical use. [; and] The supervising authorized user need not be present for each use of radioactive material; and

(c) Only those procedures for which the visiting authorized user is specifically authorized by the cabinet, another agreement state, or U.S. Nuclear Regulatory Commission license are performed by that individual.

(2) A licensee need not apply for a license amendment in order to permit a visiting authorized user to use licensed material as described in this section.

(3) A licensee shall retain copies of the records specified in this section for five (5) years from the date of the last visit.

Section 11. Mobile Nuclear Medicine Service Administrative Requirements. (1) The cabinet shall [will only] license mobile nuclear medicine services in accordance with this administrative regulation and [other] applicable requirements of 902 KAR 100:012, 902 KAR 100:015, 902 KAR 100:020, 902 KAR 100:021, 902 KAR 100:035, 902 KAR 100:040, 902 KAR 100:050, 902 KAR 100:060, 902 KAR 100:070, 902 KAR 100:073, and 902 KAR 100:016 [these regulations] to serve clients [who are] not licensed for medical use by the cabinet.

(2) Mobile nuclear medicine service licensees shall retain for three (3) years after the last provision of service a letter signed by the management of each location where services are rendered that authorizes use of radioactive material.

(3) A mobile nuclear medicine service shall not have radioactive material delivered directly from the manufacturer or the distributor to the client's address of use.

Section 12. Records and Reports of Misadministrations. (1)(a) If [When] a misadministration involves a [any] therapy procedure, the licensee shall notify the:

1. Cabinet; [. The licensee shall also notify the]
2. Referring physician of the affected patient; and
3. [the] Patient or a responsible relative or guardian, unless:
a. The referring physician agrees to inform the patient; or
b. Believes, based on medical judgment, that telling the patient or the patient's responsible relative or guardian may [would] be harmful to one or the other[, respectively].

(b) [These] Notifications shall [must] be made within twenty- four (24) hours after the licensee discovers the misadministration. If the referring physician, patient, or the patient's responsible relative or guardian cannot be reached within twenty-four (24) hours, the licensee shall notify them as soon as practicable.

(c) The licensee shall [is] not be required to notify the patient or the patient's responsible relative or guardian without first consulting the referring physician. [; however,]

(d) The licensee shall not delay medical care for the patient because of the notification requirements of this subsection [this].

(2) Within fifteen (15) days after an initial therapy misadministration report to the cabinet, the licensee shall report, in writing, to the cabinet and to the referring physician, and shall furnish a copy of the report to the patient or the patient's responsible relative or guardian if either was previously notified by the licensee as required by this section.

(a) The written report shall include:
1. The licensee's name;
2. [the] Referring physician's name;
3. A brief description of the event;
4. [the] Effect on the patient;
5. [the] Action taken to prevent recurrence; and
6. If [whether] the licensee informed the patient or the patient's responsible relative or guardian, and if not, why not.

(b) The report shall not include the patient's name or other information that may [could] lead to identification of the patient.

(3) If [When] a misadministration involves a diagnostic procedure:
(a) The radiation safety officer shall:
1. Promptly investigate the [its] cause;
2. Make a record for cabinet review; and
3. Retain the record as directed in this section.

(b) The licensee shall [also] notify the referring physician and the cabinet in writing within fifteen (15) days if the misadministration involved:
1. The use of radioactive material not intended for medical use;
2. Administration of dosage five (5) fold different from the intended dosage; or
3. Administration of radioactive material where [such that] the patient is likely to receive an organ dose greater than two (2) rems or a whole body dose greater than 500 millirems.

(c) Licensees may use dosimetry tables in package inserts, corrected only for amount of radioactivity administered, to determine if [whether] a report is required.

(4) A [Each] licensee shall retain a record of each misadministration for ten (10) years. The record shall contain:
(a) [the] Names of [all] individuals involved in the event, including:
1. The physician;
2. Allied health personnel;
3. The patient; and
4. [the] Patient's referring physician;
(b) [the] Patient's Social Security [number] or identification number, if one has been assigned;
(c) A brief description of the event;
(d) [the] Effect on the patient; and
(e) [the] Action taken[, if any,] to prevent recurrence.

(5) Aside from the notification requirement, nothing in this section shall affect [any] rights or duties of licensees,, and physicians in relation to each other, patients, or responsible relatives or guardians.

Section 13. Suppliers. A licensee shall use for medical use only:

(1) Radioactive material manufactured, labeled, packaged, and distributed in accordance with a license issued pursuant to 902 KAR 100:040 and 902 KAR 100:058, [these regulations or the] equivalent regulations of another agreement state, or the U.S. Nuclear Regulatory Commission; and

(2) Reagent kits [that have been] manufactured, labeled, packaged, and distributed in accordance with an approval issued by the U.S. Department of Health and Human Services, Food and Drug Administration.

Section 14. Quality Control of Imaging Equipment. A [Each] licensee shall establish written quality control procedures for [all] equipment used to obtain images from radionuclide studies.

(1) As a minimum, the procedures shall include:
(a) Quality control procedures recommended by equipment manufacturers; or
(b) Procedures [which have been] approved by the cabinet.

(2) The licensee shall conduct quality control procedures in accordance with written procedures.

Section 15. Possession, Use, Calibration, and Check of Dose Calibrators. (1) A medical use licensee authorized to administer radiopharmaceuticals shall possess a dose calibrator and use the calibrator [it] to measure the amount of activity administered to each patient.

(2) A licensee shall ensure the constancy, accuracy, linearity, and

geometry dependence of the dose calibrator as follows:

(a) [~~Check each dose calibrator for~~] Constancy shall be checked with a dedicated check source at the beginning of each day of use. [~~To satisfy the requirement of this section,~~] The check shall be done on a frequently used setting with a sealed source of not less than ten (10) microcuries of radium-226 or fifty (50) microcuries of [~~any~~] other photon-emitting radionuclides [~~radionuclide~~] with a half-life greater than ninety (90) days;

(b) [~~Test each dose calibrator for~~] Accuracy shall be tested upon installation and at intervals not to exceed twelve (12) months [~~thereafter~~] by assaying at least two (2) sealed sources containing different radionuclides, the activity [~~of which~~] the manufacturer has determined within five (5) percent of the stated activity, with minimum activity of ten (10) microcuries for radium-226 and fifty (50) microcuries for [~~any~~] other photon-emitting radionuclides, and at least one (1) having [~~of which has~~] a principal photon energy between 100 keV and 500 keV;

(c) [~~Test each dose calibrator for~~] Linearity shall be tested upon installation and at intervals not to exceed three (3) months [~~thereafter~~] over the range of use between ten (10) microcuries and the highest dosage [~~that will be~~] administered; and

(d) [~~Test each dose calibrator for~~] Geometry dependence shall be tested upon installation over the range of volumes and volume configurations for which it shall [~~will~~] be used. The licensee shall keep a record of this test for the duration of the use of the dose calibrator.

(3) A licensee shall mathematically correct dosage readings for [~~any~~] geometry or linearity errors that exceeds ten (10) percent if the dosage is greater than ten (10) microcuries, and shall repair or replace the dose calibrator if the accuracy or constancy error exceed[~~s~~] ten (10) percent.

(4) A licensee shall [~~also~~] perform checks and tests required by this section following adjustment or repair of the dose calibrator.

(5) A licensee shall retain a record of each check and test required by this section for three (3) years. The records required shall include:

(a) For subsection (2)(a) of this section, the:

1. Model and serial number of the dose calibrator;
2. [~~the~~] Identity and calibrated activity of the radionuclide contained in the check source;
3. [~~the~~] Date of the check;
4. [~~the~~] Activity measured;
5. [~~the~~] Instrument settings; and
6. [~~the~~] Initials of the individual who performed the check;

(b) For subsection (2)(b) of this section, the:

1. Model and serial number of the dose calibrator;
2. [~~the~~] Model and serial number of each source used and [~~the~~] identity of the radionuclide contained in the source and its activity;
3. [~~the~~] Date of the test;
4. [~~the~~] Results of the test;
5. [~~the~~] Instrument settings; and
6. [~~the~~] Signature of the radiation safety officer;

(c) For subsection (2)(c) of this section, the:

1. Model and serial number of the dose calibrator;
2. [~~the~~] Calculated activities;
3. [~~the~~] Measured activities;
4. [~~the~~] Date of the test; and
5. [~~the~~] Signature of the radiation safety officer; and

(d) For subsection (2)(d) of this section, the:

1. Model and serial number of the dose calibrator;
2. [~~the~~] Configuration and calibrated activity of the source measured;
3. [~~the~~] Activity of the source;
4. [~~the~~] Activity measured and [~~the~~] instrument setting for each volume measured;
5. [~~the~~] Date of the test; and
6. [~~the~~] Signature of the radiation safety officer.

Section 16. Calibration and Check of Survey Instruments. (1) A licensee shall ensure that the survey instruments used to show compliance with this administrative regulation have been calibrated before first use, annually, and following repair.

(2) A [~~To satisfy the requirements of this section, the~~] licensee shall:

(a) Calibrate [~~all~~] required scale readings up to 1000 millirems per hour with a radiation source;

(b) [~~For each scale that shall be calibrated,~~] Calibrate two (2) readings for each scale, separated by at least fifty (50) percent of scale rating; and

(c) Conspicuously note on the instrument the apparent dose rate from a dedicated check source as determined at the time of calibration, and the date of calibration.

(3) A [~~The~~] licensee shall consider a point as calibrated if:

(a) [~~Consider a point as calibrated if~~] The indicated dose rate differs from the calculated dose rate by not more than ten (10) percent; and

(b) [~~Consider a point as calibrated if~~] The indicated dose rate differs from the calculated dose rate by not more than twenty (20) percent and [~~shall conspicuously attach~~] a correction chart or graph is conspicuously attached to the instrument.

(4) A licensee shall check each survey instrument for proper operation with the dedicated check source before each use. The licensee shall [~~is~~] not be required to keep records of these checks.

(5) A [~~The~~] licensee shall retain a record of each calibration required in this section for three (3) years. The record shall include:

(a) A description of the calibration procedure; [~~and~~]

(b) A description of the source used and the certified dose rates from the source; [~~and the~~]

(c) Rates indicated by the instrument being calibrated;

(d) [~~the~~] Correction factors deduced from the calibration data;

(e) [~~the~~] Signature of the individual who performed the calibration; and

(f) [~~the~~] Date of calibration.

(6) A [~~To meet the requirements of this section, the~~] licensee shall [~~may~~] obtain the services of individuals licensed by the cabinet, the U.S. Nuclear Regulatory Commission, or another agreement state, to perform calibrations of survey instruments.

(7) Records of calibrations which contain information required by subsection [~~paragraph~~] (5) of this section shall be maintained by the licensee.

Section 17. Assay of Radiopharmaceutical Dosages. A licensee shall:

(1) Assay, before medical use, the activity of each radiopharmaceutical dosage that contains more than ten (10) microcuries of a photon-emitting radionuclide;

(2) Assay, before medical use, the activity of each radiopharmaceutical dosage with a desired activity of ten (10) microcuries or less of a photon-emitting radionuclide to verify that the dosage shall [~~does~~] not exceed ten (10) microcuries; and

(3) Retain a record of the assays required by this section for three (3) years. [~~To satisfy this requirement,~~] The record shall contain the:

(a) Generic name, trade name, or abbreviation of the radiopharmaceutical, lot number, expiration dates, and the radionuclide;

(b) Patient's name and identification number if one has been assigned;

(c) Prescribed dosage and activity of the dosage at the time of assay, or a notation that the total activity is less than ten (10) microcuries;

(d) Date and time of the assay and administration; and

(e) Initials of the individual who performed the assay.

Section 18. Authorization for Calibration and Reference Sources. A [~~Any~~] person authorized by Section 1 [~~2~~] of this administrative regulation for medical use of radioactive material may receive,

possess, and use the following radioactive material for check, calibration, and reference use:

(1) Sealed sources, not exceeding fifteen (15) millicuries per source [each], manufactured and distributed by persons specifically licensed pursuant to 902 KAR 100:040 and 902 KAR 100:058, [these regulations or] equivalent provisions of the U.S. Nuclear Regulatory Commission, or another agreement state;

(2) [Any] Radioactive materials listed in Sections 29 and [or] 31 of this administrative regulation with a half-life of 100 days or less in individual amounts not to exceed fifteen (15) millicuries;

(3) [Any] Radioactive materials listed in Sections 29 and [or] 31 of this administrative regulation with a half-life greater than 100 days in individual amounts not to exceed 200 microcuries [each]; and

(4) Technetium-99m in individual amounts not to exceed fifty (50) millicuries.

Section 19. Requirements for Possession of Sealed Sources and Brachytherapy Sources. (1) A licensee in possession of a [any] sealed source or brachytherapy source shall:

(a) Follow the radiation safety and handling instructions supplied by the manufacturer or equivalent instructions approved by the cabinet; and

(b) [shall] Maintain the instructions for the duration of source use in a legible form convenient to users.

(2) A licensee in possession of a sealed source shall assure that:

(a) The source is tested for leakage before its first use unless the licensee has a certificate from the supplier indicating that the source was tested within six (6) months before transfer to the licensee; and

(b) The source is tested for leakage at intervals not to exceed six (6) months or at intervals approved by the cabinet, another agreement state, or the U.S. Nuclear Regulatory Commission.

(3) To satisfy the leak test requirements of this section, a [the] licensee shall assure that:

(a) Leak tests are capable of detecting the presence of 0.005 microcurie of radioactive material on the test sample, or in the case of radium, the escape of radon at the rate of 0.001 microcurie per twenty-four (24) hours;

(b) Test samples are taken from the source or from the surfaces of the device in which the source is mounted or stored on which radioactive contamination may [might be expected to] accumulate; and

(c) Test samples are taken with [when] the source [is] in the "off" position.

(4) A licensee shall retain leak test records for five (5) years. The records shall contain:

(a) [the] Model number and serial number if assigned, of each source tested;

(b) [the] Identity of each source radionuclide and its estimated activity;

(c) [the] Measured activity of each test sample expressed in microcuries;

(d) A description of the method used to measure each test sample;

(e) [the] Date of the test; and

(f) [the] Signature of the radiation safety officer.

(5) If the leak test reveals the presence of 0.005 microcurie or more of removable contamination, the licensee shall:

(a) Immediately withdraw the sealed source from use and store it in accordance with the requirements of 902 KAR 100:019 and 902 KAR 100:060 [these regulations]; and

(b) File a report with the cabinet within five (5) days of receiving the leak test results, describing the:

1. Equipment involved;

2. [the] Test results; and

3. [the] Action taken.

(6) A licensee need not perform a leak test on the following sources:

(a) Sources containing only radioactive material with a half-life of less than thirty (30) days;

(b) Sources containing only radioactive material as a gas;

(c) Sources containing 100 microcuries or less of beta or photon-emitting material, or ten (10) microcuries or less of alpha-emitting material;

(d) Seeds of iridium-192 encased in nylon ribbon; and

(e) Sources stored and not being used. The licensee shall[; however,] test each source for leakage before [any] use or transfer, unless it has been tested for leakage within six (6) months before the date of use or transfer.

(7) A licensee in possession of a sealed source or brachytherapy source shall conduct a physical inventory of [all such] sources at intervals not to exceed three (3) months. The licensee shall retain each inventory record for five (5) years, and [.] the inventory records shall contain:

(a) [the] Model number of each source;

(b) [the] Serial number, if one has been assigned;

(c) [the] Identity of each source radionuclide and its estimated activity;

(d) [the] Location of each source;

(e) Date of the inventory; and

(f) [the] Signature of the radiation safety officer.

(8) A licensee in possession of a sealed source or brachytherapy source shall survey with a radiation survey instrument, at intervals not to exceed three (3) months, the [all] areas where [such] sources are stored. This requirement shall [does] not apply to:

(a) Teletherapy sources in teletherapy units; or

(b) Sealed sources in diagnostic devices.

(9) A licensee shall retain a record of each survey required in this section for three (3) years. The record shall include:

(a) [the] Date of the survey;

(b) A sketch of each area [that was] surveyed; [and]

(c) [the] Measured dose rate at several points in each area expressed in millirems per hour;

(d) [the] Model [number] and serial number of the survey instrument used to make the survey; and

(e) [the] Signature of the radiation safety officer.

Section 20. Syringe Shields. (1) A licensee shall keep syringes that contain radioactive material to be administered in a radiation shield.

(2) A licensee shall require each individual who prepares or administers radiopharmaceuticals to use a syringe radiation shield, unless the use of the shield is contraindicated for that patient.

Section 21. Syringe Labels. A licensee shall conspicuously label each syringe, or syringe radiation shield that contains a syringe with a radiopharmaceutical, with the:

(1) Radiopharmaceutical name or its abbreviation;

(2) [the] Type of diagnostic study or therapy procedure to be performed; or

(3) [the] Patient's name, unless the radiopharmaceutical is to be administered immediately.

Section 22. Vial Shields. A licensee shall require each individual preparing or handling a vial that contains a radiopharmaceutical to keep the vial in a vial radiation shield.

Section 23. Vial Shield Labels. A licensee shall conspicuously label each vial radiation shield that contains a vial of a radiopharmaceutical with the radiopharmaceutical name or its abbreviation.

Section 24. Surveys for Contamination and Ambient Radiation Dose Rate. (1) A licensee shall survey with a radiation detection survey instrument at the end of each day of use [all] areas where radiopharmaceuticals are routinely prepared for use or administered.

(2) A licensee shall survey with a radiation detection survey instrument at least weekly [~~once each week all~~] areas where radiopharmaceuticals or radioactive wastes are stored.

(3) A licensee shall conduct the dose rate surveys [~~required by this section so as to be able~~] to measure dose rates as low as one-tenth (0.1) millirem per hour.

(4) A licensee shall establish dose rate action levels for the surveys [~~required by this section~~] and [~~shall~~] require that the individual performing the survey immediately notify the radiation safety officer if a dose rate exceeds an action level.

(5) A licensee shall survey for removable contamination weekly in [~~each day of use all~~] areas where radiopharmaceuticals are routinely prepared for use, [~~or~~] administered, or stored. [~~and each week where radioactive materials are stored.~~]

(6) A licensee shall conduct the contamination surveys [~~so as to be able~~] to detect contamination on each wipe sample of 2000 disintegrations per minute.

(7) A licensee shall establish removable contamination action levels for the surveys, and [~~shall~~] require that the individual performing the survey immediately notify the radiation safety officer if contamination exceeds action levels.

(8) A licensee shall retain a record of each survey [~~required by this section~~] for three (3) years. The record shall [~~must~~] include:

(a) [~~the~~] Date of the survey;

(b) A sketch of each area surveyed;

(c) Action levels established for each area;

(d) [~~the~~] Measured dose rate at several points in each area expressed in millirems per hour or the removable contamination in each area expressed in disintegrations per minute per 100 square centimeters;

(e) [~~the~~] Serial [~~number~~] and [~~the~~] model number of the instrument used to make the survey or analyze the samples; and

(f) [~~the~~] Initials of the individual who performed the survey.

Section 25. Release of Patients Containing Radiopharmaceuticals or Permanent Implants. (1) A licensee shall not authorize release from confinement for medical care a [~~any~~] patient administered a radiopharmaceutical until [~~either~~]:

(a) The dose rate from the patient is less than five (5) millirems per hour at a distance of one (1) meter; or

(b) The activity in the patient is less than thirty (30) millicuries.

(2) A licensee shall not authorize release from confinement for medical care a [~~any~~] patient administered a permanent implant until the dose rate from the patient is less than five (5) millirems per hour at a distance of one (1) meter.

Section 26. Mobile Nuclear Medicine Service Technical Requirements. A licensee providing mobile nuclear medicine service shall:

(1) Transport to each address of use only syringes or vials containing prepared radiopharmaceuticals or radiopharmaceuticals [~~that are~~] intended for reconstitution of radiopharmaceutical kits;

(2) Bring into each address of use [~~all~~] radioactive material to be used and, before leaving, remove [~~all~~] unused radioactive material and associated radioactive waste;

(3) Secure or keep under constant surveillance and immediate control [~~all~~] radioactive material if [~~when~~] in transit or at an address of use;

(4) Check survey instruments and dose calibrators as required in Sections 15 and [~~Section~~] 16 of this administrative regulation, and check [~~all~~] other transported equipment for proper function before medical use at each address of use;

(5) Carry a calibrated survey meter in each vehicle [~~that is~~] being used to transport radioactive material and, before leaving a client address of use, survey [~~all~~] areas of radiopharmaceutical use with a radiation detection survey instrument to ensure that [~~all~~] radiopharmaceuticals and [~~all~~] associated radioactive waste have been removed; and

(6) Retain a record of each survey [~~required by this section~~] for three (3) years. The record shall [~~must~~] include:

(a) [~~the~~] Date of the survey;

(b) A sketch of each area [~~that was~~] surveyed;

(c) [~~the~~] Measured dose rate at several points in each area of use expressed in millirems per hour;

(d) [~~the~~] Model and serial number of the instrument used to make the survey; and

(e) [~~the~~] Initials of the individual who performed the survey.

Section 27. Storage of Volatiles and Gases. [~~(1)~~] A licensee shall store:

(1) Volatile radiopharmaceuticals and radioactive gases in the shippers' radiation shield and container; and

(2) [~~A licensee shall store and~~] Use a multidose container in a properly functioning fume hood.

Section 28. Decay-in-storage. (1) A licensee shall hold radioactive material with a physical half-life of less than sixty-five (65) days for decay-in-storage before disposal in ordinary trash, and shall be [~~is~~] exempt from the requirements of 902 KAR 100:021, Section 1 [~~2 of these regulations~~] if the licensee:

(a) Holds radioactive material for decay a minimum of ten (10) half-lives;

(b) Monitors radioactive material at the container surface before disposal as ordinary trash and determines that its radioactivity cannot be distinguished from the background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding;

(c) Removes or obliterates [~~all~~] radiation labels; and

(d) Separates and monitors each generator column individually with [~~all~~] radiation shielding removed to ensure that its contents have decayed to background radiation level before disposal.

(2) For radioactive material disposed in accordance with this section, the licensee shall retain a record of each disposal for three (3) years. The record shall [~~must~~] include the:

(a) Date of the disposal;

(b) [~~the~~] Date on which the radioactive material was placed in storage;

(c) [~~the~~] Radionuclides disposed;

(d) [~~the~~] Model and serial number of the survey instrument used;

(e) [~~the~~] Background dose rate;

(f) [~~the~~] Radiation dose rate measured at the surface of each waste container; and

(g) [~~the~~] Name of the individual who performed the disposal.

Section 29. Use of Radiopharmaceuticals for Uptake, Dilution, or Excretion Studies. (1) A licensee shall [~~may~~] use the following prepared radiopharmaceuticals for diagnostic studies involving the measurement of uptake, dilution, or excretion:

(a) Iodine-131 as sodium iodide, iodinated human serum albumin (IHSA), labeled rose bengal, or sodium iodohippurate;

(b) Iodine-125 as sodium iodide or iodinated human serum albumin (IHSA);

(c) Cobalt-57 as labeled cyanocobalamin;

(d) Cobalt-58 as labeled cyanocobalamin;

(e) Cobalt-60 as labeled cyanocobalamin;

(f) Chromium-51 as sodium chromate or labeled human serum albumin;

(g) Iron-59 as citrate;

(h) Technetium-99m as pertechnetate; or

(i) [~~Any~~] Radioactive material in a radiopharmaceutical for a diagnostic use involving measurements of uptake, dilution, or excretion for which the Food and Drug Administration (FDA) has:

1. Accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND); [~~or~~]

2. Approved a "New Drug Application" (NDA); or

3. Issued a biological product license.

(2) A licensee using a radiopharmaceutical for a clinical procedure other than one specified in the product label or package insert instructions shall comply with the product label or package insert instructions regarding physical form, route of administration, and dosage range.

Section 30. Possession of Survey Instrument. A licensee authorized to use radioactive material for uptake, dilution, and excretion studies shall possess a portable radiation detection survey instrument capable of detecting dose rates over the range one-tenth (0.1) millirem per hour to fifty (50) millirems per hour. The instrument shall be operable and calibrated in accordance with Section 16 of this administrative regulation.

Section 31. Use of Radiopharmaceuticals, Generators, and Reagent Kits for Imaging and Localization Studies. (1) A licensee shall [may] use one (1) of the following radiopharmaceuticals, generators, and reagent kits for imaging and localization studies:

(a) Molybdenum-99/technetium-99m generators for the elution or extraction of technetium-99m as pertechnetate;

(b) Technetium-99m as pertechnetate;

(c) Prepared radiopharmaceuticals and reagent kits for the preparation of the following technetium-99m labeled radiopharmaceuticals:

1. Sulfur colloid;
2. Pentetate sodium;
3. Human serum albumin microspheres;
4. Polyphosphate;
5. Macroaggregated human serum albumin;
6. Etidronate sodium;
7. Stannous pyrophosphate;
8. Human serum albumin;
9. Medronate sodium;
10. Gluceptate sodium;
11. Oxidronate sodium;
12. Disofenin; and
13. Succimer;

(d) Iodine-131 as sodium iodide, iodinated human serum albumin, macroaggregated iodinated human serum albumin, colloidal (macroaggregated) iodinated human serum albumin, rose bengal, or sodium iodohippurate;

(e) Iodine-125 as sodium iodide or fibrinogen;

(f) Chromium-51 as human serum albumin;

(g) Gold-198 in colloidal form;

(h) Mercury-197 as chlormerodrin;

(i) Selenium-75 as selenomethionine;

(j) Strontium-85 as nitrate;

(k) Ytterbium-169 as pentetate sodium;

(l) Gallium-67 as citrate;

(m) Indium-111 as chloride or DTPA;

(n) Tin-113/indium-113m generators for the elution of indium-113m as chloride;

(o) Yttrium-87/strontium-87m generators for the elution of strontium-87m;

(p) Thallium-201 as chloride;

(q) Iodine-123 as sodium iodide or iodohippurate; or

(r) [Any] Radioactive material in a diagnostic radiopharmaceutical, except aerosol or gaseous form, or a [any] generator or reagent kit for preparation and diagnostic use of a radiopharmaceutical containing radioactive material for which the Food and Drug Administration has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND), [or] approved a "New Drug Application" (NDA), or issued a biological product license.

(2) A licensee using radiopharmaceuticals for clinical procedures shall comply with the product label or package insert regarding physical form, route of administration, and dosage range.

(3) A licensee shall elute generators in compliance with Section 32 of this administrative regulation and prepare radiopharmaceuticals from kits in accordance with the manufacturer's instructions.

(4) Technetium-99m pentetate as an aerosol for lung function studies shall [is] not be subject to the restrictions in subsection (2) of this section.

(5) If [Provided] the conditions of Section 33 of this administrative regulation are met, a licensee shall use radioactive aerosols or gases only if specific application has been [is] made to and approved by the cabinet.

Section 32. Permissible Molybdenum-99 Concentration. (1) A licensee shall not administer to humans a radiopharmaceutical containing more than 0.15 microcurie of molybdenum-99 per millicurie of technetium-99m.

(2) A licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators shall measure the molybdenum-99 concentration in each elute or extract.

(3) This testing shall be conducted according to written procedures and by personnel [who have been] specifically trained to perform the test.

(4) A licensee required to [who must] measure molybdenum concentration shall retain a record of each measurement for three (3) years. The record shall include, for each elution or extraction of technetium-99m, the:

(a) Measured activity of the technetium expressed in millicuries;

(b) [the] Measured activity of molybdenum expressed in microcuries;

(c) [the] Ratio of the measures expressed as microcuries of molybdenum per millicurie of technetium;

(d) [the] Date of the test; and

(e) [the] Initials of the individual who performed the test.

(5) A licensee shall report immediately to the cabinet each occurrence of molybdenum-99 concentration exceeding the limits specified in this section.

Section 33. Control of Aerosols and Gases. (1) A licensee who administers radioactive aerosols or gases shall do so with a system that shall [will] keep airborne concentrations within the limits prescribed by 902 KAR 100:019 [100:020], Section 3 [4 and Section 8 of these regulations].

(2) A [The] system shall [either] be directly vented to the atmosphere through an air exhaust or provide for collection and decay or disposal of the aerosol or gas in a shielded container.

(3) A licensee shall [only] administer radioactive gases only in rooms that are at negative pressure compared to surrounding rooms.

(4) Before receiving, using, or storing a radioactive gas, a [the] licensee shall calculate the amount of time needed after a release to reduce the concentration in the area of use to the occupational limit listed in 902 KAR 100:019 [100:025 of these regulations].

(a) The calculation shall be based on the highest activity of gas handled in a single container and the measured available air exhaust rate.

(b) A copy of the calculations shall be recorded and retained for the duration of the license.

(5) A licensee shall post the time calculated in this section at the area of use and require that, in case of a gas spill, individuals evacuate the room until the posted time has elapsed.

(6) A licensee shall check the operation of collection systems monthly and measure the ventilation rates in areas of use at intervals not to exceed six (6) months. Records [of these checks and measurements] shall be maintained for three (3) years.

[(7) A copy of the calculations required in subsection (4) of this section shall be recorded and retained for the duration of the license.]

Section 34. Possession of Survey Instruments. (1) A licensee authorized to use radioactive material for imaging and localization

studies shall possess a portable radiation:

(a) Detection survey instrument capable of detecting dose rates over the range of one-tenth (0.1) millirem per hour to fifty (50) millirems per hour; and

(b) [~~a portable radiation~~] Measurement survey instrument capable of measuring dose rates over the range one (1) millirem per hour to 1000 millirems per hour.

(2) [~~The~~] Instruments shall be operable and calibrated in accordance with Section 16 of this administrative regulation.

Section 35. Use of Radiopharmaceuticals for Therapy. A licensee shall [~~may~~] use one (1) of the following prepared radiopharmaceuticals:

(1) Iodine-131 as iodide for treatment of hyperthyroidism, cardiac dysfunction, and thyroid carcinoma;

(2) Phosphorus-32 as soluble phosphate for treatment of polycythemia vera, leukemia, and bone metastases;

(3) Phosphorus-32 as colloidal chromic phosphate for intracavitary treatment of malignant effusions;

(4) Gold-198 as colloid for intracavitary treatment of malignant effusions; or

(5) [~~Any~~] Radioactive material in a radiopharmaceutical and for a therapeutic use for which the Food and Drug Administration has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND), or approved a "New Drug Application" (NDA). The licensee shall comply with the package insert instructions regarding indications and method of administration.

Section 36. Safety Instruction. (1) A licensee shall provide oral and written radiation safety instruction for [~~all~~] personnel caring for patients undergoing radiopharmaceutical therapy. Refresher training shall be provided at intervals not to exceed one (1) year.

(2) The instruction shall describe the licensee's procedures for:

(a) Patient control;

(b) Visitor control;

(c) Contamination control;

(d) Waste control; and

(e) Notification of the radiation safety officer or authorized user in case of the patient's death or medical emergency.

(3) A licensee shall keep a record of individuals receiving instruction.

(a) The record shall include:

1. [~~including a~~] Description of the instruction;

2. [~~the~~] Date of instruction; and

3. [~~the~~] Name of the individual who gave the instruction.

(b) The [~~Such~~] record shall be maintained for inspection by the cabinet for three (3) years.

Section 37. Safety Precautions. (1) For each patient receiving radiopharmaceutical therapy and hospitalized for compliance with Section 25 of this administrative regulation, a licensee shall:

(a) Provide a private room with a private sanitary facility;

(b) Post the patient's door with a "Caution: Radioactive Material" sign, and note on the door or on the patient's chart where and how long visitors may stay in the patient's room;

(c) Authorize visits by individuals under eighteen (18) years of age only on a case-by-case basis with the approval of the authorized user after consultation with the radiation safety officer;

(d) Promptly after administration of the dosage, measure the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with the requirements of 902 KAR 100:019 [~~100:020~~], Section 10 [~~7 of these regulations~~] and retain for three (3) years a record of each survey that includes:

1. [~~the~~] Time and date of the survey;

2. [~~a~~] Plan of the area or list of points surveyed;

3. [~~the~~] Measured dose rate at several points expressed in millirems per hour;

4. [~~the~~] Model and serial number of the instrument used to make the survey; and

5. [~~the~~] Initials of the individual who made the survey;

(e) [~~Either~~] Monitor material and items removed from the patient's room to determine that [~~any~~] contamination cannot be distinguished from the natural background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle these materials and items as radioactive waste;

(f) Provide the patient with radiation safety guidance that shall [~~will~~] help to keep radiation dose to household members and the public ALARA [~~as low as reasonably achievable~~] before authorizing release of the patient;

(g) Survey the patient's room and private sanitary facility for removable contamination with a radiation detection survey instrument before assigning another patient to the room. The room shall [~~must~~] not be reassigned until removable contamination is less than 200 disintegrations per minute per 100 square centimeters; and

(h) Measure the thyroid burden of each individual who helped prepare or administer a dosage of iodine-131 within three (3) days after administering the dosage, and retain for the period required by 902 KAR 100:019 [~~100:020~~], Section 34(1), [~~15(3) of these regulations~~] a record of:

1. Each thyroid burden measurement;

2. Date of measurement;

3. [~~the~~] Name of the individual whose thyroid burden was measured; and

4. [~~the~~] Initials of the individual who made the measurements.

(2) A licensee shall notify the radiation safety officer or the authorized user immediately if the patient dies or has a medical emergency.

Section 38. Possession of Survey Instruments. A licensee authorized to use radioactive material for radiopharmaceutical therapy shall possess a portable radiation detection survey instrument capable of detecting dose rates over the range one-tenth (0.1) millirem per hour to fifty (50) millirems per hour, and a portable radiation measurement survey instrument capable of measuring dose rates over the range one (1) millirem per hour to 1000 millirems per hour. The instruments shall be operable and calibrated in accordance with Section 16 of this administrative regulation.

Section 39. Use of Sealed Sources for Diagnosis. A licensee shall use the following sealed sources in accordance with the manufacturer's radiation safety and handling instructions:

(1) Iodine-125 as a sealed source in a device for bone mineral analysis;

(2) Americium-241 as a sealed source in a device for bone mineral analysis;

(3) Gadolinium-153 as a sealed source in a device for bone mineral analysis; and

(4) Iodine-125 as a sealed source in a portable device for imaging.

Section 40. Availability of Survey Instrument. A licensee authorized to use radioactive material as a sealed source for diagnostic purposes shall have available for use a portable radiation detection survey instrument capable of detecting dose rates over the range one-tenth (0.1) millirem per hour to fifty (50) millirems per hour, or a portable radiation measurement survey instrument capable of measuring dose rates over the range one (1) millirem per hour to 1000 millirems per hour. The instrument shall be operable and calibrated in accordance with Section 16 of this administrative regulation.

Section 41. Use of Sources for Brachytherapy. A licensee shall

use the following sources in accordance with the manufacturer's radiation safety and handling instructions:

(1) Cesium-137 as a sealed source in needles and applicator cells for topical, interstitial, and intracavitary treatment of cancer;

(2) Cobalt-60 as a sealed source in needles and applicator cells for topical, interstitial, and intracavitary treatment of cancer;

(3) Gold-198 as a sealed source in seeds for interstitial treatment of cancer;

(4) Iodine-125 as a sealed source in seeds for interstitial treatment of cancer;

(5) Iridium-192 as seeds encased in nylon ribbon for interstitial treatment of cancer;

(6) Radium-226 as a sealed source in needles or applicator cells for topical, interstitial, and intracavitary treatment of cancer;

(7) Radon-222 as seeds for interstitial treatment of cancer;

(8) Palladium-103 as a sealed source in seeds for interstitial treatment of cancer; and

(9) Strontium-90 as a sealed source in an applicator for treatment of superficial eye conditions.

Section 42. Safety Instruction. (1) A [~~The~~] licensee shall provide oral and written radiation safety instruction to [~~all~~] personnel caring for a patient receiving implant therapy. Refresher training shall be provided at intervals not to exceed one (1) year.

(2) The instruction shall describe:

(a) Size and appearance of the brachytherapy sources;

(b) Safe handling and shielding instructions in case of a dislodged source;

(c) Procedures for patient control;

(d) Procedures for visitor control; and

(e) Procedures for notification of the radiation safety officer or authorized user if the patient dies or has a medical emergency.

(3) A licensee shall maintain for three (3) years a record of individuals receiving instruction. The record shall include:

(a) [~~including, a~~] Description of the instruction;

(b) [~~the~~] Date of instruction; and

(c) [~~the~~] Name of the individual who gave the instruction [~~for three (3) years~~].

Section 43. Safety Precautions. (1) For each patient receiving implant therapy, a licensee shall:

(a) Not place the patient in the same room with a patient who is not receiving radiation therapy unless the licensee can demonstrate compliance with the requirement of 902 KAR 100:019 [~~100:020~~], Section 10, [~~7(1) of these regulations~~] at a distance of one (1) meter from the implant;

(b) Post the patient's door with a "Caution: Radioactive Materials" sign, and note on the door or the patient's chart where and how long visitors may stay in the patient's room;

(c) Authorize visits by individuals under eighteen (18) years of age only on a case-by-case basis with the approval of the authorized user after consultation with the radiation safety officer;

(d) Promptly after implanting the sources, survey the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with 902 KAR 100:019 [~~100:020~~], Section 10, [~~7(1) of these regulations~~] and retain for three (3) years a record of each survey that includes:

1. [~~the~~] Time and date of the survey;

2. A sketch of the area or list of points surveyed;

3. [~~The~~] Measured dose rate at several points expressed in millirems per hour;

4. [~~the~~] Model and serial number of the instrument used to make the survey; and

5. [~~the~~] Initials of the individual who made the survey; and

(e) Provide the patient with radiation safety guidance that will help keep the radiation dose to household members and the public ALARA [~~as low as reasonably achievable~~] before releasing the patient if the patient was administered a permanent implant.

(2) A licensee shall notify the radiation safety officer or authorized user immediately if the patient dies or has a medical emergency.

Section 44. Brachytherapy Sources Inventory. (1) If [~~Each time~~] brachytherapy sources are returned to an area of storage from an area of use, the licensee shall immediately count or otherwise verify the number returned to ensure that [~~all~~] sources taken from the storage area have been returned.

(2) A licensee shall make a record of brachytherapy source utilization which includes the:

(a) [~~The~~] Names of the individuals permitted to handle the sources;

(b) [~~The~~] Number and activity of sources removed from storage including the:

1. Room number of use and patient's name;

2. [~~the~~] Time and date sources [~~they~~] were removed from storage;

3. [~~the~~] Number and activity of sources in storage after the removal;

4. [~~and the~~] Initials of the individual who removed the sources from storage; and

(c) [~~The~~] Number and activity of sources returned to storage, including the:

1. Room number of use and patient's name;

2. [~~the~~] Time and date sources [~~they~~] were returned to storage;

3. [~~the~~] Number and activity of sources in storage after the return;

4. [~~and the~~] Initials of the individual who returned the sources to storage.

(3) Immediately after implanting sources in a patient and immediately after removal of sources from a patient, a [~~the~~] licensee shall make a radiation survey of the patient and the area of use to confirm that no sources have been misplaced. The licensee shall make a record of each survey.

(4) A licensee shall maintain the records required in this section for three (3) years.

Section 45. Release of Patients Treated With Temporary Implants. (1) Immediately after removing the last temporary implant source from a patient, a [~~the~~] licensee shall make a radiation survey of the patient with a radiation detection survey instrument to confirm that [~~all~~] sources have been removed.

(2) A [~~The~~] licensee shall not release from confinement for medical care a patient treated by temporary implants until the [~~all~~] sources have been removed.

(3) [~~(2)~~] A licensee shall maintain a record of patient surveys which demonstrate compliance with this section for three (3) years. The [~~Each~~] record shall include the:

(a) Date of the survey;

(b) [~~the~~] Name of the patient;

(c) [~~the~~] Dose rate from the patient expressed as millirems per hour and measured within one (1) meter from the patient; and

(d) [~~the~~] Initials of the individual who made the survey.

Section 46. Possession of Survey Instruments. A licensee authorized to use radioactive material for implant therapy shall possess a portable radiation detection survey instrument capable of detecting dose rates over the range one-tenth (0.1) millirem per hour to fifty (50) millirems per hour, and a portable radiation measurement survey instrument capable of measuring dose rates over the range one (1) millirem per hour to 1000 millirems per hour. The instruments shall be operable and calibrated in accordance with Section 16 of this administrative regulation.

Section 47. Training for Nonexperienced Radiation Safety Officer. Except as provided in Section 48 of this administrative regulation, an individual fulfilling the responsibilities of the radiation safety officer as provided in Section 5 [~~6~~] of this administrative regulation shall:

(1) Be certified by the:

(a) American Board of Health Physics in Comprehensive Health Physics;

(b) American Board of Radiology in Radiological Physics, Therapeutic Radiological Physics, or Medical Nuclear Physics;

(c) American Board of Nuclear Medicine;

(d) American Board of Science in Nuclear Medicine; or

(e) Board of Pharmaceutical Specialties in Nuclear Pharmacy or Science; [~~or~~]

(2) Have [~~had~~] 200 hours of classroom and laboratory training including [~~as follows~~]:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity;

(d) Radiation biology;

(e) Radiopharmaceutical chemistry; and

(f) One (1) year of full time experience in radiation safety at a medical institution under the supervision of the individual identified as the radiation safety officer on the cabinet, another agreement state, or U.S. Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

(3) Be an authorized user for those radioactive material uses that come within the radiation safety officer's responsibilities.

Section 48. Training for Experienced Radiation Safety Officer. An individual identified as a radiation safety officer on the cabinet, another agreement state, or U.S. Nuclear Regulatory Commission license before June 27, 1990 [~~the effective date of this regulation~~] who oversees only the use of radioactive material for which the licensee was authorized on that date, need not comply with the training requirements of Section 47 of this administrative regulation.

Section 49. Training for Uptake, Dilution, or Excretion Studies. Except as provided in Sections 56 and 57 of this administrative regulation, the licensee shall require the authorized user of a radiopharmaceutical listed in Section 29 of this administrative regulation to be a physician who:

(1) Is certified in:

(a) Nuclear medicine by the American Board of Nuclear Medicine; [~~or~~]

(b) Diagnostic radiology by the American Board of Radiology; [~~or~~]

(c) Diagnostic radiology or radiology within the previous five (5) years by the American Osteopathic Board of Radiology; or

(d) Nuclear medicine by the American Osteopathic Board of Nuclear Medicine; [~~or~~]

(2) Has completed forty (40) hours of instruction in basic radionuclide handling techniques applicable to the use of prepared radiopharmaceuticals, and twenty (20) hours of supervised clinical experience.

(a) To satisfy the basic instruction requirement, forty (40) hours of classroom and laboratory instruction shall include:

1. Radiation physics and instrumentation;

2. Radiation protection;

3. Mathematics pertaining to the use and measurement of radioactivity;

4. Radiation biology; and

5. Radiopharmaceutical chemistry.

(b) To satisfy the requirement for twenty (20) hours of supervised clinical experience, training shall [~~must~~] be under the supervision of an authorized user at a medical institution, and shall include:

1. Examining patients and reviewing their case histories to determine [~~their~~] suitability for radionuclide diagnosis, limitations, or contraindications;

2. Selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

3. Administering dosages to patients and using syringe radiation shields;

4. Collaborating with the authorized user in the interpretation of radionuclide test results; and

5. Patient follow-up; or

(3) Has successfully completed a six (6) month training program in nuclear medicine as part of a training program [~~that has been~~] approved by the Accreditation Council for Graduate Medical Education [~~and~~] that included:

(a) Classroom and laboratory training;

(b) Work experience; and

(c) Supervised clinical experience in [~~all~~] the topics identified in this section.

Section 50. Training for Imaging and Localization Studies. Except as provided in Sections 56 or 57 of this administrative regulation, the licensee shall require the authorized user of a radiopharmaceutical, generator, or reagent kit specified in Section 31 of this administrative regulation to be a physician who:

(1) Is certified in:

(a) Nuclear medicine by the American Board of Nuclear Medicine; [~~or~~]

(b) Diagnostic radiology by the American Board of Radiology; [~~or~~]

(c) Diagnostic radiology or radiology within the previous five (5) years by the American Osteopathic Board of Radiology; or

(d) Nuclear medicine by the American Osteopathic Board of Nuclear Medicine; [~~or~~]

(2)(a) Has completed:

1. 200 hours of instruction in basic radionuclide handling techniques applicable to the use of prepared radiopharmaceuticals, generators, and reagent kits;

2. 500 hours of supervised work experience; and

3. 500 hours of supervised clinical experience.

(b) [~~(a)~~] To satisfy the basic instruction requirement, 200 hours of classroom and laboratory training shall include:

1. Radiation physics and instrumentation;

2. Radiation protection;

3. Mathematics pertaining to the use and measurement of radioactivity;

4. Radiopharmaceutical chemistry; and

5. Radiation biology.

(c) [~~(b)~~] To satisfy the requirement for 500 hours of supervised work experience, training shall be under the supervision of an authorized user at a medical institution, and shall include:

1. Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

2. Calibrating dose calibrators and diagnostic instruments and performing checks for proper operation of survey meters;

3. Calculating and safely preparing patient dosages;

4. Using administrative controls to prevent the misadministration of radioactive material;

5. Using emergency procedures to contain spilled radioactive material safely and using proper decontamination procedures; and

6. Eluting technetium-99m from generator systems, assaying and testing the elute for molybdenum-99 and alumina contamination, and processing the elute with reagent kits to prepare technetium-99m labeled radiopharmaceuticals.

(d) [~~(c)~~] To satisfy the requirement for 500 hours of supervised clinical experience, training shall be under the supervision of an authorized user at a medical institution, and shall include:

1. Examining patients and reviewing their case histories to determine [~~their~~] suitability for radionuclide diagnosis, limitations, or contraindications;

2. Selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

3. Administering dosages to patients and using syringe radiation shields;

4. Collaborating with the authorized user in the interpretation of

radionuclide test results; and

5. Patient follow-up; or

(3) Has successfully completed a six (6) month training program in nuclear medicine [~~that has been~~] approved by the Accreditation Council for Graduate Medical Education [~~and~~] that included:

(a) Classroom and laboratory training;

(b) Work experience; and

(c) Supervised clinical experience in [~~all~~] the topics identified in this section.

Section 51. Training for Therapeutic Use of Radiopharmaceuticals. Except as provided in Section 56 of this administrative regulation, the licensee shall require the authorized user of a radiopharmaceutical listed in Section 35 of this administrative regulation for therapy to be a physician who:

(1) Is certified by:

(a) The American Board of Nuclear Medicine; or

(b) The American Board of Radiology in radiology, therapeutic radiology or radiation oncology; or

(2) Has completed eighty (80) hours of instruction in basic radionuclide handling techniques applicable to the use of therapeutic radiopharmaceuticals, and has [~~had~~] supervised clinical experience.

(a) To satisfy the requirement for instruction, eighty (80) hours of classroom and laboratory training shall include:

1. Radiation physics and instrumentation;

2. Radiation protection;

3. Mathematics pertaining to the use and measurement of radioactivity; and

4. Radiation biology.

(b) To satisfy the requirement for supervised clinical experience, training shall be under the supervision of an authorized user at a medical institution, and shall include use of:

1. [~~Use of~~] Iodine-131 for diagnosis of thyroid function and the treatment of hyperthyroidism or cardiac dysfunction in ten (10) individuals;

2. [~~Use of~~] Soluble phosphorus-32 for the treatment of ascites, polycythemia vera, leukemia, or bone metastases in three (3) individuals;

3. [~~Use of~~] Iodine-131 for treatment of thyroid carcinoma in three (3) individuals; and

4. [~~Use of~~] Colloidal chromic phosphorus-32 or of colloidal gold-198 for intracavitary treatment of malignant effusions in three (3) individuals.

Section 52. Training for Therapeutic Use of Brachytherapy Sources. Except as provided in Section 56 of this administrative regulation, the licensee shall require the authorized user using a brachytherapy source specified in Section 41 of this administrative regulation for therapy to be a physician who:

(1) Is certified in:

(a) Radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; [~~or~~]

(b) Radiation oncology by the American Osteopathic Board of Radiology; [~~or~~]

(c) Radiology, with a specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

(d) Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

(2)(a) Is in the active practice of therapeutic radiology, and has completed:

1. 200 hours of instruction in basic radionuclide handling techniques applicable to the therapeutic use of brachytherapy sources; [~~and~~]

2. 500 hours of supervised work experience; and

3. A minimum of three (3) years of supervised clinical experience.

(b) [~~(a)~~] To satisfy the requirement for instruction, 200 hours of classroom and laboratory training shall include:

1. Radiation physics and instrumentation;

2. Radiation protection;

3. Mathematics pertaining to the use and measurement of radioactivity; and

4. Radiation biology.

(c) [~~(b)~~] To satisfy the requirement for 500 hours of supervised work experience, training shall be under the supervision of an authorized user at a medical institution, and shall include:

1. Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

2. Checking survey meters for proper operation;

3. Preparing, implanting, and removing sealed sources;

4. Using administrative controls to prevent the misadministration of radioactive material; and

5. Using emergency procedures to control radioactive material.

(d) [~~(c)~~] To satisfy the requirement for a period of supervised clinical experience, training shall include one (1) year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association, and an additional two (2) years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience shall include:

1. Examining individuals and reviewing their case histories to determine [~~their~~] suitability for brachytherapy treatment, and [~~any~~] limitations or contraindications;

2. Selecting the proper brachytherapy sources, dose, and method of administration;

3. Calculating the dose; and

4. Postadministration follow-up and review of case histories in collaboration with the authorized user.

Section 53. Training for Teletherapy. Except as provided in Section 56 of this administrative regulation, the licensee shall require the authorized user of a sealed source specified in 902 KAR 100:017, Section 2, in a teletherapy unit to be a physician who:

(1) Is certified in:

(a) Radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; [~~or~~]

(b) Radiation oncology by the American Osteopathic Board of Radiology; [~~or~~]

(c) Radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

(d) Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

(2)(a) Is in the active practice of therapeutic radiology, and has completed:

1. 200 hours of instruction in basic radionuclide techniques applicable to the use of a sealed source in a teletherapy unit;

2. 500 hours of supervised work experience; and

3. A minimum of three (3) years of supervised clinical experience.

(b) [~~(a)~~] To satisfy the requirement for instruction, the classroom and laboratory training shall include:

1. Radiation physics and instrumentation;

2. Radiation protection;

3. Mathematics pertaining to the use and measurement of radioactivity; and

4. Radiation biology.

(c) [~~(b)~~] To satisfy the requirement for supervised work experience, training shall be under the supervision of an authorized user at an institution, and shall include:

1. Review of the full calibration measurements and periodic spot checks;

2. Preparing treatment plans and calculating treatment times;

3. Using administrative controls to prevent misadministrations;

4. Implementing emergency procedures to be followed in the event of the abnormal operation of a teletherapy unit or console; and

5. Checking and using survey meters.

(d) [(c)] To satisfy the requirement for a period of supervised clinical experience, training shall include:

1. One (1) year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association; and

2. An additional two (2) years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience shall include:

a. [1.] Examining individuals and reviewing their case histories to determine [their] suitability for teletherapy treatment, and [any] limitations or contraindications;

b. [2.] Selecting the proper dose and how it is to be administered;

c. [3.] Calculating the teletherapy doses and collaborating with the authorized user in the review of patients' progress and consideration of the need to modify originally prescribed doses as warranted by patients' reaction to radiation; and

d. [4.] Postadministration follow-up and review of case histories.

Section 54. Training for Ophthalmic Use of Strontium-90. Except as provided in Section 56 of this administrative regulation, the licensee shall require the authorized user using only strontium-90 for ophthalmic radiotherapy to be a physician who is:

(1) [is] Certified in radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; or

(2) [is] In the active practice of therapeutic radiology or ophthalmology, and has completed twenty-four (24) hours of instruction in basic radionuclide handling techniques applicable to the use of strontium-90 for ophthalmic radiotherapy and a period of supervised clinical training in ophthalmic radiotherapy.

(a) To satisfy the requirement for instruction, the classroom and laboratory training shall include:

1. Radiation physics and instrumentation;

2. Radiation protection;

3. Mathematics pertaining to the use and measurement of radioactivity; and

4. Radiation biology.

(b) To satisfy the requirement for a period of supervised clinical training in ophthalmic radiotherapy, training shall be under the supervision of an authorized user at a medical institution and shall include the use of strontium-90 for the ophthalmic treatment of five (5) individuals that includes:

1. Examination of each individual to be treated;

2. Calculation of the dose to be administered;

3. Administration of the dose; and

4. Follow-up and review of each individual's case history.

Section 55. Training for Use of Sealed Sources for Diagnosis. Except as provided in Section 56 of this administrative regulation, the licensee shall require the authorized user, using a sealed source in a device specified in Section 39 of this administrative regulation, to be a physician, dentist, or podiatrist who:

(1) Is certified in:

(a) Radiology, diagnostic radiology with special competence in nuclear radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; [or]

(b) Nuclear medicine by the American Board of Nuclear Medicine; [or]

(c) Diagnostic radiology or radiology by the American Osteopathic Board of Radiology; or

(2) Has completed eight (8) hours of classroom and laboratory instruction in basic radionuclide handling techniques specifically applicable to the use of the device. To satisfy the requirement for instruction, the training shall include:

(a) Radiation physics, mathematics pertaining to the use and measurement of radioactivity, and instrumentation;

(b) Radiation biology; and

(c) Radiation protection and training in the use of the device for the purposes authorized by the license.

Section 56. Training for Experienced Authorized Users. Practitioners of the healing arts identified as authorized users for the human use of radioactive material on the cabinet, another agreement state, or U. S. Nuclear Regulatory Commission license, before June 27, 1990, [the effective date of this regulation,] who perform only those methods of use for which they were authorized on that date, need not comply with the training requirements of Section 47 through Section 55 of this administrative regulation.

Section 57. Physician Training in a Three (3) Month Program. A physician who, before July 1, 1984, began a three (3) month nuclear medicine training program approved by the Accreditation Council for Graduate Medical Education and has successfully completed the program, shall be [is] exempted from the requirements of Section 49 or [Section] 50 of this administrative regulation.

Section 58. Recentness of Training. The training and experience specified in Sections 47 through [Section] 55 of this administrative regulation shall have been obtained within the five (5) years preceding the date of application or the individual shall have had continuing applicable experience since the required training and experience was completed.

RICE C. LEACH, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 9, 1993
FILED WITH LRC: January 26, 1994 at 3 p.m.

STATEMENT OF EMERGENCY
902 KAR 100:100E

Emergency regulation 902 KAR 100:100E is necessary in order to provide conformity with federal regulation 10 CFR 34. In order to continue enforcement of compatible standards for industrial radiography equipment and alarming ratemeters, as required by the Commonwealth's Agreement with the U.S. Nuclear Regulatory Commission, the Cabinet for Human Resources is required to implement this administrative regulation. An ordinary administrative regulation will not suffice due to the effective date required by the U.S. Nuclear Regulatory Commission. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed with the Regulations Compiler on or before January 15, 1994.

BRERETON C. JONES, Governor
FONTAINE BANKS, JR., Secretary

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Environmental Health and Safety

902 KAR 100:100E. Industrial radiography.

RELATES TO: KRS 211.842 to 211.852, 211.990(4), 10 CFR 34, 71, 21 CFR 1020.40

STATUTORY AUTHORITY: KRS 194.050, 211.090, 211.844, 10 CFR 34, 71, 21 CFR 1020.40

EFFECTIVE: January 26, 1994

NECESSITY AND FUNCTION: [The Cabinet for Human Resources is empowered by] KRS 211.844 authorizes the Cabinet for Human

Resources to provide by administrative regulation for the registration and licensing of the possession or use of sources [~~any source~~] of ionizing or electronic product radiation and the handling and disposal of radioactive waste. [~~The purpose of~~] This administrative regulation provides [~~is to provide~~] radiation safety requirements for industrial radiographic operations and applies to [~~:~~

~~Section 1. Applicability. The requirements of this regulation apply to all~~] licensees or registrants who use sources of radiation for industrial radiography. [~~The requirements of this regulation are in addition to, and not in substitution for, other requirements of the Cabinet for Human Resources radiation regulations.~~]

Section 1. Performance Provisions for Radiography Equipment. Equipment used in industrial radiographic operations shall meet the following criteria:

(1) Radiographic exposure devices and associated equipment shall meet the provisions specified in American National Standard (ANSI) N432-1980, "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography".

(2)(a) Radiographic exposure devises shall have attached to it by the user, a durable, legible, clearly visible label bearing the following:

1. Chemical symbol and mass number of the radionuclide in the device;

2. Activity and date on which this activity was last measured;

3. Model and serial number of the sealed source;

4. Manufacturer of the sealed source; and

5. Name, address, and telephone number of the licensee.

(b) Radiographic exposure devices intended for use as Type B transport containers shall meet the applicable provisions of 10 CFR 71.

(c) Modification of exposure devices and associated equipment shall be prohibited, unless the design of a replacement component, including source holder, source assembly, controls, or guide tubes, will not compromise the design safety features of the system.

(3) In addition to the provisions specified in subsections (1) and (2) of this section, the following provisions shall apply to radiographic exposure devices and associated equipment that allow the source to be moved out of the device for routine operation:

(a) The coupling between the source assembly and the control cable shall be designed in a manner that the source assembly cannot:

1. Become disconnected if cranked outside the guide tube; and

2. Be unintentionally disconnected under normal and reasonably foreseeable abnormal conditions.

(b) The device shall automatically secure the source assembly if it is cranked back into the fully shielded position within the device. The securing system shall only be released by a deliberate operation on the exposure device.

(c) The outlet fittings, lock box, and drive cable fittings on each radiographic exposure device shall be equipped with safety plugs or covers which shall be installed during storage and transportation to protect the source assembly from water, mud, sand, or other foreign matter.

(d) A sealed source or source assembly shall have attached to it or engraved on it, a durable, legible, visible label with the words: "DANGER-RADIOACTIVE". The label shall not interfere with the safe operation of the exposure device or associated equipment.

(e) The guide tube shall have passed:

1. The crushing tests for the control tube as specified in ANSI N432; and

2. A kinking resistance test that closely approximates the kinking forces likely to be encountered during use.

(f) Guide tubes shall be used if moving the source out of the device.

(g) An exposure head or similar device designed to prevent the source assembly from passing out the end of the guide tube shall be attached to the outermost end of the guide tube during radiographic operations.

(h) The guide tube exposure head connection shall withstand the tensile test for control units specified in ANSI N432.

(i) Source changers shall provide a system for assuring that the source cannot be accidentally withdrawn from the changer if connecting or disconnecting the drive cable to or from a source assembly.

(j) Newly manufactured radiographic exposure devices and associated equipment acquired by licensees after January 1, 1994, shall comply with the provisions of this section.

(k) Radiographic exposure devices and associated equipment in use after January 10, 1996, shall comply with the provisions of this section.

Section 2. Limits on Levels of Radiation for Radiographic Exposure Devices and Storage Containers. (1) Radiographic exposure devices measuring less than four (4) inches ([~~i.e.,~~] ten (10) centimeters) from the sealed source storage position to an [~~any~~] exterior surface of the device shall have no radiation level in excess of fifty (50) milliroentgens per hour (mR/hr) at six (6) inches ([~~i.e.,~~] fifteen (15) centimeters) from an [~~any~~] exterior surface of the device.

(2) Radiographic exposure devices measuring a minimum of four (4) inches from the sealed source storage position to an [~~any~~] exterior surface of the device, and [~~all~~] storage containers for sealed sources or outer containers for radiographic exposure devices shall have no radiation level in excess of 200 milliroentgens per hour (mR/hr) at an [~~any~~] exterior surface and ten (10) mR/hr at 39.4 inches ([~~i.e.,~~] one (1) meter) from an [~~any~~] exterior surface.

(3) The radiation levels specified shall be [~~are~~] with the sealed source in the shielded ([~~i.e.,~~] "off") position.

(4) Subsections (1), (2), and (3) of this section shall apply to equipment manufactured prior to January 10, 1992. After January 10, 1992, radiographic equipment other than storage containers and source changers shall meet the provisions of Section 1 of this administrative regulation, and Section 1 of this administrative regulation shall apply only to storage containers (source changers).

Section 3. Locking of Sources of Radiation. (1) Sources [~~Each source~~] of radiation shall be provided with a lock or outer locked container designed to prevent unauthorized or accidental production of radiation or removal or exposure of a sealed source from its shielded position. [~~and~~]

(a) An exposure device or its container shall be kept locked [~~at all times~~] except:

1. If [~~when~~] under the direct surveillance of a radiographer or radiographer's assistant; or

2. As may be [~~otherwise~~] authorized by Section 16 of this administrative regulation [~~these regulations~~].

(b) A [~~Each~~] storage container and source changer [~~likewise~~] shall be:

1. Provided with a lock; and

2. [~~shall be~~] Kept locked if [~~when~~] containing sealed sources, except if [~~when~~] the container is under the direct surveillance of a radiographer or radiographer's assistant.

(2) Radiographic exposure devices, source changers, and storage containers[~~, prior to being moved from one (1) location to another, and also prior to being secured at a given location,~~] shall be locked and surveyed to assure that the sealed source is in the shielded position prior to being:

(a) Moved from one (1) location to another; and

(b) Secured at a given location.

Section 4. Storage Precautions. (1) Locked radiographic exposure devices, source changers, storage containers, and other sources of radiation, including radiation machines, shall be physically secured to prevent tampering or removal by unauthorized personnel.

(2) Radiographic exposure devices, source changers, and

transport containers that contain radioactive material shall not be stored in residential locations. This provision shall not apply to storage of radioactive material in a vehicle in transit for use at temporary job sites if:

(a) The licensee complies with subsection (3) of this section; and

(b) The vehicle does not constitute a permanent storage location as described in subsection (4) of this section.

(3) If a vehicle is used for storage of radioactive material, a vehicle survey shall be performed after securing radioactive material in the vehicle and before transport to ensure that radiation levels shall not exceed the limits specified in 902 KAR 100:019, Section 10(b), at the exterior surface of the vehicle.

(4) A storage or use location shall be considered permanent if:

(a) Radioactive material is stored at the location for more than ninety (90) days; and

(b) One (1) or more of the following applies to the location:

1. Telephone service is established by the licensee;

2. Industrial radiographic services are advertised for or from the location; or

3. Industrial radiographic operations are conducted at other sites due to arrangements made from the location.

Section 5. Radiation Survey Instruments. (1) A [~~The~~] licensee or registrant shall maintain sufficient calibrated and operable radiation survey instruments to make physical radiation surveys as required by this administrative regulation and 902 KAR 100:019, Section 12(1).

(2) A [~~these regulations. Each~~] radiation survey instrument shall be calibrated:

(a) At energies appropriate for use; [~~against appropriate energy and radiation fields~~]

(b) At intervals not to exceed three (3) months; [~~and~~]

(c) After each instrument servicing so [~~such~~] that accuracy within plus or minus twenty (20) percent can be demonstrated;

(d) At two (2) points located approximately one-third (1/3) and two-thirds (2/3) of full-scale for linear scale instruments;

(e) Midrange of each decade, and at two (2) points of at least one (1) decade for logarithmic scale instruments; and

(f) Appropriate points for digital instruments. [~~or more widely separated points, other than zero, on each scale.~~]

(3) Records of these calibrations [~~A record~~] shall be maintained [~~of the date of calibration~~] for two (2) years after the calibration date for inspection by the cabinet.

(4) Instrumentation required by this section shall have a range so [~~such~~] that two (2) milliroentgens per hour through one (1) roentgen per hour may [~~can~~] be measured.

(5) A radiation survey instrument shall be checked with a radiation source at the beginning of each day of use and at the beginning of each work shift to ensure it is working properly.

Section 6. Leak Testing, Repairing [~~Repair~~], Tagging, Opening, Modification, and Replacement of Sealed Sources. (1) The replacement of a [~~any~~] sealed source fastened to or contained in a radiographic exposure device, and leak testing, repairing [~~repair~~], tagging, opening, or [~~any~~] other modification of a [~~any~~] sealed source shall be performed only by persons specifically authorized [~~to do so~~] by the cabinet, the U.S. Nuclear Regulatory Commission, or an [~~any~~] Agreement State.

(2) A [~~Each~~] sealed source shall be tested for leakage and contamination in accordance with 902 KAR 100:060. Records of leak test results shall be maintained for inspection by the cabinet:

(a) For six (6) months after the next required leak test is performed; or

(b) Until the sealed source [~~sources~~] is transferred or disposed.

(3) A sealed source [~~which is~~] not fastened to or contained in a radiographic exposure device shall have permanently attached to it a durable tag at least one (1) inch square bearing:

(a) The prescribed radiation caution symbol in conventional colors, magenta or purple on a yellow background; and

(b) At least the instructions: "Danger - Radioactive Material - Do Not Handle - Notify Civil Authorities if Found."

Section 7. Quarterly Inventory. (1) A [~~Each~~] licensee or registrant shall conduct a quarterly physical inventory to account for sealed [~~all~~] sources and radiography exposure devices [~~of radiation~~] received or possessed by him.

(2) [~~The~~] Records of the inventories shall be maintained for two (2) years from the date of the inventory for inspection by the cabinet. The records of inventories [~~and~~] shall include:

(a) [~~the~~] Quantities and kinds of radioactive material; [~~or rate power, manufacturer, and identifying number of radiation machines,~~]

(b) [~~the~~] Location of sealed [~~all~~] sources;

(c) [~~of radiation, the~~] Date of the inventory;

(d) [~~the~~] Name of the individual making the inventory; and

(e) [~~the~~] Manufacturer, [~~the~~] model number, and [~~the~~] serial number of sealed sources and radiography exposure devices.

Section 8. Utilization Logs. A [~~Each~~] licensee or registrant shall maintain current logs, which shall be kept available for inspection by the cabinet for two (2) years from the date of the recorded event, at the address specified in the license or on the registration, showing for each source of radiation the following information:

(1) A description (or make and model number) of each source of radiation or storage container in which a sealed source is located;

(2) [~~The~~] Identity of the radiographer to whom assigned;

(3) [~~The~~] Site where used and dates of use; and

(4) [~~The voltage and current, where applicable, and exposure time for each radiographic exposure employing a source of radiation, and~~

~~(5) The~~] Date[~~(s)~~] each source of radiation is removed from storage and returned to storage.

Section 9. Inspection and Maintenance of Radiographic Exposure Devices, Storage Containers, and other Sources of Radiation. (1) A [~~Each~~] licensee or registrant shall ensure that checks for obvious defects in radiation machines, radiographic exposure devices, storage containers, and source changers are performed prior to each day of use.

(2) A [~~Each~~] licensee or registrant shall conduct a program for [~~of at least quarterly~~] inspection and maintenance of radiation machines, radiographic exposure devices, storage containers, and source changers to assure proper functioning of components important to safety prior to the first use, and subsequently at intervals not to exceed three (3) months. [~~All~~] Appropriate parts shall be maintained as specified by the manufacturer [~~in accordance with manufacturer's specifications~~].

(3) If an [~~any~~] inspection [~~conducted pursuant to this section~~] reveals damage to components critical to radiation safety, the device shall be:

(a) Removed from service; and

(b) Labeled as defective until repairs have been made.

(4) Records of [~~such~~] inspection and maintenance shall be kept for two (2) years for inspection by the cabinet.

Section 10. Permanent Radiographic Installations. Permanent radiographic installations having high radiation area entrance controls of the type described in 902 KAR 100:019, Section 14(1)(b) and (c), shall also meet the following provisions:

(1) The entrance used for personnel access to the high radiation area shall have both visible and audible warning signals to warn of the presence of radiation.

(a) The visible signal shall be activated by radiation.

(b) The audible signal shall be activated if an attempt is made to enter the installation while the source is exposed.

(2) The control device or alarm system shall be tested for proper operation at the beginning of each day of equipment use. (a) If a

control device or alarm system is operating improperly, it shall be immediately labeled as defective and repaired before industrial radiographic operations are resumed.

(b) Records of these tests shall be maintained for inspection by the cabinet for two (2) years from the date of the test.

Section 11. [10.] Training and Testing of Radiographers and Radiographers' Assistants. (1) A [No] licensee or registrant shall not permit an [any] individual to act as a radiographer as defined in 902 KAR 100:010 until the [such] individual has:

(a) [Has] Been instructed in the subjects outlined in Section 20 [17] of this administrative regulation;

(b) [Has] Received copies of and demonstrated an understanding of the following:

1. Provisions [The requirements] contained in this administrative regulation;

2. Other applicable provisions of 902 KAR Chapter 100 [these regulations];

3. [The] Conditions of the license or registration certificate issued by the cabinet; and

4. [The] Licensee's or registrant's approved operating and emergency procedures;

(c) [Has] Demonstrated competence to use the sources of radiation, related handling tools, and survey instruments which shall [will] be employed at his assignment; and

(d) [Has] Successfully demonstrated an understanding of the instructions in this subsection by successful completion of a:

1. Written test; and

2. [a] Field examination on the subjects covered.

(2) A [No] licensee or registrant shall not permit an [any] individual to act as a radiographer's assistant as defined in 902 KAR 100:010 until the [such] individual has:

(a) [Has] Received copies of, and instructions in, the licensee's or registrant's approved operating and emergency procedures;

(b) [Has] Demonstrated competence to use, under the personal supervision of the radiographer, the sources of radiation, radiographic exposure devices, related handling tools, and radiation survey instruments which may [will] be employed in his assignment; and

(c) [Has] Successfully demonstrated an understanding of the instructions in this subsection by:

1. Written or oral test; and

2. Field examination on the subjects covered.

(3) [Each licensee or registrant shall maintain] Records of the above training, including copies of written tests and dates of oral tests and field examinations, shall be maintained by a licensee or registrant [and testing which demonstrate that the requirements of subsections (1) and (2) of this section are met] for inspection by the cabinet for three (3) years following termination of employment.

Section 12. [11.] Operating and Emergency Procedures. A [Each] licensee's or registrant's operating and emergency procedures shall include instructions in at least the following:

(1) The handling and use of sources of radiation to be employed so [such] that no individual is likely to be exposed to radiation doses in excess of the limits established in 902 KAR 100:019, Section 3; [100:020.]

(2) Methods and occasions for conducting radiation surveys;

(3) Methods for controlling access to radiographic areas;

(4) Methods and occasions for locking and securing sources of radiation;

(5) Personnel monitoring and the use of personnel monitoring equipment, including steps that shall [must] be taken immediately by radiography personnel if [in the event] a pocket dosimeter is found to be off-scale;

(6) Transportation to field locations, including:

(a) Packing of sources of radiation in vehicles;

(b) Posting of vehicles; and

(c) Control of sources of radiation during transportation;

(7) Minimizing exposure of individuals if [in the event of] an accident occurs;

(8) The procedure for notifying proper personnel if [in the event] of an accident occurs;

(9) Maintenance of records; and

(10) The inspection and maintenance of radiographic exposure devices, source changers, storage containers, and other sources of radiation.

Section 13. [12.] Personnel Monitoring Control. (1) A [No] licensee or registrant shall not permit an [any] individual to act as a radiographer or [as a] radiographer's assistant unless, [at all times] during radiographic operations, the [each such] individual wears a direct reading pocket dosimeter; an alarm ratemeter; and [either] a film badge or a thermoluminescent dosimeter (TLD).

(a) The wearing of an alarming ratemeter shall not be required for permanent radiography facilities in which other appropriate alarming or warning devices are in routine use.

(b) Pocket dosimeters shall have a range from zero to at least 200 milliroentgens and [shall] be recharged daily or at the start of each shift.

(c) A [Each] film badge or thermoluminescent [(TLD)] dosimeter shall be assigned to, and worn by, only one (1) individual.

(2) Pocket dosimeters shall be read and exposures recorded at least once daily.

(a) If a pocket dosimeter is discharged beyond its range:

1. The [A] film badge or thermoluminescent dosimeter shall be immediately processed;

2. Radiograph operations by the individual shall cease; and

3. The individual shall not return to work with sources of radiation until a determination of the radiation exposure has been made.

(b) [If a pocket dosimeter is discharged beyond its range. The] Reports received from the film badge or thermoluminescent dosimeter processor and records of daily pocket dosimeter readings shall be kept for inspection until the cabinet authorizes their disposal. [Records of daily pocket dosimeter readings shall be kept for two (2) years.]

(3) If a film badge or thermoluminescent dosimeter is lost or damaged, the worker shall cease work immediately until:

(a) A replacement film badge or thermoluminescent dosimeter is provided; and

(b) The exposure is calculated for the time period from issuance to loss or damage of the film badge or thermoluminescent dosimeter.

(4) Pocket dosimeters shall be checked for correct response to radiation at periods not to exceed one (1) year.

(a) Acceptable dosimeters shall read within plus or minus thirty (30) percent of the true radiation exposure.

(b) Records of this check shall be maintained for inspection by the cabinet for two (2) years from the date of the check.

(5)(a) An alarm ratemeter shall:

1. Be checked to ensure that the alarm functions properly (sounds) prior to use at the start of each shift;

2. Be set to give an alarm signal at a preset dose rate of 500 mR/hr;

3. Require special means to change the preset alarm functions; and

4. Be calibrated at periods not to exceed one (1) year for correct response to radiation.

(b) Acceptable ratemeters shall alarm within plus or minus twenty (20) percent of the true radiation dose rate.

[(5) The requirements for use of personnel monitoring as specified in subsections (1) and (2) of this section shall not apply in industrial radiography utilizing sources of machine radiation in cabinet x-ray systems which are equipped with interlocks such that the source of radiation will not produce an exposure radiation field unless all openings are securely closed and which is so shielded that every location on the exterior meets conditions for an uncontrolled area.

~~(6) Upon application the cabinet may authorize methods of personnel dosimetry other than film badges or thermoluminescent dosimetry.~~]

Section 14. [~~13.~~] Documents Required at Temporary Job Sites. A [~~Each~~] licensee or registrant conducting industrial radiography at a temporary site shall have the following records available at that site for inspection by the cabinet:

(1) A copy of the operating and emergency procedures;

(2) A current copy of the radioactive material license or registration certificate;

(3) A copy of 902 KAR 100:020, 902 KAR 100:100, and 902 KAR 100:165 [~~Applicable regulations~~];

(4) Survey records required by [~~pursuant to~~] Section 20 [~~18~~] of this administrative regulation and 902 KAR 100:019, Section 31, for the period of operation at the site;

(5) Daily pocket dosimeter records for the period of operation at the site; and

(6) The latest instrument calibration and leak test record for specific devices in use at the site. Acceptable records include tags or labels [~~which are~~] affixed to the device or survey meter.

Section 15. Specific Provisions for Radiographic Personnel Performing Industrial Radiography. (1) At a jobsite, the following shall be supplied by a licensee or registrant:

(a) At least one (1) operable, calibrated survey instrument; (b) A current whole body personnel monitor (TLD or film badge) for each individual;

(c) An operable, calibrated pocket dosimeter with a range of zero to 200 milliroentgens for each worker;

(d) Appropriate barrier ropes and signs; and

(e) An alarming ratemeter.

(2) Industrial radiographic operations shall not be performed if the items in subsection (1) of this section are not available at the jobsite or are inoperable.

(3) During an inspection by the cabinet, the cabinet inspector may terminate an operation if items in subsection (1) of this section are not available and operable. Operations shall not be resumed until conditions are met.

Section 16. [~~14.~~] Security. During each radiographic operation, a [~~the~~] radiographer or radiographer's assistant shall maintain a direct surveillance of the operation to protect against unauthorized entry into a high radiation area, except if the high radiation area is:

(1) [~~Where the high radiation area is~~] Equipped with a control device or an alarm system as described in 902 KAR 100:019, Section 14(1); or

(2) [~~Where the high radiation area is~~] Locked to protect against unauthorized or accidental entry.

Section 17. [~~15.~~] Posting. Except as otherwise exempt in [~~Notwithstanding any provisions of~~] 902 KAR 100:019, Section 25 [~~100:020, Section 13~~], areas in which radiography is being performed shall be conspicuously posted as required in 902 KAR 100:019, Section 24(1) and (2) [~~100:020~~].

Section 18. Special Provisions and Exemptions for Cabinet X-ray Systems. (1) Systems for cabinet radiography designed to allow admittance of individuals shall:

(a) Comply with applicable provisions of this administrative regulation and 902 KAR 100:019, Section 10; and

(b) Be evaluated at intervals not to exceed one (1) year to assure compliance with the applicable provisions as specified in Section 15 of this administrative regulation. Records of these evaluations shall be maintained for inspection by the cabinet for a period of two (2) years after the evaluation.

(2) If a system is a certified cabinet x-ray system, it shall comply with applicable provisions of this administrative regulation and 21 CFR 1020.40.

(3) Certified cabinet x-ray systems designed to exclude individuals from the interior of the cabinet shall be exempt from the provisions of this administrative regulation, except operating personnel shall be provided with a film badge or a thermoluminescent dosimeter.

(a) A report of the results of the film badge or thermoluminescent dosimeter shall be maintained for inspection by the cabinet.

(b) A registrant shall not permit an individual to operate a cabinet x-ray system until the individual has:

1. Received a copy of, and instruction in, the operating procedures for the unit; and

2. Demonstrated competence in its use.

(c) Records which demonstrate compliance with this subsection shall be maintained for inspection by the cabinet until disposition is authorized by the cabinet.

(d) Tests for proper operation of high radiation area control devices or alarm systems, if applicable, shall be conducted, recorded, and maintained as described in Section 10 of this administrative regulation.

(e) A registrant shall perform an evaluation, at intervals not to exceed one (1) year, to determine compliance with 902 KAR 100:019, Section 10.

1. If a system is a certified cabinet x-ray system, it shall be evaluated at intervals not to exceed one (1) year to determine compliance with 21 CFR 1020.40.

2. Records of these evaluations shall be maintained for inspection by the cabinet for a period of two (2) years after the evaluation.

(4) Certified cabinet x-ray systems shall be maintained in compliance with 21 CFR 1020.40, unless prior approval has been granted by the cabinet under 902 KAR 100:015, Section 7. [~~16. Special Requirements and Exemptions for Cabinet X-ray Systems. (1) Except as provided by Section 12(4) of this regulation, registrants using cabinet x-ray systems are exempt from the requirements of this regulation.~~

~~(2) Cabinet x-ray systems shall meet the requirements of 902 KAR 100:145, relating to cabinet x-ray systems.~~]

Section 19. [~~17.~~] Minimum Training Requirements for Industrial Radiographers. [~~All~~] Industrial radiographers shall receive minimum training in the following areas:

(1) Fundamentals of radiation safety.

(a) Characteristics of radiation;

(b) Units of radiation dose (mrem) and quantity of radioactivity (curie);

(c) Significance of radiation dose:

1. Radiation protection standards;

2. Biological effects of radiation dose;

3. Case histories of radiography accidents;

(d) Levels of radiation from sources of radiation;

(e) Methods of controlling radiation dose:

1. Working time;

2. Working distances;

3. Shielding.

(2) Radiation detection instrumentation to be used.

(a) Use of radiation survey instruments:

1. Operation;

2. Calibration;

3. Limitations;

(b) Survey techniques:

(c) Use of personnel monitoring equipment:

1. Film badges;

2. Pocket dosimeters;

3. Thermoluminescent dosimeters;

4. Alarm ratemeters.

(3) Radiographic equipment to be used.

(a) Remote handling equipment;

(b) Operation and control of radiographic exposure devices and sealed sources, including pictures or models of source assemblies (pigtails);

(c) Storage and transport containers and source changers;

(d) Operation and control of x-ray equipment;

(e) Collimators.

(4) Provisions [~~The requirements~~] of 10 CFR 34 [~~pertinent federal~~] and 902 KAR Chapter 100. [~~state regulations; and~~]

(5) The licensee's or registrant's written operating and emergency procedures.

Section 20. [~~18.~~] Radiation Surveys and Survey Records. (1) A [~~No~~] radiographic operation shall not be conducted unless calibrated and operable radiation survey instrumentation, as described in Section 5 of this administrative regulation, is available and used at each location of [~~site where~~] radiographic operations [~~exposures are made~~].

(2) A survey with a [~~physical~~] radiation survey instrument shall be made after each radiographic exposure to determine that the sealed source has been returned to its shielded position. [~~condition and a survey shall be made of the storage area pursuant to Section 5 of this regulation whenever a radiographic exposure device is being placed in storage.~~]

(a) The entire circumference of the radiographic exposure device shall be surveyed.

(b) If the radiographic exposure device has a source guide tube, the survey shall also include the guide tube.

(3) A survey shall be made of the storage area if a radiographic exposure device is being placed in storage.

(4) [~~(3)~~] A physical radiation survey required by [~~pursuant to~~] Section 3 of this administrative regulation shall be made to determine that each sealed source is in its shielded position prior to securing the radiographic exposure device, storage container, or source changer in a storage area.

(5) [~~(4)~~] A physical radiation survey shall be made after each radiographic exposure using radiographic machines to determine that the machine is "off".

(6) [~~(5)~~] Records shall be kept of surveys and maintained for inspection by the cabinet for two (2) years after completion of the survey. If the survey was used to determine an individual's exposure, [~~however,~~] the records of the survey shall be maintained until the cabinet authorizes their disposition.

Section 21. [~~19.~~] Required Administrative Procedures for Industrial Radiography Program. (1) Licensees and registrants shall have an adequate program for training radiographers and radiographers' assistants, and submit to the cabinet a schedule or description of the [~~such~~] program which specifies the:

(a) Initial training;

(b) Periodic training;

(c) On-the-job training;

(d) Means to be used by the licensee or registrant to determine the radiographer's knowledge and understanding of and ability to comply with 902 KAR Chapter 100, [~~cabinet regulations~~] and licensing requirements, and the licensee's or registrant's operating and emergency procedures; and

(e) Means to be used by the licensee or registrant to determine the radiographer's assistant's knowledge and understanding of, and ability to comply with, the licensee's or registrant's operating and emergency procedures.

(2) A [~~The~~] licensee or registrant shall establish and submit to the cabinet satisfactory written operating and emergency procedures.

(3) A [~~The~~] licensee or registrant shall [~~have and~~] submit to the cabinet a description of its inspection program adequate [~~details of an adequate internal audit system, or other management control,~~] to ensure [~~assure~~] that license provisions, administrative regulations, and the licensee's or registrant's operating and emergency procedures shall be [~~are~~] followed by radiographers and radiographers' assistants. The inspection program [~~Such inspections~~] shall:

(a) Include observation of the performance of each radiographer and radiographer's assistant during an actual radiographic operation at intervals not to exceed three (3) months;

(b) Provide that, if a radiographer or a radiographer's assistant has not participated in a radiographic operation for more than three (3) months since the last inspection, the [~~that~~] individual's performance shall [~~must~~] be observed and recorded the next time the individual participates in a radiographic operation; and

(c) Include the retention of inspection records on the performance of radiographers or radiographers' assistants for two (2) years.

(4) A [~~The~~] licensee or registrant shall submit to the cabinet a description of his overall organizational structure pertaining to the radiography program, including:

(a) Specified delegations of authority; and

(b) Responsibility for operation of the program.

(5) A [~~The~~] licensee who desires to conduct his own leak tests [~~test~~] shall establish adequate procedures to be followed in leak testing sealed sources for possible leakage and contamination, and shall submit to the cabinet a description of the [~~such~~] procedures including:

(a) Instrumentation to be used;

(b) Method of performing tests (e.g., points on equipment to be smeared and method of taking smear); and

(c) Pertinent experience of the person who will perform the test.

[~~Section 20. Field X-Ray Radiographic Operations. In addition to the applicable requirements of this regulation, x-ray machines in field operations shall also meet the requirements of 902 KAR 100:105, relating to the use and operation of x-ray machines.~~]

~~Section 21. Inspection and Maintenance of High Radiation Area Control Devices or Alarm Systems. For any high radiation area equipped with a control device or alarm system as described in 902 KAR 100:020, the control device or alarm system shall be tested for proper operation at the beginning of each period of use. If a control device or alarm system is operating improperly, it shall be immediately labeled as defective and repaired before industrial radiographic operations are resumed. Records of such tests shall be maintained for inspection by the cabinet for two (2) years.~~]

Section 22. [~~Personal~~] Supervision of Radiographer's Assistant. If [~~Whenever~~] a radiographer's assistant uses radiographic exposure devices, sealed sources, or related source handling tools, or conducts radiation surveys required by Section 20 [~~18~~] of this administrative regulation to determine that the sealed source has returned to the shielded position after an exposure, the radiographer's assistant [~~the radiographer~~] shall be under the personal supervision of a radiographer. The personal supervision shall include the radiographer:

(1) Being physically present at the site where sources of radiation and associated equipment are being used;

(2) Watching the performance of the operations referred to in this section by the radiographer's assistant; and

(b) Being in a [~~such~~] proximity that immediate assistance may [~~can~~] be given if required.

Section 23. Material Incorporated by Reference. The American National Standard (ANSI) N432-1980, "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography," (January 1981), is incorporated by reference. A copy of the "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography" may be viewed or obtained at the Office of the Commissioner of Health Services, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. until 4:30 p.m., Monday through Friday.

RICE C. LEACH, Commissioner

FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 9, 1993
FILED WITH LRC: January 26, 1994 at 3 p.m.

STATEMENT OF EMERGENCY
907 KAR 1:013E

This emergency administrative regulation is being amended to comply with House Bill 1 passed in the Second Extraordinary Session, 1993 of the General Assembly; to show that provider taxes will be considered an allowable cost to be reduced effective March 1, 1994 by amounts paid as provider tax per diem rate adjustments; to provide that cost growth will be limited to one and one-half times the Data Resources, Inc. inflation factor; to provide for a revised system of disproportionate share hospital payments; to provide that hospitals with 100 beds or less will have an upper limit set at 110 percent of the weighted median (rather than the weighted median); and to show that for the period of March 1, 1994 through June 30, 1994 acute care disproportionate share hospitals with 100 beds or less shall receive a disproportionate share payment adjustment as appropriate to account for losses in costs during the period of July 1, 1993 through June 30, 1994 as a result of reductions in the July 1, 1993 or January 1, 1994 payment rates when compared to the April 1, 1993 rates paid as of June 30, 1993. The payment adjustments for any hospital shall not exceed the hospital's cost not compensated for in the hospital's payment rates for the July through December 1993 and January 1, 1994 through June 30, 1994 periods. As of March 1, 1994, any acute care disproportionate share hospital of 100 beds or less shall receive an additional disproportionate share hospital payment of $200,000. As technical changes, the regulation is amended to remove rehabilitation hospitals from types I, II and V and place them in new types designated VII, VIII, and IX with the same respective characteristics as types I, II, and V, except for containing rehabilitation hospitals rather than acute care hospitals; old types VII and VIII have been renumbered as types X and XI. This emergency administrative regulation differs from the emergency administrative regulation on the same subject matter that was filed on July 7, 1993 as follows: the payment adjustments and other disproportionate share hospital payments for the period beginning March 1, 1994 for disproportionate share hospitals with 100 beds or less are not shown in the prior emergency regulation, and the prior emergency regulation does not contain the new types. This emergency administrative regulation shall be replaced by the ordinary administrative regulation filed with the Regulations Compiler on or about March 1, 1994.

BRERETON JONES, Governor
FONTAINE BANKS, JR., Secretary

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:013E. Payments for hospital inpatient services.

RELATES TO: KRS 205.520, 205.575, 1992 Acts c. 462, Part I.G.52.b.2

STATUTORY AUTHORITY: KRS 194.050, 205.460, 1992 Acts c. 462, Part I.G.52.b.2., 20 CFR 405.402 through 405.488, 42 CFR 440.10, 440.140, 447.250 through 447.280, 42 USC 1396a, b, d, r-4

EFFECTIVE: February 9, 1994

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance. KRS 205.520 empowers the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. [~~KRS 205.575 provides for hospital indigent care assurance program (HICAP) payments.~~] This administrative regulation sets forth the method for determining amounts payable by the cabinet for hospital inpatient services.

Section 1. Acute Care Hospital, Rehabilitation Hospital and Mental Hospital (Including Psychiatric Facility) Inpatient Services. The Department for Medicaid Services shall pay for inpatient hospital services provided to eligible recipients of Medical Assistance through the use of rates that are reasonable and adequate to meet the costs that are required to be incurred by efficiently and economically operated hospitals to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Section 2. Establishment of Payment Rates. (1) The policies, methods, and standards to be used by the cabinet in setting payment rates are specified in the cabinet's "Inpatient Hospital Reimbursement Manual" revised November 29, 1993 [~~July 1, 1992~~], which is incorporated by reference in this administrative regulation.

(2) For any reimbursement issue or area not specified in the manual, the cabinet shall apply the Medicare standards and principles (excluding the Medicare inpatient routine nursing salary differential).

(3) The Kentucky Medical Assistance Program Inpatient Hospital Reimbursement Manual may be reviewed during regular working hours of 8 a.m. to 4:30 p.m. eastern time in the Office of the Commissioner, Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621. Copies may also be obtained from that office upon payment of an appropriate fee which shall not exceed approximate cost.

Section 3. General Description of the Payment System. The following provisions shall be applicable for purposes of setting inpatient hospital payment rates:

(1) Use of prospective rates. Each hospital shall be paid using a prospective payment rate based on allowable Medicaid costs and Medicaid inpatient days.

(a) The prospective rate shall be all inclusive in that both routine and ancillary cost shall be reimbursed through the rate.

(b) For universal rate years prior to January 1, 1985 the prospective rate shall not be subject to retroactive adjustment except to the extent that an audited cost report alters the basis for the prospective rate or the projected inflation index utilized in setting the individual rate is different from actual inflation as determined by the index being used.

(c) For universal rate years beginning on or after January 1, 1985, the prospective rate shall not be subject to retroactive adjustment except to the extent that facilities with a rate based on unaudited data shall have their rate appropriately revised for the rate year when the audited cost report is received from the fiscal intermediary.

(d) [~~However,~~] Total prospective payments shall not exceed the total customary charges in the prospective year.

(e) Overpayments shall be recouped:

1. By payment from the provider [~~to the cabinet~~] of the amount of the overpayment; or

2. [~~alternatively,~~] By the withholding of the overpayment amount [~~by the cabinet~~] from future payments [~~otherwise~~] due the provider.

(2) Use of a uniform rate year. A uniform rate year shall be set for all facilities, with the rate year established as January 1 through December 31 of each year. The first uniform rate year for psychiatric [~~mental~~] hospitals shall be July 1, 1985 through June 30, 1986; however, effective January 1, 1986 the psychiatric [~~mental~~] hospital rate year shall be reestablished and shall be January 1 through December 31 of each year thereafter. Changes of rates throughout the rate year as a result of policy changes shall not change the rate year, although the facility rates may change. Hospitals are not required to change their fiscal years.

(3) Trending of cost reports. Allowable Medicaid cost as shown in cost reports on file in the cabinet, both audited and unaudited, shall be trended to the beginning of the rate year so as to update Medicaid

costs. When trending, capital costs and return on equity capital are excluded. The trending factor to be used shall be the Data Resources, Inc. rate of inflation for the period being trended.

(4) Indexing for inflation. After allowable costs have been trended to the beginning of the rate year, an indexing factor shall be applied so as to project inflationary cost in the uniform rate year. The forecasting index currently in use is prepared by Data Resources, Inc. This policy shall be effective August 3, 1985.

(5) Peer grouping. Acute care hospitals (but not including those considered to be primarily rehabilitative in nature) shall be [~~peer~~] grouped with other acute care hospitals according to bed size (referred to as "peer grouping").

(a) The peer groupings for the payment system shall be: 0-50 beds, 51-100 beds, 101-200 beds, 201-400 beds, and 401 beds and up.

(b) [(~~except that the~~] Designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville shall not be included in the array for facilities with 401 beds and up unless the [~~such~~] facility's primary characteristics are considered essentially the same as the peer group's, and the facility, although not a university teaching hospital as such, is treated in [~~such~~] a manner which [~~as to~~] recognizes the presence of the major pediatric teaching component existing outside the state university hospitals[~~)~~].

(c) A [~~No~~] facility in the 201-400 peer group shall not have its operational per diem reduced below that amount in effect in the 1982 rate year as a result of the establishment of a peer grouping of 401 beds and up.

(d) Psychiatric [~~Mental~~] hospitals shall not be peer grouped but shall have a separate array of psychiatric [~~mental~~] hospitals only.

(e) Rehabilitation hospitals and acute care hospitals considered to be primarily rehabilitative in nature shall not be peer grouped or arrayed.

(6) Use of a minimum occupancy factor. A minimum occupancy factor shall be applied to capital costs attributable to the Medicaid program. A sixty (60) percent occupancy factor shall apply to hospitals with 100 or fewer beds. A seventy-five (75) percent occupancy factor shall apply to facilities with 101 or more beds. Capital costs are interest and depreciation related to plant and equipment.

(7) Use of a reduced depreciation allowance. The allowable amount for depreciation on building and fixtures (not including major movable equipment) shall be sixty-five (65) percent of the reported depreciation amount as shown in the hospital's cost reports. The use of a reduced depreciation allowance is not applicable with regard to psychiatric [~~mental~~] hospitals.

(8) Use of upper limits with regard to services provided on or after November 29, 1993 [~~July 1, 1991~~].

(a) The following upper limits and payment principles shall apply to all hospitals with other limitations for disproportionate share hospitals shown in paragraph (b) of this subsection.

1.a.(i) For acute care hospitals, except hospitals with 100 beds or less, an upper limit shall be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in each peer group, using the most recent medicaid cost report available as of December 1 of each year.

(ii) For acute care hospitals with 100 beds or less, the upper limit on all costs (except Medicaid capital cost) shall be established at 110 percent of the weighted median per diem for hospitals in the peer groups, using the most recent Medicaid cost report available as of December 1 of each year.

b. For psychiatric [~~mental~~] hospitals, an upper limit shall be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in the array. A psychiatric [~~mental~~] hospital designated by the cabinet as a primary referral and services resource for children in the custody of the cabinet shall be exempt from the upper limit for the array and shall be paid at actual projected cost with no year end settlement to actual cost; the projected cost may be adjusted for usual cost of living increases using the Data Resources, Incorporated Index.

c. Upon being set, the arrays and upper limits shall not be altered due to revisions or corrections of data; however the arrays or upper limits may be changed as a result of changes of agency policy.

d. Disproportionate share hospitals [~~participating in the Hospital Indigent Care Assurance Program (HICAP)~~] shall also receive, in addition to regular program payments, disproportionate share hospital payments as described in the Reimbursement Manual at Section 102C. [~~amounts which are payable under HICAP. Effective with regard to payments for the quarter ending June 30, 1992 and thereafter, the HICAP payments shall be the product of the ratio of each hospital's Medicaid patient days compared to total Medicaid patient days as applied to total available HICAP funds (which are the amounts remaining, from the hospital assessments paid, for distribution to hospitals after exclusion of appropriate amounts for administrative expense, the contingency reserve amount, and amounts reserved for other program needs in accordance with budget commitments, obligations, and appropriations, and taking into consideration available federal Medicaid matching funds and upper limits on HICAP payments). The formula for determination of HICAP payment amounts is shown in the Reimbursement Manual at Section 102D(b)(2), (3), (4), and (5). No hospital participating in HICAP shall receive on an annual basis less than five and one quarter (5.25) percent of its operating costs, or five (5) percent of its annual operating costs plus $100,000, whichever amount is greater. For hospitals which are disproportionate share hospitals the limitations shown in paragraph (b) of this subsection and subsection (9) of this section shall be applicable for HICAP payments. If a hospital which is a nondisproportionate share hospital is determined by the cabinet to be a nonparticipant in HICAP, the amounts otherwise payable under HICAP to the hospital shall not be made.~~]

e. Provider taxes shall be considered allowable cost. For the rate period beginning November 29, 1993, the allowable cost of the tax shall be added to the hospital rate with no offsets and without regard for usual upper limits. For subsequent rate periods the cost (excluding, effective March 1, 1994, any per diem rate adjustments for the prior rate period relating to provider taxes) shall be shown in the appropriate cost report with adjustment as necessary to reflect an annual amount.

f. Allowable cost growth from the prior rate base year to the new rate base year shall be limited to not more than one and one-half (1 1/2) times the Data Resources, Inc. inflation amount for the same time period; limits shall be applied by component (capital and operating cost only); cost growth beyond the allowable amounts shall be considered unallowable cost for rate setting purposes.

2. For medically necessary hospital inpatient services provided to infants under the age of one (1) with exceptionally high costs or long lengths of stay (defined as being those costs and days of stay which for newborns are after thirty (30) days beyond the date of discharge for the mother of the child and for all other infants are after thirty (30) days from the date of admission), the payment rate shall be set at 110 percent of the per diem payment rate, without regard to length of stay or number of admissions of the infants.

(b) The following upper limits and payment principles shall apply to disproportionate share hospitals as defined in subsection (9) of this section.

1. Acute care hospitals with Medicaid utilization of twenty (20) percent or higher, and hospitals having twenty-five (25) percent or more nursing days resulting from Medicaid covered deliveries as compared to the total number of paid Medicaid days, shall have an upper limit set at 120 percent of the weighted median per diem cost for hospitals in the array. In addition to the per diem amount computed in this manner, the hospitals shall be paid (as appropriate) additional amounts for services to children under age six (6) (as shown in subsection (9)(b)2 of this section). These hospitals shall

also be entitled to disproportionate share hospital payments in accordance with KRS 205.640 and Section 102C of the Reimbursement Manual. [~~amounts payable under HICAP (as shown in subsection (9)(b)3 of this section) or the disproportionate share minimum adjustment amount shown in subsection (9)(b)1 of this section if greater.~~]

2. Designated state teaching hospitals and major affiliated pediatric teaching hospitals (i.e., those affiliated with or a part of the University of Kentucky and the University of Louisville) shall have an upper limit set at 126 percent of the weighted median per diem cost for all other hospitals of comparable size (401 beds and up). The pediatric teaching hospitals shall also be paid, in addition to the facilities' base rate, an amount which is equal to two (2) percent of the base for each one (1) percent of Medicaid occupancy but this amount shall not exceed the prospective reasonably determined uncompensated Medicaid cost to the facility. In addition to the per diem amount computed using the limits specified in this subparagraph, the hospitals shall be paid (as appropriate) additional amounts for services to children under age six (6) (as shown in subsection (9)(b)2 of this section). These hospitals shall also be entitled to disproportionate share hospital payments in accordance with KRS 205.640 and Section 102C of the Reimbursement Manual. [~~amounts payable under HICAP (as shown in subsection (9)(b)3 of this section) or the disproportionate share minimum adjustment amount shown in subsection (9)(b)1 of this section if greater.~~]

3. Psychiatric [~~Mental~~] hospitals with Medicaid utilization of thirty-five (35) percent or higher shall have an upper limit set at 115 percent of the weighted median per diem cost for hospitals in the array. The hospitals shall also be entitled to disproportionate share hospital payments in accordance with KRS 205.640 and Section 102C of the Reimbursement Manual. [~~The per diem amount shall be computed using this upper limit or by using the disproportionate share minimum payment amount shown in subsection (9)(b)1 of this section if doing so results in a higher per diem amount.~~]

4. All other disproportionate share acute care hospitals shall have their upper limit set at the weighed median per diem of the cost for hospitals in the array. In addition to the per diem amount computed in this manner, the hospitals shall be paid (as appropriate) additional amounts for services to children under age six (6) (as shown in subsection (9)(b)2 of this section). These hospitals shall also be entitled to disproportionate share hospital payments in accordance with KRS 205.640 and Section 102C of the Reimbursement Manual. [~~amounts payable under HICAP (as shown in subsection (9)(b)3 of this section) or the disproportionate share minimum adjustment amount shown in subsection (9)(b)1 of this section if greater.~~]

(9) Disproportionate share hospitals.

(a) Disproportionate share hospitals are those hospitals meeting the criteria specified in 42 USC 1396r-4(b) and (d) and those hospitals which may not meet the [~~such~~] criteria but meet the criteria specified in 42 USC 1396r-4(d) and meet this additional criteria:

1. Acute care hospitals with Medicaid utilization of twenty (20) percent or higher and psychiatric [~~mental~~] hospitals with Medicaid utilization of thirty-five (35) percent or higher;

2. Hospitals which are designated state teaching hospitals;

3. Hospitals which are designated major pediatric teaching hospitals;

4. Hospitals having twenty-five (25) percent or more nursery days resulting from Medicaid covered deliveries as compared to the total number of paid Medicaid days; and

5. Effective with regard to services provided on or after July 1, 1990, hospitals not meeting the additional criteria specified in subparagraphs 1 through 4 of this paragraph but with Medicaid utilization of one-half (1/2) of one (1) percent or higher.

(b) The upper limit for payments for hospitals in Kentucky shall be set at the lower of allowable Medicaid cost or the median of the facility array of allowable cost with payment adjustments allowed for hospitals deemed disproportionate share hospitals in accordance with subsections (8) and (9) of this section. For compliance with 42 USC 1396r-4(c), the minimum payment adjustment and actual payment adjustment shall be computed in the following manner:

1.a. Each disproportionate share hospital shall be paid a minimum disproportionate share payment amount for the type of hospital plus any earned adjustment to which the hospital is entitled. The hospital types, minimum payment amounts, and earned adjustments shall be as follows:

(i) Type I hospitals shall be those acute care in-state hospitals serving a federally designated medically underserved area, a federally designated health manpower shortage area, or a primary care physician shortage area designated under the rural Kentucky medical scholarship fund, when the hospital has fifty (50) beds or less. Minimum amount: ninety-five (95) dollars per Medicaid day.

(ii) Type II. These hospitals shall be described in the same manner as Type I, except these hospitals have fifty-one (51) beds to 100 beds. Minimum amount: seventy (70) dollars per Medicaid day.

(iii) Type III. These hospitals shall be described in the same manner as Type I except these hospitals have 101 beds to 200 beds and include rehabilitation hospitals. Minimum amount: fifty-five (55) dollars per Medicaid day.

(iv) Type IV. These hospitals shall be described in the same manner as Type I except these hospitals have 201 or over beds and include rehabilitation hospitals. Minimum amount: forty-five (45) dollars per Medicaid day.

(v) Type V. All acute care in-state hospitals with 100 beds and under except those described as Type I or II. Minimum amount: forty-five (45) dollars per Medicaid day.

(vi) Type VI. All acute care and rehabilitation in-state hospitals with 101 beds to 200 beds except those that are Type III. Minimum amount: thirty-five (35) dollars per Medicaid day.

(vii) Type VII. These hospitals shall be described in the same manner as Type I, except the type shall be limited to rehabilitation hospitals. Minimum amount: ninety-five (95) dollars per Medicaid day.

(viii) Type VIII. These hospitals shall be described in the same manner as Type II, except the type shall be limited to rehabilitation hospitals. Minimum amount: seventy (70) dollars per Medicaid day.

(ix) Type IX. All rehabilitation hospitals, with 100 beds and under except those described as Type VII or VIII. Minimum amount: forty-five (45) dollars per Medicaid day.

(x) Type X. All other in-state hospitals including psychiatric hospitals. Minimum amount: ten (10) dollars per Medicaid day.

(xi) Type XI. All out-of-state hospitals. Minimum amount: one (1) dollar per Medicaid day.

b.(i) Each Type I through Type X hospital shall have the opportunity for an earned payment adjustment based on the provision of indigent care (i.e., care provided to Medicaid recipients beyond the Medicaid covered days or to individual or families with income under the poverty level).

(ii) The earned adjustment shall equal ten (10) dollars for each indigent day of care provided plus an amount equal to the cost of the indigent care (at Medicaid rates) provided by the hospital for which there has been no direct or indirect payment (i.e., where the cost of the care has not been paid or cost-shifted to other payors).

(iii) A hospital shall be presumed to have received payment for indigent care to the extent that other patient revenues exceed other patient costs, and to the extent that direct or other indirect payments are made to the hospital for the indigent care.

(iv) Any acute care disproportionate share hospital with 100 beds or less whose July 1, 1993, or January 1, 1994, per diem payment rate is less than the April 1, 1993 rate paid as of June 30, 1993, and also less than full allowable per diem costs for the services provided by the hospital as of July 1, 1993, or January 1, 1994, respectively, shall receive an adjustment to the hospital's disproportionate share minimum payment for the period March 1, 1994 through June 30, 1994. The payment adjustment for an acute care hospital shall be determined by multiplying the number of the hospital's Medicaid days

as follows:

i. For services provided for the July 1, 1993 through December 31, 1993 period by the difference between the hospital's July 1, 1993 payment rate and the April 1, 1993 rate as paid on June 30, 1993 not to exceed allowable cost; and

ii. For services provided for the January 1, 1994 through June 30, 1994 period by the difference between the hospital's January 1, 1994 payment rate and the April 1, 1993 rate as paid on June 30, 1993 not to exceed allowable cost.

(v) Any acute care disproportionate share hospital of 100 beds or less shall receive an additional disproportionate share hospital payment of $200,000 for the period March 1, 1994 through June 30, 1994. This payment shall be made in two (2) equal installments of $100,000 each with the first payment amount to be paid on or before March 31, 1994 and the second payment amount to be paid on or before June 30, 1994.

c. Each Type XI hospital shall qualify for an earned adjustment which is equal to ten (10) cents for each one (1) percent of Medicaid occupancy above one (1) standard deviation. ~~[All hospitals determined to be disproportionate share hospitals shall be entitled to a minimum payment adjustment equal to one (1) dollar as an addition to the hospital payment rate computed using usual upper limits; and for hospitals with Medicaid utilization in excess of one (1) standard deviation above the mean Medicaid inpatient utilization rate for hospitals receiving Medicaid payments in the state, a further payment adjustment which is equal to ten (10) cents for each one (1) percent of Medicaid utilization in the hospital which is in excess of utilization at the one (1) standard deviation level.]~~

2. Effective with regard to medically necessary hospital inpatient services provided by all Kentucky disproportionate share hospitals on or after July 1, 1991 to children under the age of six (6) with exceptionally high costs or long lengths of stay (defined as being those costs and days of stay which for newborns are after thirty (30) days beyond the date of discharge for the mother of the child and for all other children are after thirty (30) days from the date of admission), the payment rate shall be set at 110 percent of the per diem payment rate, without regard to length of stay or number of admissions of the children.

~~[3. Effective with regard to services provided on or after July 1, 1990 any hospital which is participating in the Hospital Indigent Care Assurance Program (HICAP) shall receive disproportionate share payments under HICAP. HICAP assessments and payments are described in 907 KAR 1:017, Hospital indigent care assurance program. If a hospital is determined by the cabinet to be a nonparticipant in the HICAP program, the hospital shall be entitled to the minimum adjustment shown in subparagraph 1 of this paragraph.]~~

(10) Operating costs shall not include professional (physician) costs for purposes of establishing the median based upper limits. Professional costs shall be trended separately.

(11) Hospitals whose general characteristics are not those of an acute care or psychiatric ~~[mental]~~ hospital (i.e., because they are rehabilitation hospitals or acute care hospitals considered to be primarily rehabilitative in nature) are not subject to the operating cost upper limits.

(12) Rate appeals. As specified in the Inpatient Hospital Reimbursement Manual, hospitals may request an adjustment to the prospective rate with the submittal of supporting documentation. The established appeal procedure allows a representative of the hospital group to participate as a member of the rate review panel.

Section 4. Payments to Participating Out-of-state Hospitals. (1) Effective with regard to services provided on or after July 1, 1990 participating out-of-state hospitals shall be reimbursed for covered inpatient services rendered eligible Kentucky Medicaid recipients at the rate of seventy-five (75) percent of usual and customary charges, up to the in-state per diem upper limit for a comparable size hospital, except as specified in subsection (2) of this section.

(2) Effective with regard to medically necessary hospital inpatient services provided on or after July 1, 1991 to infants under the age of one (1), and for children under the age of six (6) in disproportionate share hospitals (determined in the same manner as for in-state hospitals except that out-of-state hospitals are not included in facility arrays), for days of stay which for newborns are after thirty (30) days beyond the date of discharge for the mother of the child and for all other children are after thirty (30) days from the date of admission, participating out-of-state hospitals shall be paid at the rate of eighty-five (85) percent of usual and customary actual billed charges up to 110 percent of the per diem upper limit for the in-state peer group for comparably sized hospitals in recognition of exceptionally high costs and lengths of stay related to infants under the age of one (1) and children under age six (6), without regard to length of stay or number of admissions of the infants and children.

(3) Effective with regard to services provided on or after February 1, 1991, professional costs (i.e., physician fees) for all covered days of stay shall be paid at seventy-five (75) percent of the usual and customary charges of the provider.

Section 5. Except as otherwise specified the changes shown in this administrative regulation shall be effective with regard to services provided on or after November 29, 1993.

MASTEN CHILDERS II, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: February 7, 1994
FILED WITH LRC: February 9, 1994 at 3 p.m.

STATEMENT OF EMERGENCY
907 KAR 1:470E

This emergency administrative regulation is being amended to show for the period of October 1, 1993 through March 31, 1994, providers concurrently enrolled in Medicaid as another type of provider would be able to enroll as a Medicaid DME provider without concurrent Medicare enrollment. This action must be taken on an emergency basis to permit a substantial number of providers of durable medical equipment to enroll in the Medicaid Program in a timely manner and ensure that Medicaid recipients have adequate access to covered Medicaid services. This emergency administrative regulation shall be replaced by an ordinary regulation to be filed with the Regulations Compiler on or about January 1, 1994.

BRERETON C. JONES, Governor
FONTAINE BANKS, JR., Secretary

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:470E. Durable medical equipment.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194.050, 42 USC 1396a, b, d
EFFECTIVE: January 27, 1994 3 p.m.
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the Medicaid Program ~~[of Medical Assistance in accordance with Title XIX of the Social Security Act]~~. KRS 205.520 empowers the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation sets forth the provisions relating to durable medical equipment services (including medical supplies) for which payment shall be made by the Medicaid ~~[Medical Assistance]~~ Program in behalf of both the categorically needy and medically needy.

Section 1. Participation Requirement. (1) Durable medical equipment providers shall be required to participate as providers in both the Medicare and Medicaid programs, except as follows: for the period beginning October 1, 1993 and ending on March 31, 1994, durable medical equipment providers shall not be required to participate in the Medicare Program if the provider is also participating in the Medicaid Program as another type of provider.

(2) Each durable medical equipment provider shall sign a provider agreement with the Cabinet for Human Resources, Department for Medicaid Services.

Section 2. Conditions for Coverage and Limitations on Durable Medical Equipment and Medical Supplies. Durable medical equipment and medical supplies shall be [~~are~~] covered only in accordance with the following conditions:

(1) The equipment or supplies which are covered shall be limited to those covered in the Medicare Program unless separately specified for coverage by the cabinet. Any equipment with a cost of $150 or more must be preauthorized by the cabinet.

(2) The equipment or supplies shall be ordered by the physician as required in the treatment of the patient.

(3) The equipment or supplies shall be suitable for the patient to use in the home.

(4) The recipients utilizing the equipment or supplies shall be Medicaid eligible[~~, and the durable medical equipment providers shall be required to participate as providers in both the Medicare and Medicaid programs~~].

(5) Coverage for an item of durable medical equipment shall be in accordance with the following guidelines: that the item shall be durable in nature and able to stand repeated use; serve a medical purpose; generally be not useful to a person in the absence of illness or injury; be appropriate for use in the home; and be necessary, appropriate and reasonable for treatment of an illness or injury or to improve the functioning of a malformed body member. This guideline [~~definition~~] includes [~~but is not limited to~~] wheelchairs, crutches, walkers, intermittent positive pressure breathing machines, braces, artificial limbs, and oxygen (when the [~~such~~] oxygen supply can be maintained, replaced, or resupplied at all times). The Medicare Program shall [~~will~~] be used as a guide for determining the appropriateness for coverage, where applicable.

Section 3. [~~2.~~] Equipment Not Covered Under Durable Medical Equipment. For services provided on or after July 1, 1990, equipment which would appropriately be considered for coverage only through other sections or components of the Medicaid [~~Medical Assistance~~] Program, for example, lens and frames, hearing aids and pacemakers; items such as contact lens and dentures; equipment used primarily and customarily for a nonmedical purpose, for example, air conditioners and humidifiers; physical fitness equipment; and equipment which basically serves comfort and convenience functions (for example, elevators) shall [~~are~~] not be covered under the durable medical equipment component of the Medicaid Program.

Section 4. The provisions of this administrative regulation shall be effective with regard to services provided on or after October 1, 1993.

HAROLD R. BLOM, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 15, 1993
FILED WITH LRC: January 27, 1994 at 3 p.m.

STATEMENT OF EMERGENCY
907 KAR 1:472E

This emergency administrative regulation is being amended to delete provider participation requirements from this regulation since they are more properly shown in the durable medical equipment (DME) services regulation, 907 KAR 1:470. This action must be taken on an emergency basis to implement policy in a timely manner. This emergency administrative regulation shall be replaced by an ordinary regulation to be filed on or about January 1, 1994.

BRERETON C. JONES, Governor
FONTAINE BANKS, JR., Secretary

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:472E. Payments for durable medical equipment.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194.050, 42 USC 1396a, b, d
EFFECTIVE: January 27, 1994
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the Medicaid Program [~~of Medical Assistance in accordance with Title XIX of the Social Security Act~~]. KRS 205.520 empowers the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation sets forth the provisions for payments for durable medical equipment services (including supplies) made by the Medicaid [~~Medical Assistance~~] Program in behalf of both the categorically needy and medically needy.

Section 1. [~~Participation Requirement. Each provider desiring to participate as a durable medical equipment provider must be a Medicare qualified provider, and sign a provider agreement with the Cabinet for Human Resources, Department for Medicaid Services.~~

~~Section 2.~~] Payments for Durable Medical Equipment. If [~~When~~] durable medical equipment and medical supplies are provided to eligible Medicaid recipients in accordance with 907 KAR 1:470, Durable medical equipment, the cabinet shall reimburse the participating provider on the basis of usual and customary actual billed charges not to exceed Medicare upper limits for the particular item. If the durable medical equipment or medical supplies are covered by Medicaid, but not covered by Medicare, Medicaid shall [~~will~~] set the applicable upper limit. Medicaid established upper limits shall be based on standards of reasonableness and designed not to exceed area prevailing charges.

Section 3. The provisions of this administrative regulation shall be effective with regard to services provided on and after October 1, 1993 [~~May 1, 1989~~].

HAROLD R. BLOM, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 15, 1993
FILED WITH LRC: January 27, 1994 at 3 p.m.

ADMINISTRATIVE REGULATIONS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

COMPILER'S NOTE: The administrative regulations in this section of the Register were amended by the promulgating agency and the Administrative Regulation Review Subcommittee at its February 7 and 8, 1994, meeting unless otherwise noted.

COMPILER'S NOTE: The following administrative regulation, 101 KAR 2:105, was amended by the promulgating agency and the House and Senate Committees on State Government, and became effective on February 3, 1994.

DEPARTMENT OF PERSONNEL
(As Amended)

101 KAR 2:105. Sick leave sharing procedures.

RELATES TO: KRS 18A.030, 18A.110
STATUTORY AUTHORITY: KRS 18A.030, 18A.110, 18A.197
NECESSITY AND FUNCTION: KRS 18A.197(g) requires the Department of Personnel to promulgate procedural administrative regulations to implement the sick leave sharing program.

Section 1. Sick Leave Sharing Procedures. (1) Definitions.

(a) "Employee" means an employee in active payroll status. An employee who has resigned or retired or who has been placed in unpaid leave status by a personnel action shall not qualify to donate or receive sick leave under the Sick leave sharing program.

(b) "Immediate family" means the spouse, mother, father, son or daughter, or person of similarly close blood or legal relationship who has resided with the employee for not less than thirty (30) days prior to application.

(c) "Medically certified illness, injury, impairment or physical or mental condition" means a disabling medical condition which renders the employee completely incapable of performing the essential duties of his job. The ten (10) consecutive days of leave required for eligibility may be leave with or without pay. Sick leave sharing shall not be authorized for mere convenience or employee preference.

(2) Sick leave shall not be **donated** [~~transferred~~] in **an amount** [~~increments of~~] less than seven and one-half (7.5) hours.

(3) Where multiple donors donate sick leave to an eligible recipient, agencies shall transfer leave in chronological order of receipt of the donation forms, up to the maximum amount that has been certified to be needed by the recipient.

(4) The applicant for sick leave sharing shall be responsible for filing the appropriate medical certificates and applications. Donated sick leave shall not be utilized retroactively except to cover the period between the date the request was submitted **to the employee's supervisor or agency representative** and the date of approval by the appointing authority.

(5) The sick leave sharing recipient shall be responsible for monitoring the amount of sick leave donated and used.

(6) Donated sick leave **shall be used in the order in which it is donated and** shall be used on consecutive days except as provided by subsection (7) of this section. Any leave that an employee accrues while receiving donated sick leave shall be used before donated sick leave.

(7) When the recipient of donated leave returns to work, unused donated leave shall be restored to the donors, [~~on a pro rata basis~~] unless the recipient provides medical evidence that he will require continued, periodic medical treatment relating to the original condition for which leave was donated.

(8) If a sick leave donor resigns, retires or is otherwise terminated from state employment before the process of transferring leave to the recipient has begun, such leave shall not be available for use by the recipient.

(9) An appointing authority may require a sick leave recipient to provide an updated medical certificate attesting to the continued need for leave after thirty (30) working days of sick leave.

(10) An employee receiving workers' compensation benefits is eligible to receive shared sick leave to maintain a regular level of pay.

BRERETON C. JONES, Governor
LOWELL W. CLARK, Commissioner
APPROVED BY AGENCY: November 15, 1993
FILED WITH LRC: November 15, 1993 at noon

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended)

201 KAR 9:023. Endorsement.

RELATES TO: KRS 311.530 to 311.620, 311.990
STATUTORY AUTHORITY: KRS 311.565
NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to establish standards for the endorsement of a physician by the licensing authority of another jurisdiction to the board.

Section 1. **"Endorsement" means the written certification of an authorized officer of a recognized entity that:**

(1) An applicant is in good standing, and has successfully completed an examination recognized by the board; and

(2) The endorsing state standards are substantially equivalent to those of the Commonwealth of Kentucky.

Section 2. Endorsement shall result in the fulfillment of examination requirement for licensure if the requirements established by 201 KAR 9:031 have been met.

Section 3. Licensure by Reciprocity. Licensure by reciprocity shall be granted if it is established to the satisfaction of the board that the standards for licensure of the endorsing entity are equivalent to the standards established in the Commonwealth of Kentucky.

Section 4. Endorsing Bodies Recognized by the Board. An applicant may fulfill the examination requirement for licensure without further testing in this state upon certified written endorsement that the applicant has successfully completed an examination approved by the board in accordance with the requirements of 201 KAR 9:031 from any of the following entities:

(1) Licensure authority of another state, United States territory or Canadian province;

(2) National Board of Medical Examiners;

(3) National Board of [~~Examiners for~~] Osteopathic Medical Examiners, Inc.; [~~Physicians and Surgeons; and~~]

(4) Federation of State Medical Boards of the United States, Inc.; [~~and~~] or

(5) United States Medical Licensing Examination **administered by the National Board of Medical Examiners and the Federation of State Medical Boards.**

~~[Section 2. Endorsement Defined. Endorsement means the written certification of an authorized officer of a recognized entity that the applicant is in good standing, that the endorsing state has standards substantially equivalent to those of the Commonwealth, and has successfully completed an examination recognized by this board. Endorsement should not be confused with "reciprocity" which is not recognized as a licensure mechanism by this board. Endorsement only results in the fulfillment of the examination requirement for licensure if the requirements of 201 KAR 9:031 have been satisfied.]~~

Section 5. ~~[3.]~~ Endorsement by the Board. The board **shall** ~~[will]~~ not endorse any physician to the licensure authority of another state, United States territory or Canadian province unless the physician holds a valid, current and effective license to practice medicine or osteopathy in the Commonwealth.

ROYCE E. DAWSON, President
APPROVED BY AGENCY: November 9, 1993
FILED WITH LRC: November 10, 1993 at 10 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended)

201 KAR 9:031. Examinations.

RELATES TO: KRS 311.565(13, (16), (18), (22)
STATUTORY AUTHORITY: KRS 311.565(13), (16), (18), (22)
NECESSITY AND FUNCTION: KRS 311.565 authorizes the board to promulgate administrative regulations governing examinations. The purpose of this administrative regulation is to establish standards and requirements relating to examinations.

Section 1. Basic Requirement; Passing Score. (1) An applicant for a license or permit issued by the board shall provide written proof that he has received a score:

(a) Of seventy-five (75), or its numerical equivalent;

(b) A FLEX weighted average (FWA) of seventy-five (75) in a single sitting.

(2) A passing score for an applicant who takes Component I and Component II of the Federation Licensing ~~[Licensure]~~ Examination (FLEX) shall be a score of seventy-five (75) on each component.

(3) The board shall recognize a passing score on the FLEX or any component thereof provided the applicant passes the entire examination within seven (7) years. The board may, however, waive this requirement upon proof submitted by the applicant of extraordinary circumstances.

(4) A passing score for an applicant who takes Step 3 of the United States Medical Licensing Examination (USMLE) shall be a score of seventy-five (75) or its numerical equivalent.

(5) The board shall recognize the following combinations of examinations only if completed prior to the year 2000:

(a) NBME Part I or USMLE Step 1, plus NBME Part II or USMLE Step 2, plus NBME Part III or USMLE Step 3; or

(b) FLEX Component I plus USMLE Step 3; or

(c) NBME Part I or USMLE Step 1, plus NBME Part II or USMLE Step 2, plus FLEX Component 2.

Section 2. Examinations Approved by the Board. The following examinations are approved by the board in regard to the fulfillment of the examination requirement for licensure:

(1) Examinations administered prior to 1972 by the licensure authority of another state, United States territory or Canadian province upon sufficient proof that the examination consisted of comprehensive testing in the basic and clinical sciences;

(2) The examination administered by the Federation of State Medical Boards, (FLEX);

(3) The examination administered by the National Board of Medical Examiners (NBME); ~~[and]~~

(4) The examination administered by the National Board of Osteopathic Medical Examiners (NBOME); ~~[for Osteopathic Physicians and Surgeons.]~~

(5) The examination administered jointly by the Federation of State Medical Boards and National Board of Medical Examiners entitled United States Medical Licensing Examination (USMLE).

The board may deny a license or permit when in the board's opinion the examination by which the applicant is seeking to fulfill the examination requirement inadequately tested the applicant's knowledge, education, training and competency.

Section 3. Examination Administered by Board. (1) The board shall administer the state medical examination ~~[FLEX]~~ twice yearly in accordance with protocol established by the Federation of State Medical Boards of the United States, Inc. and the National Board of Medical Examiners.

(2)(a) The board or its approved designee ~~[executive director]~~ shall oversee the examination and may expel any person for fraudulent or disruptive behavior.

(b) The board ~~[executive director]~~ may allow an applicant to sit for the state medical examination ~~[FLEX]~~ when in its ~~[his]~~ opinion the applicant appears to have fulfilled the appropriate eligibility requirements.

(3) Allowing an applicant to sit for the state medical examination ~~[FLEX or any component thereof]~~ shall not be considered as certification that any requirement for licensure has been fulfilled.

Section 4. Eligibility for Examination. (1) An applicant shall be eligible to take the state medical examination if the applicant has fulfilled the following:

(a) Has obtained the M.D. degree (or its equivalent) or the D.O. degree from a medical school approved by the board; and

(b) Has completed successfully Steps 1 and 2 of the USMLE or Parts I and II of the NBME or Component 1 of the FLEX; and

(c) Is currently enrolled in an approved postgraduate training program; and

(d) Is certified by the **Educational Commission for Foreign Medical Graduates** ~~[ECFMG]~~ or has successfully completed a "Fifth Pathway" program if a foreign medical school graduate. For purposes of this section, a "Fifth Pathway" is defined as an academic year of supervised clinical education provided by an LCME-accredited medical school.

(2) An applicant shall be eligible to take the state medical examination if the applicant is within a seven (7) year period beginning with the first passage of either Step 1 or Step 2 of the USMLE.

~~[(1) An applicant shall be eligible to take both components of the FLEX if the applicant has fulfilled all other requirements for regular licensure.~~

~~(2) An applicant shall be eligible to take Component I of the FLEX if the applicant has graduated from a medical school approved by the board.~~

~~(3) An applicant shall be eligible to take Component II of the FLEX if the applicant has previously passed Component I or completed one (1) year of approved postgraduate training or is currently enrolled in an approved postgraduate training program.~~

~~(4)(a) Except as provided in paragraph (b) of this subsection, an applicant shall not be eligible to sit for the FLEX, or a component thereof, if he has failed the FLEX, or a component thereof, three (3) times.~~

~~(b) An applicant who has failed the FLEX three (3) times may sit~~

~~for the FLEX, or a component thereof, if he submits proof that he has completed an additional year of approved postgraduate training.~~

~~(c) Failure of FLEX, occurring prior to June 1, 1985, shall be added to determine the total number of failures.~~

~~(d) After June 1, 1985, failures of FLEX components shall be added to determine the total number of failures.~~

~~Section 5. Recognition of Passing Scores by Endorsement. (1) Except as provided by subsection (3) of this section, the board shall not recognize a passing score of the FLEX by endorsement if the applicant has accumulated a total of three (3) failures.~~

~~(2) The three (3) failures may consist of failures of:~~

~~(a) The entire examination; or~~

~~(b) Components thereof; or~~

~~(c) A combination of the entire examination and components thereof.~~

~~(3) The board shall recognize a passing score by endorsement, made after an applicant's fourth examination, if he has submitted proof that he has completed an additional year of the approved postgraduate training required for the type of licensure he seeks.~~]

ROYCE E. DAWSON, President
APPROVED BY AGENCY: November 9, 1993
FILED WITH LRC: November 10, 1993 at 10 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended)

201 KAR 9:051. License renewal and registration; reregistration of inactive license.

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

Section 1. Annual Renewal and Registration. (1) On or about January 1 of each year, the executive director shall mail written notification to all physicians holding a regular license to practice medicine and osteopathy in the Commonwealth that annual registration of their license must be executed on or before March 1. The notification shall indicate the annual registration fee and shall warn the licensee that failure to timely register **shall** [~~will~~] cause his or her license to become inactive.

(2) On or about January 1 of each year the executive director shall mail written notification to all physicians holding a valid and active limited license-institutional practice or limited license-general practice which had been issued to the holder on or before September 1, 1972, that annual renewal of their limited license must be executed on or before March 1. The notification shall indicate the annual renewal fee and shall warn the limited licensee that failure to timely renew **shall** [~~will~~] cause his or her limited license to be cancelled and unreissuable.

(3) On or about thirty (30) days prior to the expiration of a limited license-institutional practice issued pursuant to KRS 311.571(4) or as a training permit under prior law, the executive director shall mail written notification to the physician that his or her limited license **shall** [~~will~~] expire on an indicated date, being one (1) year from the date of issuance. The notification shall inform the holder that he or she must obtain a limited license-institutional practice pursuant to KRS 311.571(3) on or before the expiration date and shall warn the holder that if the physician fails or is unable to obtain such a limited license or a regular license the physician **shall** [~~will~~] no longer have licensure authority to practice in the Commonwealth.

(4) On or about thirty (30) days prior to the expiration of a limited license-institutional practice issued pursuant to KRS 311.571(3) the executive director shall mail written notification to the limited licensee that his or her limited license **shall** [~~will~~] expire unless renewed on or before the expiration date, being one (1) year from the date of issuance. The notification shall indicate the annual renewal fee and shall warn the limited licensee that failure to timely renew **shall** [~~will~~] cause his or her limited license to be cancelled.

Section 2. Questionnaire Concerning Matters of Licensure and Discipline. In conjunction with any notification required to be sent by Section 1 of this regulation, the executive director shall also send the licensee a questionnaire concerning matters of licensure and discipline to allow the board to better evaluate the continued fitness of physicians practicing in the Commonwealth. The questionnaire shall be signed by the licensee and verified by a notary. A license **shall** [~~will~~] not be renewed, registered or reregistered [~~unless and~~] until the questionnaire has been completed to the executive director's satisfaction.

Section 3. Late Registration or Renewal. Any physician holding either a regular license, a limited license-institutional practice pursuant to KRS 311.571(3), a limited license- institutional practice issued prior to September 1, 1972, or a limited license-general practice who fails to register or renew for the coming year on or before the date designated on the notification shall be sent a second notification that shall indicate the annual registration or renewal fee, the penalty fee for late registration or renewal and the time allowed for late registration or renewal which shall not be longer than thirty (30) days beyond the date designated on the first notification for registration or renewal. **If** [~~In the event~~] the licensee fails to register or renew his or her license by the date designated on the second notification, the license **shall** [~~will~~] be considered inactive or cancelled accordingly and continued practice by the physician **shall** [~~will~~] be considered the unauthorized practice of medicine or osteopathy.

Section 4. Reregistration of Inactive Regular License. Upon failure of a licensee to register his regular license for the year before the expiration of the time allowed for late registration, the license shall become inactive and continued practice by the physician **shall** [~~will~~] be considered the unauthorized practice of medicine or osteopathy. At any subsequent time the holder of an inactive license may seek reregistration of his [~~or her~~] license by paying the [~~annual registration fee and the~~] fee for reregistration, and satisfactorily completing the forms necessary for obtaining sufficient information concerning the reregistrant's present fitness to practice.

Section 5. All notifications required to be sent by this regulation shall be mailed to the licensee's last known address of which the board has record. Failure of the licensee to receive notice if mailed to the last known address **shall** [~~will~~] not excuse the licensee from compliance with the statutes or this regulation.

ROYCE E. DAWSON, President
APPROVED BY AGENCY: November 9, 1993
FILED WITH LRC: November 10, 1993 at 10 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended)

201 KAR 9:061. Limited licenses.

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

Section 1. Applicability. An applicant for limited license-institutional practice pursuant to KRS 311.571(3) or 311.571(4) shall not be issued a license or permit **[~~unless and~~]** until the applicant provides written proof that he or she is officially enrolled in a postgraduate training program in the Commonwealth approved by the board and submits evidence of having successfully passed Component 1 of the Federation Licensing Examination (FLEX), or achieved a passing score on the National Board of Medical Examiners (NBME) Part I and [~~or~~] Part II examinations, or achieved a passing score on the United States Medical Licensing Examination (USMLE) Step 1 and Step 2, or is employed as a professor or researcher in medicine by either the University of Kentucky College of Medicine or the University of Louisville School of Medicine.

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

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

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

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

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

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

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

ROYCE E. DAWSON, President
APPROVED BY AGENCY: November 9, 1993
FILED WITH LRC: November 10, 1993 at 10 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended)

201 KAR 9:081. Disciplinary proceedings.

RELATES TO: KRS 311.530 to 311.620, 311.990
STATUTORY AUTHORITY: KRS 311.565
NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to set forth the procedures to be followed in handling formal and informal disciplinary proceedings before the board or before any committee to the board, such that the proceedings will be conducted with due regard for the rights and privileges of all affected parties.

Section 1. **[~~Scope. This regulation shall govern practice and procedure in regard to all disciplinary matters before the Kentucky Board of Medical License pursuant to KRS 311.530, et seq.~~**

~~Section 2.~~] Definitions. (1) "Executive director" means the executive director of the board or any assistant executive directors appointed by the board.

(2) "General counsel" means the general counsel of the board or any assistant general counsel appointed by the board.

(3) "Board" means the Kentucky Board of Medical Licensure or

its inquiry [~~and/~~]or hearing panels.

(4) "Grievance" means any allegation in whatever form alleging misconduct by a physician.

(5) "Charge" means a specific allegation contained in any document issued by the board or its inquiry or hearing panels alleging a violation of a specified provision of the Kentucky Medical and Osteopathic Practice Act.

(6) "Complaint" means a formal administrative pleading authorized by the inquiry panel that sets forth charges against a physician and commences a formal disciplinary proceeding.

(7) "Show cause order" means an order directing the named physician to show cause why the board should or should not take a specified action based on specified information which the order alleges to be true.

(8) "Hearing officer" means the person designated and given authority by the board to preside over all proceedings pursuant to the issuance of any complaint or show cause order.

(9) "Informal proceedings" means proceedings instituted at any stage of the disciplinary process with the intent of reaching an informal dispensation of any matter without further recourse to formal disciplinary procedures.

(10) "Act" means the Kentucky Medical and Osteopathic Practice Act.

Section 2. [~~3.~~] Reception of Grievances; Investigations. (1) Grievances may be submitted by any individual, organization or entity. The board shall retain a written form upon which grievances may be made and any party submitting a grievance may be required to complete the form and may also be required to give their affidavit acknowledging the truth and veracity to the best of their knowledge and belief of the information contained in the grievance.

(2) All grievances shall be investigated as necessary and presented to the inquiry panel for review unless the circumstances of a particular grievance make it impossible to timely present the grievance to the inquiry panel. The inquiry panel shall have the authority to direct any investigation and shall possess any and all powers possessed by the board in regard to investigations. The inquiry panel shall further be empowered to request the attendance of any person at any meeting of the inquiry panel in regard to the investigation of any grievance or consideration of any disciplinary matter. The failure, without good cause, of any physician licensed to practice medicine or osteopathy by the board to appear before the inquiry panel when requested shall be considered unprofessional conduct.

(3) The inquiry panel shall be empowered to request compliance with the reporting requirements of KRS 311.605-311.606 and may pursue investigations, on its own initiative, in regard to acts of noncompliance or any other perceived violation of the Act.

Section 3. [~~4.~~] Reports and Recommendations; Petitions. (1) When in the opinion of the inquiry panel a grievance warrants the issuance of a complaint against a physician, the inquiry panel shall cause a complaint to be prepared [~~together with a petition, signed by the chairman or vice-chairman on behalf of the inquiry panel, stating the inquiry panel's belief that the charges are based upon reliable information~~].

(2) When in the opinion of the executive director a grievance warrants the issuance of a complaint against a physician and circumstances do not allow the timely presentation of the grievance to the inquiry panel, the executive director shall cause a complaint to be prepared [~~together with a petition, signed by the executive director, stating the executive director's belief that the charges are based upon reliable information and requesting the inquiry panel to authorize the issuance of the complaint~~].

(3) When in the opinion of the executive director or the inquiry panel a disciplinary matter warrants the issuance of a show cause order against a physician, the executive director or the inquiry panel shall cause a proposed order to be prepared [~~together with a petition briefly delineating a basis for the issuance of the show cause order~~].

(4) The board, on its own initiative, may issue a show cause order against a physician in regard to any application for licensure, obtaining, retaining or reobtaining licensure.

(5) Nothing in this subsection shall be construed to limit the board's power to deny a license to any applicant without a prior hearing upon a finding that the applicant has violated any provision of the Act.

Section 4. [~~5.~~] Complaints. (1) The complaint shall be signed and dated. The complaint shall be styled in regard to the matter of the license to practice in the Commonwealth of Kentucky held by the named physician and shall be designated with an appropriate case number.

(2) The complaint shall set forth the board's jurisdiction in regard to the subject matter of the complaint and shall further set forth, in numerical paragraphs, sufficient information to apprise the named physician of the general nature of the charges.

Section 5. [~~6.~~] Show Cause Orders. (1) The show cause order shall be signed by an officer of the board and shall be dated. The show cause order shall be styled in regard to the license, application for license or application for renewal, registration or reregistration of license to practice in the Commonwealth of Kentucky held by or submitted by the named physician, appropriately, and shall be designated with an appropriate order number.

(2) The show cause order shall set forth the board's jurisdiction in regard to the subject matter of the order and shall further set forth, in numerical paragraphs, the information which the board accepts to be true and the statutory basis for the board's finding that grounds exist for the discipline of the named physician's license [~~or for the denial of the named physician's application for obtaining, retaining or reobtaining licensure appropriately~~].

(3) The show cause order shall direct the named physician to show cause why disciplinary action should not be taken in view of the matters expressed in the order. [~~The order may direct the named physician to appear at a designated time and place, provided that the named physician receives notice at least thirty (30) days prior to the hearing.~~]

Section 6. [~~7.~~] Orders to Respond. Upon issuance of a complaint the inquiry panel shall issue an order directing the charged physician to respond within thirty (30) days after receiving notice of the complaint, and informing the physician that failure to respond may be taken by the board as an admission of the charges.

Section 7. [~~8.~~] Orders of Temporary Restriction. [~~(1)~~] An order temporarily suspending, limiting or restricting the license held by the named physician shall set forth the grounds which the inquiry panel believes support a finding that sufficient reasonable cause exists to believe that the continued unaffected practice by the named physician would constitute a danger to the health, welfare and safety of the physician's patients or of the general public.

[~~(2) Except in extraordinary circumstances when the demands of time and circumstances do not allow, at least ten (10) days prior to consideration by the inquiry panel the named physician shall be notified of the nature of the charges. The charged physician may respond to the charges informally, either orally or in writing, and the inquiry panel shall consider the response.~~]

Section 8. [~~9.~~] Notice and Service of Process. (1) Any notice required by the Act or this regulation shall be in writing, dated and signed by the appropriate person.

(2) Service of notice and other process shall be made by hand-delivery or delivery by certified mail to the physician's last known address of which the board has record or by such service on the

named physician's attorney of record. Failure of the named physician to receive actual notice after execution of the prescribed service shall not prejudice the board from pursuing proceedings that result in the denial or discipline of the named physician's license.

Section 9. [~~10.~~] Hearings Pursuant to Order Temporarily Suspending, Limiting or Restricting a License. (1) A physician whose license has been temporarily suspended, limited or restricted shall, upon written request, be accorded hearing on the board's order [~~within fifteen (15) days after making the request unless otherwise agreed. The hearing shall be limited to the sole purpose of determining whether the board's order was based on sufficient reasonable cause, provided, however, that the charged physician shall have the right to present evidence that indicates that the information upon which the board based its order was untrue or that the danger that existed at the time the order was issued has since been dissipated or alleviated~~].

(2) Any findings of fact or conclusions of law rendered by the hearing officer pursuant to a hearing on an order of temporary discipline shall not be binding upon the hearing panel in its ultimate determination regarding the charges contained in the complaint, nor shall the hearing officer thereafter be prejudiced from presiding at the hearing on the complaint.

(3) At the hearing on the order of temporary discipline, the hearing officer may entertain any motion timely submitted in regard to any matter concerning the disciplinary case, provided, however, that any orders issued pursuant to such motions shall not be considered appealable.

(4) Either party to the hearing on the order of temporary discipline may petition the hearing panel to review the order of the hearing officer either sustaining, modifying or withdrawing the inquiry panel's order by filing a written petition delineating those aspects of the hearing officer's determination with which the party takes exception and requesting the hearing panel to review the hearing officer's determination. The hearing panel may grant or deny review in its discretion.

(5) Nothing in this section shall be construed to limit either party's right to appeal an order sustaining, modifying or withdrawing an order of temporary discipline to the circuit court of the county in which the board's offices are located as provided by statute. However, the filing of an appeal shall not prejudice the board's jurisdiction to continue the proceeding in regard to the charges contained in the complaint.

Section 10. [~~11.~~] Proceedings Pursuant to the Issuance of a Complaint or Show Cause Order. (1) Appointment of hearing officer. The board shall appoint a hearing officer who is empowered to preside at any and all proceedings, to rule upon all motions and objections, to prepare and submit proposed findings of fact, conclusions of law [~~and disciplinary measures to the board~~] and to perform any other act necessary to the proper conduct of the proceedings.

(2) Appointment of the prosecuting attorney. The board's general counsel shall act as the prosecuting attorney in regard to any disciplinary proceeding, provided, however, that the board may appoint special prosecuting attorneys in its discretion. The prosecuting attorney shall not participate in any deliberations of the board pursuant to the issuance of a complaint, show cause order or order of temporary discipline.

(3) Appointment of advisory counsel. The board may appoint a representative of the Attorney General's office, the board's general counsel, or other attorney to act as advisory counsel to the board in regard to any deliberations of the board pursuant to the issuance of a complaint, show cause order or order of temporary discipline.

(4) Form of pleadings; service. Pleadings may be in any neat form provided that all pleadings must be dated and signed by the offering party. The original of all pleadings must be filed with the executive director for entry into the official record and copies must be served on the hearing officer, the opposing party and any other person who might be designated by the hearing officer.

(5) Prehearing conferences. Upon motion of either party or upon his or her own initiative, the hearing officer may order that a prehearing conference be held. The prehearing conference may be the forum for consideration of any matter properly before the hearing officer including all motions, discovery, stipulations, identification of issues, dates of future proceedings and objections.

(6) Discovery. Either party may at any time after the issuance of a complaint or show cause order move the hearing officer to order that discovery from the other party be allowed by any of the following methods:

(a) Oral deposition, provided, however, that either party shall have the right to move the hearing officer to order that the deposition be entered into the record in lieu of further testimony by the witness;

(b) Request for a more definite statement;

(c) Request for production of names of witnesses, documents and other demonstrative evidence; and

(d) Request for a brief synopsis of the testimony expected to be given by any expert witness.

The hearing officer may limit or allow discovery of any matter relevant to the issues and may issue protective orders as necessary.

(7) Hearings. Hearings shall proceed in accordance with the rules of examination applicable in courts of law in the Commonwealth. The rules of evidence applicable in courts of law in the Commonwealth shall apply, provided, however, that hearsay evidence shall be admissible unless irrelevant or grossly prejudicial. The order and burden of proof shall be established by the hearing officer, provided, however, that the burden of proof shall be upon the charged physician in any hearing on the charges contained in a show cause order. The hearing officer shall rule upon any motions or objections and may require the submission of briefs in regard to any issue. The hearing officer may allow opening and closing statements by either party, or other offers of prosecution or defense that will allow the orderly and expeditious conduct of the proceedings.

(8) Record. The hearing officer shall be charged with the responsibility of compiling a written record of the proceedings which shall contain all evidence introduced at the hearing and all pleas, motions, objections, responses, rulings and other legal documents which the hearing officer deems properly part of the record.

(9) Presentation of record, hearing officer's proposed findings, conclusions and recommendations. The hearing officer shall present the record, his or her proposed findings of fact, conclusions of law and recommendations to the executive director for deliberation by the hearing panel. The hearing officer shall serve a copy of his findings, conclusions and recommendations on all parties at least twenty (20) days prior to the date set for the hearing panel's final determination. All parties shall have the right to file exceptions to the hearing officer's findings, conclusions and recommendations ten (10) days prior to the date set for the hearing panel's final determination.

(10) Briefs. Any party to the proceeding may move the hearing officer to allow briefs to be filed with the hearing panel prior to the hearing panel's final determination. The hearing officer may grant the motion and establish a briefing schedule but only if the hearing officer believes that such a procedure would substantially aid the hearing panel in its deliberations. Briefs shall not exceed five (5) pages in length unless otherwise allowed by the hearing officer. The hearing panel may, on its own initiative, order that briefs be submitted.

(11) Oral argument. Any party to the proceeding may move the hearing panel to allow oral argument prior to the hearing panel's final determination. The hearing panel may order oral arguments on its own initiative.

(12) Board's findings of fact, conclusions of law and final order, remand. At the conclusion of its deliberations the hearing panel may adopt the hearing officer's proposed findings, conclusions and recommendations of action in whole or in part or may reject them totally and prepare its own. The hearing panel shall enter a final order dated and signed by an officer of the hearing panel stating its ultimate

determination. Prior to, during or subsequent to any deliberations the hearing panel may remand the matter to the hearing officer for further proceedings as directed.

ROYCE E. DAWSON, President
APPROVED BY AGENCY: November 9, 1993
FILED WITH LRC: November 10, 1993 at 10 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended)

201 KAR 9:141. Denial, revocation and suspension of certificate.

RELATES TO: KRS 311.650 to 311.658, 311.990(18)
STATUTORY AUTHORITY: KRS 311.654
NECESSITY AND FUNCTION: KRS 311.654 directs the Board of Medical Licensure to adopt rules and regulations relating to paramedics. The function of this regulation is to establish procedures for taking disciplinary action against certified paramedics, or paramedic applicant.

Section 1. Denial, Revocation, and Suspension of Certificates. The board may deny, revoke or suspend the certificate of any person who:

(1) Has engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public;

(2) Becomes a drug dependent person or drug abuser as defined in KRS 222.011(8);

(3) Becomes an alcoholic person who suffers from alcoholism as defined in KRS 222.011(3);

(4) Develops such physical or mental disability or other condition that continued practice or performance of his duties may be dangerous to patients or the public;

(5) Fails to comply with any regulation of the board relating to the certification of paramedics.

(6) Knowingly makes or presents, or causes to be made or presented, any false, fraudulent or forged statement, writing, certificate, diploma or other thing, in connection with an application for a certificate;

(7) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion or conspiracy in connection with an examination for a certificate;

(8) Has been convicted, including a nolo contendere plea, by any court within or without the Commonwealth of Kentucky, of committing an act which is, or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of any **misdemeanor involving moral turpitude** [~~crime involving moral turpitude which is a misdemeanor, under such laws~~];

(9) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession;

(10) Knowingly employed, as a certified paramedic in the practice of his profession, in this state, any person not duly licensed, or otherwise aided, assisted or abetted the unlawful practice of any healing art;

(11) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any practice which regulates the functions of a paramedic or any regulation promulgated by the board under KRS 311.654 or any other valid regulation of the board;

(12) Violated any order of suspension, or the terms or conditions of any order of probation, issued by the board;

(13) Performed or attempted to perform as a certified paramedic under a false or assumed name or impersonated another paramedic of a like, similar or different name;

(14) Willfully violated a confidential communication except as required by a court of law;

(15) Had his certification to practice as a paramedic in another state, territory or foreign nation revoked, suspended, restricted or limited or has been subjected to other disciplinary action by the licensing authority thereof;

(16) Been removed, suspended or expelled by any professional medical association or society when **the** [~~such~~] action was based upon [~~what the association or society found to be~~] unprofessional conduct, professional incompetence, malpractice, or a violation of any provision of KRS Chapter 311, or regulations promulgated by the board; or

(17) **Has** been disciplined by a medical director, approved advanced life support provider, physician coordinator or course coordinator including removal, suspension, limitation of privileges, failing to renew privileges for cause, or other disciplinary action if **the** [~~such~~] action was based upon what the provider or medical director found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS Chapter 311, or any regulation promulgated by the board.

Section 2. Hearings. The board shall furnish the certificate holder with written notice setting out the substance of each offense charged with sufficient detail to reasonably apprise **the** [~~such~~] person the nature, time and place thereof. The certificate holder shall have the right to be present [~~in person~~] or be represented by counsel and to present evidence and to be heard in opposition to the charges which may be instituted. The board shall make **[a]** finding of facts and conclusions of law. The hearing may be conducted by a hearing officer appointed by the board. Hearings shall be conducted in accordance with 201 KAR 9:081.

ROYCE E. DAWSON, President
APPROVED BY AGENCY: November 9, 1993
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GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended)

201 KAR 9:175. Physician assistants; certification and supervision.

RELATES TO: KRS 311.565
STATUTORY AUTHORITY: KRS 311.565(22)
NECESSITY AND FUNCTION: It is the purpose of this regulation to promote the efficient and effective utilization of the skills of physicians by allowing them to delegate health care tasks to qualified physician assistants and in so doing, promote, sustain and enhance the health and welfare of the people of the Commonwealth.

Section 1. Definitions. As used in this regulation:

(1) "Physician assistant" means a person who [~~has~~] successfully **completes** [~~completed~~] an approved program and an approved examination, and who is certified by the board to assist a registered physician in the provision of medical care under the physician's supervision. The physician assistant is not an independent practitioner of the healing arts but only an adjunct to **the** [~~his or her~~] supervising physician;

(2) "Anesthesia (or anesthesiology) assistant" means a physician assistant who assists in the provision of general or regional anesthesia;

(3) "Board" means the Kentucky Board of Medical Licensure;

(4) "Supervising physician" means a physician currently licensed to practice medicine in the Commonwealth who has been approved

by the board to supervise physician assistants for whom the supervising physician takes responsibility;

(5) "Advisory committee" means the committee appointed by the board to advise the board on all matters related to physician assistants;

(6) "Approved program" means a program for the education and training of physician assistants which meets standards acceptable to the board;

(7) "Supervision" means control and direction of the services of physician assistants by their supervising physicians;

(8) "Approved examination" means an examination to test the knowledge and skills of physician assistants which meets standards acceptable to the board;

(9) "Certificate" means the board's official documentary authorization allowing a physician assistant to practice in the Commonwealth for the time specified; and

(10) "Trainee" means a person who is currently enrolled in an approved program for the training of physician assistants.

Section 2. Certification of Physician Assistants. (1) To be certified by the board as a physician assistant, a person must:

(a) Submit a completed application with the required fee;

(b) Be of good character and reputation;

(c) Be a graduate of an approved program; **and**

(d) Have passed an examination approved by the board within three (3) attempts.

(2) If grounds for denial of certification do not exist, a temporary certificate may be issued by the board's executive director to a physician assistant after graduation from an approved program and prior to **[**~~his~~**]** taking the first available approved examination after graduation. This temporary certificate shall enable the holder to practice as a certified physician assistant pursuant to 201 KAR 9:175 only under the direct supervision of a supervising physician at the same practice location. The holder of this temporary certificate shall take the first available approved examination after graduation. If the holder receives a passing score on this examination, the temporary certificate shall be effective until the board approves the holder for permanent certification. If the holder receives a failing score, or fails to take the first available approved examination after graduation, the temporary certificate shall automatically expire. This temporary certificate shall not be renewed or reissued subsequent to expiration or cancellation. The executive director may also issue a temporary certificate to an applicant who otherwise meets all requirements of 201 KAR 9:175, Section 2(1)**. The** **[**~~, said~~**]** temporary certificate **shall remain** **[**~~remaining~~**]** in effect until the board approves the holder for permanent certification. This temporary certificate shall allow the applicant to practice as a physician assistant pursuant to 201 KAR 9:175, Section 6. However, under no circumstances shall this temporary certificate remain in effect for longer than six (6) months and **the** **[**~~said~~**]** temporary certificate shall not be renewable. Any temporary certificate may be cancelled at any time, without a hearing, for reasons deemed sufficient to the executive director, and who shall cancel it immediately upon direction by the board or the board's physician assistant advisory committee or upon the board's denial of the holder's application for permanent certification. When **cancelling a temporary certificate,** the executive director **[**~~cancels a temporary certificate, he~~**]** shall promptly notify, by certified United States mail, the holder of the temporary certificate, at **the** **[**~~his~~**]** last known address as reflected by the files of the board, and the temporary certificate shall become terminated and of no further force and effect upon receipt of **the** **[**~~said~~**]** notice.

(3) Physician assistants duly authorized to practice in other states and in good standing may apply for certification by endorsement from the state of their original certification if the endorsing state has standards substantially equivalent to those of the Commonwealth.

(4) Certification shall be renewed on or before July 1, 1989, and thereafter biennially according to the procedure established by the executive director. In conjunction with the renewal of his/her certification, the physician assistant shall provide evidence of having completed in the previous two (2) years a minimum of 100 hours of continuing education accepted by the National Commission on Certification of Physician Assistants or the American Medical Association. In addition **[**~~to this~~**]**, all physician assistants shall recertify every six (6) years as required by the NCCPA, unless they are not eligible because they hold physician assistant certification approved by the board pursuant to 201 KAR 9:175, Section 6.

Section 3. Approved Examination. The following examinations are approved by the board:

(1) The examination of the National Commission on Certification of Physician Assistants;

(2) The official certification examination of any state if the board determines the examination to be an adequate measure of physician assistant competency; **or**

(3) Any other formally administered examination if the board determines, upon review of proof provided by the applicant, that the examination is substantially equivalent to the examination of the National Commission on Certification of Physician Assistants.

Section 4. Approved Programs. (1) The following programs are approved by the board:

(a) Programs that are accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association (CAHEA) and that provide interdisciplinary training in at least the following areas: family medicine, internal medicine, surgery, pediatrics, psychiatry, and obstetrics/gynecology; **or** **[**~~and~~**]**

(b) Any other training program if the board determines, upon review of proof submitted by the applicant, that the training received was substantially equivalent to that received in a program as described in paragraph (a) of this subsection.

(2) Programs specifically designed to train the individual to assist in the provision of general or regional anesthesia **shall have been** **[**~~must be~~**]** accredited by CAHEA.

(3) Trainees enrolled in approved programs shall be under the supervision of the program which**, is** **[**~~shall be~~**]** responsible for their services. Trainees shall be bound by the same practice limitations imposed upon physician assistants generally, but will not be considered to be practicing without authorization while enrolled in the program.

Section 5. Physician Assistant Scope of Practice. (1) A physician assistant may perform any **[**~~and all~~**]** medical services that are within the scope of training received in an approved program and which are also within the scope of the supervising physician's practice as designated by the specialty code in the most current revision of the Kentucky Medical Directory. The physician assistant shall not make a definitive diagnosis or prescribe or employ any treatment modality independent of the supervising physician. **[**~~However,~~**]** A physician assistant may, without specific approval, initiate evaluation and treatment in emergency situations.

(2) A physician assistant shall not administer or monitor general or regional anesthesia **without satisfying** **[**~~unless such individual satisfies~~**]** the applicable requirements of Section 6 of this regulation.

(3) A physician assistant may render services in the offices or clinics of the supervising physician, or in hospitals and other licensed health care facilities. However, physician assistants shall not render services in these facilities without the express written permission of the respective facility's governing body. The facility may restrict the physician assistant's scope of practice within the facility as the facility deems appropriate.

(4) Neither the physician assistant nor the supervising physician shall require any individual or entity to perform any act relative to the provision of services by the physician assistant that the individual or entity is specifically forbidden to perform pursuant to **[**~~duly promulgat~~

~~ed~~] law.

Section 6. Physician Assistants Practicing as Anesthesia (or Anesthesiology) Assistants. (1) Any physician assistant practicing as an anesthesia (or anesthesiology) assistant in Kentucky prior to July 15, 1986 may continue to [~~se~~] practice **if** [~~provided~~]:

(a) **The physician assistant** [~~That such individual~~] has complied with all the practice requirements and conditions of Sections 2, 3, 4(2), and 5 of this regulation;

(b) **The physician assistant** [~~That such individual~~] is a graduate of a program specifically designed to train the individual to administer general or regional anesthesia which is accredited by CAHEA;

(c) **The physician assistant** [~~That such individual~~] is only employed by a supervising physician who has postgraduate training in anesthesiology from an anesthesiology program accredited by the Accreditation Council for Graduate Medical Education (ACGME); and

(d) Notwithstanding Section 9 of this regulation, **the physician assistant** [~~such individual~~] shall not administer or monitor general or regional anesthesia unless **the** [~~his or her~~] supervising physician is physically present in the operating room during induction, and thereafter physically present in the operating suite and not concurrently performing any other anesthesia procedure which would prevent the supervising physician's immediate physical presence in the operating room where the anesthesia procedure is being performed.

(2) Any physician assistant not already practicing as an anesthesia (or anesthesiology) assistant in Kentucky prior to July 15, 1986 must meet the following requirements:

(a) **The physician assistant** [~~Such individual~~] shall be a graduate of an approved program as defined in Section 4(1)(a) of this regulation which is of four (4) years duration, and, in addition to **this** [~~such~~] training, be a graduate of a two (2) year program specifically designed to train the individual to assist in the provision of general and regional anesthesia, which consists of specialized academic and clinical training in anesthesia, and which is accredited by CAHEA;

(b) **The physician assistant** [~~Such individual~~] shall have complied with all of the practice requirements and conditions of Sections 2, 3, 4, and 5 of this regulation;

(c) **The physician assistant** [~~Such individual~~] shall only be employed by a supervising physician who is a board certified anesthesiologist; and

(d) Notwithstanding Section 9 of this regulation, **the physician assistant** [~~such individual~~] shall not administer or monitor general or regional anesthesia unless **the** [~~his or her~~] supervising physician, who must be a board certified anesthesiologist, is physically present in the operating room during induction and emergence, and thereafter physically present in the operating suite and not concurrently performing any other clinical procedure.

Section 7. Approval of Supervising Physicians. (1) To seek approval by the board as a supervising physician, a physician must:

(a) Be currently licensed in good standing and primarily practicing in the Commonwealth;

(b) Submit a completed application with the required fee.

(2) In addition to other information the board's executive director may deem appropriate, the supervising physician shall, briefly, on the face of the application:

(a) Describe the nature of **the** [~~his/her~~] practice;

(b) Describe the responsibilities the physician wishes the physician assistant to assume;

(c) Describe the means by which the physician will maintain a line of communication with the physician assistant when **they** [~~the two (2)~~] are not in the same location; and

(d) Denote the name, address and area of practice of one (1) or more alternate physicians who agree in writing to accept the responsibility of supervising the physician assistant in the supervising physician's absence.

(3) A physician shall not supervise a physician assistant without being approved by the board. The board may impose restrictions on the scope of practice of a particular physician assistant or on the methods of supervision employed by the supervising physician [~~as it deems appropriate~~]. Physicians must obtain specific approval for each physician assistant they wish to supervise and the board will not approve any physician to supervise more than two (2) physician assistants at any one (1) time.

Section 8. Duties of Supervising Physicians. A supervising physician shall:

(1) Restrict the services **of** [~~provided by~~] the physician assistant [~~the physician supervises~~] to those services within the limitations of the physician assistant's scope of practice as set forth in Section 5 of this regulation and, as applicable, Section 6 of this regulation, and as may be specifically limited by the board;

(2) Prohibit physician assistants from prescribing or dispensing controlled substances or other drugs;

(3) Inform all patients with whom the physician assistant comes in contact of the status of the physician assistant;

(4) Post a notice in all offices or clinics where the physician assistant may practice stating that a physician assistant practices on the premises;

(5) Require physician assistants to wear a name tag or other identification clearly stating that the **physician assistant** [~~person~~] is a "physician assistant - certified";

(6) Prohibit the physician assistant from independently billing any patient or other payor for services rendered by the physician assistant;

(7) Negotiate with the medical staff [~~and/~~]or governing body of any hospital, long-term care facility or institution to establish and limit the scope of practice of the physician assistant;

(8) Not require a physician assistant to perform services or other acts that the physician assistant feels incapable of carrying out safely and properly;

(9) **Criticize every two (2) years the physician assistant's** [~~Survey critically and biennially the performance of the physician assistant under the physician's supervision as to~~] reliability, accountability, **and** fund of medical knowledge. [~~and~~] Recommend **the** [~~to the committee,~~] approval or disapproval of other physician assistant's certification **to the committee.** [~~, including evidence of continuing certification by the National Commission on Certification of Physician Assistants.~~] This critical survey process shall be performed by the supervising physician biennially on the date of the physician assistant's original certification in the Commonwealth of Kentucky;

(10) Submit, in conjunction with the physician assistant's renewal of certification, a statement evidencing the physician assistant's completion of a minimum of 100 hours of continuing education as set forth in Section 2(4) of this regulation;

(11) Maintain adequate, active and continuous supervision of the physician assistant's activities to assure the physician assistant is performing as directed and **complying** [~~in compliance~~] with these regulations. The supervising physician shall timely sign all records of services rendered by the physician assistant as certification that the physician assistant carried out the services as delegated;

(12) Notify the board within three (3) business days if the [~~physician assistant ceases to be under the control or in the employ of the~~] supervising physician **ceases to employ or supervise the physician assistant**; and

(13) Notify the board within twenty (20) days if the supervising physician believes in good faith that the physician assistant [~~has~~] violated any disciplinary rule set forth in this regulation.

Section 9. Supervision and Satellite Clinics. (1) The supervising physician need not be physically present at all times when the physician assistant is providing services in the physician's office or clinic **if** [~~so long as~~] the physician assistant has a reliable means of having direct communication with the supervising physician at all

times. Except as may be provided by this regulation or the board, the supervising physician need not be present in a hospital or other licensed health care facility while the physician assistant is providing services **if** [~~so long as~~] the physician assistant has a reliable means of [~~having~~] direct communication with the supervising physician at all times, and the facility has given specific approval for the provision of the [~~given~~] services by the physician assistant without the presence of the supervising physician.

(2) Any supervising physician utilizing the services of a physician assistant in an office or clinic separate [~~and apart~~] from the physician's primary office shall submit **to the board** a specific written request [~~to the board~~] delineating the services to be provided by the physician assistant, the distance between the primary office, [~~and~~] the setting in which the physician assistant **will** [~~is to~~] practice, and the mechanism by which the physician assistant shall have access**, at all times,** to direct communication with the supervising physician [~~at all times~~]. The board may approve or disapprove **the** [~~such~~] requests [~~as it deems appropriate~~] and may approve a request with specified limitations. [~~Under no circumstances shall~~] A physician assistant **shall not** practice in **this** [~~such a~~] setting without first having two (2) continuous years of experience in a nonsatellite setting.

Section 10. Discipline of Physician Assistants. The board may revoke, suspend, deny, decline to renew, limit or restrict the certificate of a physician assistant, or may reprimand or place a physician assistant on probation for no more than five (5) years under conditions the board deems appropriate, upon proof that the physician assistant has:

(1) Knowingly made or presented, or caused to be made or presented, any false, fraudulent or forged statement, writing, certificate, diploma or other document in connection with an application for certification;

(2) Practiced, or aided or abetted in the practice, of fraud, forgery, deception, collusion or conspiracy in connection with an examination for certification;

(3) Been convicted, by any court within or without the Commonwealth of Kentucky, of [~~committing~~] an act which is, or would be, a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of **a misdemeanor** [~~any~~] crime involving moral turpitude [~~which is a misdemeanor under such laws~~];

(4) Become addicted to or an abuser of alcohol, drugs or any illegal substance;

(5) Developed **a** [~~such~~] physical or mental disability or other condition **which renders a danger in continued practice** [~~that continued practice presents a danger~~] to patients, the public or other health care personnel;

(6) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of **the** [~~his/her~~] profession;

(7) Practiced as a physician assistant outside the practice of the designated supervising physician;

(8) Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any other healing art, including the **unlawful** practice of physician assistants;

(9) Willfully violated a confidential communication;

(10) Had a physician assistant certificate of any other state, territory, or foreign nation revoked, suspended, restricted, limited or subject**ed by another** [~~to other~~] disciplinary action;

(11) Performed the services of a physician assistant in an unprofessional, incompetent, grossly negligent or chronically negligent manner;

(12) Exceeded the authority delegated by the supervising physician;

(13) Exceeded the scope of practice duly established by the governing authority of any hospital or other licensed health care facility;

(14) Been removed, suspended, expelled or placed on probation by any health care facility or professional society for [~~what was found to be~~] unprofessional conduct, incompetence, negligence or violation of any provision of this regulation;

(15) Violated any applicable provision of regulations regarding physician assistant practice;

(16) Violated any term of probation or other discipline imposed by the board;

(17) Failed to complete the required number of hours of approved continuing education; or

(18) Performed any act as a physician assistant without having a designated supervising physician.

Section 11. Discipline of Supervising Physicians. Failure of a physician to obtain approval as a supervising physician, or failure of a supervising physician to observe applicable responsibilities established by regulations promulgated by the board regarding physician assistants, shall be **unprofessional conduct subject to disciplinary action** [~~considered unprofessional conduct and the physician may be proceeded against~~] pursuant to the board's rules regarding physician discipline. In addition to other discipline, the board may revoke, suspend, restrict, or place on probation the supervising physician's right to supervise a physician assistant.

Section 12. Physician Assistant Advisory Committee. (1) The board shall establish a physician assistant advisory committee consisting of nine (9) members, four (4) of whom shall be physician assistants from (as practicable) different regions of the Commonwealth, two (2) supervising physicians, one (1) resident of the Commonwealth who is not associated with or financially interested in the health care business, one (1) advanced registered nurse practitioner who shall be selected from a list of three (3) nominees submitted by the Kentucky Board of Nursing and who shall be licensed in good standing in the Commonwealth, and one (1) member of the board. The members of the committee shall hold office for terms of three (3) years and until their successors are appointed and qualified[~~, except that the terms of office of the members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, four (4) members shall be appointed for two (2) years and three (3) members shall be appointed for three (3) years~~]. The terms of all members of the committee shall expire on August 31st of the last year of their respective terms.

(2) The committee shall hold meetings at least semiannually, and more often as necessary, to review and make recommendations to the board regarding:

(a) Applications of physician assistants and supervising physicians;

(b) Statutes and regulations; and

(c) Any other matter relating to the practice of physician assistants.

(3) The committee shall review all grievances relating to physician assistants. The board's investigational powers relating to physicians shall apply equally to physician assistants. Upon review of any grievance, the committee shall make a recommendation to the appropriate inquiry panel. Disciplinary proceedings against physician assistants shall be conducted in the same manner as proceedings against physicians and physician assistants shall have the same right to judicial review enjoyed by physicians. The board may temporarily suspend or restrict a physician assistant's certification during the pendency of a proceeding and may order a physician assistant to undergo physical or mental examination in accordance with the procedures set forth in KRS 311.592 and KRS 311.599, respectively.

Section 13. Emergency Permits. (1) Upon satisfactory completion of all forms, a physician assistant certified in good standing in another state or Canadian province may obtain an emergency permit to practice as a physician assistant in the Commonwealth for a period not to exceed thirty (30) days when in the executive director's opinion,

based on verifiable information, the physician assistant satisfies the requirements for regular certification pursuant to 201 KAR 9:175, Section 2, and an actual medical emergency exists. A medical emergency shall be considered to exist if, in the executive director's opinion, a real and substantial threat to public health or the health of an individual exists which cannot be cured except upon the issuance of the emergency permit. The emergency permit may not be renewed or reissued and shall be immediately cancelled if the medical emergency ceases to exist prior to the passage of thirty (30) days from issuance. An emergency permit may be cancelled by the executive director without a prior hearing when in the executive director's opinion, based upon reasonable cause, the continuance of the permit would not be in the best interest of the Commonwealth. An emergency permit does not enable a physician assistant to practice beyond the geographical area, the scope of practice encompassed by the medical emergency, or without the supervision of a supervising physician.

(2) Upon satisfactory completion of all forms, a physician assistant certified in good standing to practice and a physician assistant in the Commonwealth of Kentucky may obtain an emergency permit to practice under an additional supervising physician for a period not to exceed thirty (30) days when in the executive director's opinion, based on verifiable information, the physician assistant satisfies the requirements for regular certification pursuant to 201 KAR 9:175, Section 2, and an actual medical emergency exists. A medical emergency shall be considered to exist if, in the executive director's opinion, a real and substantial threat to public health or the health of an individual exists which cannot be cured except upon the issuance of the emergency permit. The emergency permit may not be renewed or reissued and shall be immediately cancelled if the medical emergency ceases to exist prior to the passage of thirty (30) days from issuance. An emergency permit may be cancelled by the executive director without a prior hearing when in the executive director's opinion, based upon reasonable cause, the continuance of the permit would not be in the best interest of the Commonwealth. An emergency permit does not enable a physician assistant to practice beyond the geographical area, the scope of practice encompassed by the medical emergency, or without the supervision of a supervising physician.

ROYCE E. DAWSON, President
APPROVED BY AGENCY: November 9, 1993
FILED WITH LRC: November 11, 1993 at 9 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Nursing
(As Amended)

201 KAR 20:070. Licensure by examination.

RELATES TO: KRS 314.041(1), 314.051(1)
STATUTORY AUTHORITY: KRS 314.131(1)
NECESSITY AND FUNCTION: To assure that applicants for licensure by examination meet minimum standards set forth by the board as necessary for safe practice. To provide some security in the examination process.

Section 1. Eligibility for Licensure by Examination. To be eligible for licensure by examination, applicants shall:

(1) Hold a high school diploma or equivalent.

(2) Have completed a state approved program of practical nursing for licensed practical nurse licensure or a state approved program of registered nursing for registered nurse licensure.

(3) Submit an official transcript of nursing program.

(4) Submit [~~at least sixty (60) days prior to the date of the examination:~~

~~(a)~~] a properly executed application for licensure; [~~or, if applicable, an application for readministration of the examination;~~

~~(b) Current administration of examination fee;~~

~~(c)~~] current application for licensure fee; and one (1) passport type

[~~(d) Two (2)~~] photograph[s] (two (2) x three (3) inches) taken within the past six (6) months with the photographs signed and dated by the applicant on the front under the facial features and by the nurse administrator of U.S. nursing program (if graduated therefrom) on the back of the photographs. Snapshots are not acceptable.

(5) Submit certified copies of court records of any misdemeanor or felony convictions with a letter of explanation.

(6) Notify the board in writing as soon as any new address is established after submitting the application.

(7) Submit a copy of a marriage certificate or court order to change name after the original application is filed.

(8) Abide by and cooperate with security procedures established by the board, when taking the examination.

(9) Apply to take and pass the national council licensure examination or its equivalent.

(10) Pay all necessary fees [~~to show evidence of meeting requirements~~] for application for licensure as stated in this section and, if applicable, Sections 2 and 4 of this administrative regulation.

(11) Meet the requirement of 902 KAR 2:150.

(12) An application for licensure is valid for a period of one (1) year from date filed with the board [~~or for a period of one (1) year from date last examination was written in Kentucky not to exceed two (2) years since the filing date of the original application for licensure in Kentucky~~.]

Section 2. Graduates of Foreign Nursing Schools. (1) To be eligible for application for licensure by examination, graduates of foreign nursing schools shall submit evidence of the following:

(a) Certificate showing successful completion of commission on graduates of foreign nursing schools examinations (registered nurse applicants only). This requirement shall not apply to the following:

1. An applicant who is licensed as a registered nurse in a United States jurisdiction;

2. An applicant who has received a graduate degree in nursing from a university or college in the United States; or

3. A graduate of a program of nursing in Canada.

(b) If licensed in another United States jurisdiction or country, verification of licensure as a nurse with a statement from the licensing authority that the license is in good standing and has not been revoked, suspended, probated, or otherwise disciplined in that country and that no such action is currently pending.

(c) Legal permanent or temporary residency in the United States according to the laws and regulations of the U.S. Department of Justice, Immigration and Naturalization Services and the U.S. Department of Labor.

(2) Applicants for licensure by examination shall meet requirements as stated in Section 1 of this administrative regulation.

(3) Credentials in a foreign language shall be translated at the applicant's expense by an official translation agency or approved college or university.

Section 3. Licensing Examination Standards. (1) The applicant shall pass the national council licensure examination or an examination acceptable to the board.

(2) An applicant who has taken any examination other than the state board test pool examination or national council licensure examination subsequent to 1953 shall provide evidence to the board that such examination met the following standards of equivalency:

(a) Accepted psychometric procedures are used in the development of the examination;

(b) The examination is available to the board in the English language;

(c) The examination test plan blueprint is available for board review and identifies, to the satisfaction of the board, test content and content weightings;

(d) Test items are available for board review and demonstrate to the satisfaction of the board the testing of competency necessary for safe practice;

(e) At least one (1) of the reliability estimations for the examination is 0.80 or higher;

(f) The examination is revised after each administration to insure currency and security of content;

(g) The examination is given under strict security measures;

Section 4. Retaking [~~Rewriting~~] the Examination. **(1)** Examination candidates who fail to achieve a passing result may retake [~~rewrite~~] the examination after **[~~submission of retake application, and applicable fee and, after~~]** meeting the requirements as stated in Section 1 of this administrative regulation and, if applicable, Section 2 of this administrative regulation**, and after submission of:**

(a) The retake application; and

(b) The applicable fee.

(2) The examination may be retaken no more often than once every three (3) months from the date the last examination was taken by the applicant. [~~and submission of current administration of examination fee.~~]

Section 5. Release of Examination Scores. The board shall not release examination numerical results to any individual or agency without written authorization from the applicant or licensee except as follows:

(1) The candidate;

(2) Other state boards of nursing [~~for out of state graduates~~];

(3) [~~Other state boards of nursing when requested for licensure;~~

~~(4)~~] National Council of State Boards of Nursing Inc.

ROBERTA G. SCHERER, President

APPROVED BY AGENCY: December 10, 1993

FILED WITH LRC: December 13, 1993 at 10 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Nursing
(As Amended)

201 KAR 20:090. Temporary work permit.

RELATES TO: KRS 314.101(3)

STATUTORY AUTHORITY: KRS 314.131(1)

NECESSITY AND FUNCTION: To protect and safeguard the health and safety of the citizens of Kentucky and to provide a means for applicants to be employed while application for a license is being processed.

Section 1. An applicant for a license by endorsement or examination to practice nursing in Kentucky may be issued a temporary work permit to practice until the license is issued or denied.

Section 2. Eligibility for Temporary Work Permit. (1) An applicant [~~A graduate of a board approved program of nursing in the United States or its territories~~] who meets requirements as stated in 201 KAR 20:070 and is declared eligible [~~approved to write the first licensing examination administered~~] by the board to take the licensing examination [~~following graduation~~] may be issued a temporary work permit [~~upon payment of administration of examination and licensure application fees~~].

(2) A graduate of a school of nursing outside the United States who meets requirements as stated in 201 KAR 20:070 or 201 KAR 20:110 as applicable and is approved and has passed the commission on graduates of foreign nursing schools examination may be issued a temporary work permit [~~upon payment of the administration of examination fee, if applicable, and licensure application fee~~].

(3) An applicant for a license by endorsement who meets requirements as stated in 201 KAR 20:110 and holds a current active license in another state may be issued a temporary work permit [~~upon proper completion of the application and payment of the licensure application fee~~].

(4) An applicant for a license by examination who meets requirements as stated in 201 KAR 20:070 and holds a current active license in another United States jurisdiction may be issued a temporary work permit [~~upon proper completion of the application and payment of all applicable fees~~].

(5) An applicant for licensure by endorsement who meets requirements as stated in 201 KAR 20:110 except for Section 1(1)(h) and who has an application for original licensure by examination pending in another United States jurisdiction may be issued a temporary work permit. The applicant shall be verified by the jurisdiction as being eligible to take a licensing examination acceptable to the board. The applicant, while holding a temporary work permit, shall practice only in nursing situations where continuous, direct, on-site supervision is provided by a registered nurse, physician or dentist. The temporary work permit shall not be issued until there is compliance with 902 KAR 2:150.

Section 3. Limitations of Temporary Work Permit. (1) The applicant for licensure by examination [~~new graduate~~], while holding a temporary work permit, shall practice only in nursing situations where continuous, direct, on-site supervision is provided by a registered nurse, physician or dentist.

(2) The temporary work permit issued to an applicant who fails the national council licensure examination or its equivalent shall be null and void upon notification to applicant of examination results.

(3) An applicant who has failed the national council licensure examination or its equivalent shall not be issued a temporary work permit.

(4) The temporary work permit is nonrenewable and shall be valid only for the length of time required to process applications for endorsement or in the case of applications for licensure by examination, for no more than six (6) months from the first day of the month following completion of program of nursing requirements. [~~to conduct and determine the results of licensure examinations.~~]

(5) An individual who does not hold a current temporary work permit pending issuance of a current active license or who has received notification of failing the National Council Licensure Examination or its equivalent is prohibited from functioning in the capacity of a nurse.

(6) An individual who is employed or practices as a nurse in this state without a current temporary work permit prior to issuance of a current active license shall be considered to be practicing as a nurse without a license and in violation of KRS 314.031 and subject to the penalties in KRS Chapter 314.

ROBERTA G. SCHERER, President

APPROVED BY AGENCY: December 10, 1993

FILED WITH LRC: December 13, 1993 at 10 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Nursing
(As Amended)

201 KAR 20:240. Fees for applications and for services.

RELATES TO: KRS 314.041(5), 314.042(3), (6), 314.051(3), 314.071(1), (2), 314.073(4), (6), 314.161

STATUTORY AUTHORITY: KRS 314.131
NECESSITY AND FUNCTION: To establish fees to carry out the provisions of KRS Chapter 314.

Section 1. Fees for Licensure and Registration Applications. (1) The board shall collect fees for applications for licensure or for registration, and for renewal or reinstatement thereof.

(2) The fees shall not exceed the amounts indicated for the following applications:

(a) Licensure as a registered nurse - seventy (70) dollars.
(b) Licensure as a licensed practical nurse - seventy (70) dollars.
(c) Biennial renewal of active license - fifty (50) dollars.
(d) Biennial renewal of inactive license - thirty-five (35) dollars.
(e) Reinstatement of license - seventy (70) dollars.
(f) Active to inactive license status - thirty-five (35) dollars.
(g) Inactive to active license status - fifty (50) dollars.
(h) Endorsement verification of Kentucky licensure or registration - twenty (20) dollars.
(i) Duplicate license or registration card or letter - twenty (20) dollars.
(j) Registration as an advanced registered nurse practitioner - seventy (70) dollars.
(k) Biennial renewal of registration as an advanced registered nurse practitioner - fifty (50) dollars.
(l) Reinstatement of registration as an advanced registered nurse practitioner - seventy (70) dollars.

(3) An application shall not be evaluated unless current fee is submitted.

Section 2. Fees for Applications for Continuing Education Approvals. The board shall collect fees for applications for approval of providers of continuing education and for renewal or reinstatement thereof not to exceed the following amounts:

(1) Initial provider approval - $100.
(2) Reinstatement of provider approval - $100.
(3) Biennial renewal of approval - seventy-five dollars.
(d) Individual review of continuing education offerings - thirty-five (35) dollars.

Section 3. Fees for Services. (1) The board shall collect fees for the following services not to exceed the amounts indicated:

(a) Applicants for [~~Administration of examination for registered nurse~~] licensure who are retaking the examination - sixty (60) dollars.
(b) [~~Administration of examination for practical nurse licensure - thirty-five (35) dollars.~~
~~(c)~~] Verification of licensure or registration letter - ten (10) dollars.
(c) [~~(d)~~] Copy of examination results or transcripts - ten (10) dollars.
(d) [~~(e)~~] Nursing certificate (optional) - thirty (30) dollars.

(2) The fee for copies of statutes, administrative regulations, and duplicated or printed materials shall be one (1) dollar minimum or shall not exceed twenty-five (25) cents per page.

(3) An applicant for licensure who takes or retakes the licensure examination shall pay the current examination fee as required by the national council of state boards of nursing in addition to the board application for licensure and administration of examination fees pursuant to subsection (5) of this section.

(4) A nurse who is licensed in another state, United States territory or country and who submits an application for licensure in Kentucky as a registered nurse or a licensed practical nurse, but who is required to take or retake the licensure examination, shall pay the current examination fee as required by the national council of state boards of nursing in addition to the board application for licensure and administration of examination fees.

(5) Applicants retaking the licensure examination shall:

(a) Submit fee for administration of examination prior to each time examination is taken**; and**

(b) Submit new application and current fees if more than one (1) year has passed since date last examination was written or more than two (2) years have passed since the filing date of the original application.

(6) Graduates of foreign schools of nursing shall assume responsibility for costs incurred to submit credentials translated into English, commission on graduates of foreign nursing schools certificates, immigration documents and other documents needed to verify meeting licensure requirements.

Section 4. With the exception as stated in Section 3(5)(b) of this administrative regulation, an application, which is not completed within one (1) year from the date the application form is filed with the board office, shall lapse and the fee shall be forfeited.

Section 5. An applicant who meets all requirements for approval, licensure or registration **shall** [~~will~~] be issued the appropriate approval, license or registration without additional fee.

Section 6. Refunds. (1) Current administration of examination fee on file for an examination candidate unable to be present for the administration of an examination due to unusual circumstances such as weather conditions, accidents, illness, family circumstances, shall be refunded upon submission of written request by candidate.

(2) Overpayment of five (5) dollars or more of current fee shall be refunded upon submission of written request by payer.

Section 7. A partial application fee may be held on record for one (1) year and **shall** [~~may~~] be applied toward the fee to meet the requirements for licensure or registration.

Section 8. Fees properly collected by the board **shall not be refunded, except as provided** [~~are nonrefundable with the exceptions as stated~~] in Section 6 of this administrative regulation.

ROBERTA G. SCHERER, President
APPROVED BY AGENCY: December 10, 1993
FILED WITH LRC: December 13, 1993 at 10 a.m.

DEPARTMENT OF CORRECTIONS
Division of Local Facilities
(As Amended)

501 KAR 3:080. Sanitation; hygiene.

RELATES TO: KRS 441.055
STATUTORY AUTHORITY: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails. This administrative regulation sets forth procedures to provide proper sanitation and hygiene in jails.

Section 1. Procedures. (1) The jailer shall provide for the control of vermin and pests.

(2) The jail shall provide for both solid and liquid waste disposal.

(3) The jailer shall have a written preventative maintenance plan which includes but is not limited to:

(a) A cleaning schedule for various locations and items in the jail.
(b) A schedule for inspections by the jailer.
(c) A schedule for trash and garbage removal.
(d) A schedule for periodic inspection and maintenance of specific mechanical equipment.

(4) The jail shall have fresh and purified air circulating within inmate living and activity areas.

(5) The jail shall furnish clean sanitized bedding to inmates except

in holding areas and unless it is determined to be detrimental to a particular inmate. Issuance of bedding in detoxification is optional. Bedding shall include:

(a) One (1) mattress.
(b) One (1) mattress cover.
(c) One (1) blanket, when conditions require.
(d) One (1) sheet.
(e) One (1) pillow.
(f) One (1) pillowcase.

(6) Inmate bedding shall be cleaned on a regular basis according to the following schedule:

(a) Sheets, pillowcases, and mattress cover shall be cleaned at least once per week.

(b) Blankets shall be cleaned upon reissue or quarterly, whichever is sooner.

(c) Mattresses and pillows shall be cleaned quarterly.

(7) Each inmate shall be issued a clean towel upon admission to an inmate living areas. Towels shall be laundered every fourth day.

(8) All floors, toilets, and sinks in the jail shall be washed daily or more often as necessary.

(9) All showers shall be cleaned on at least a weekly basis.

(10) All inmates assigned to inmate living areas shall be issued or permitted to obtain the following hygienic items:

(a) Soap.
(b) Toothbrush.
(c) Toothpaste.
(d) Toilet paper.
(e) Female sanitary supplies (where applicable).

Indigent inmates shall be furnished these items by the jail.

(11) All inmates shall be permitted to shave daily. If a communal razor is used, it shall be sanitized before each use. [~~No inmate shall be forced to shave except for medical purposes and under the specific orders of the medical authority.~~]

(12) Hair cutting services or sanitized hair cutting equipment shall be available to all inmates. [~~Inmates shall not be forced to cut their hair except for medical purposes and under the specific orders of the medical authority.~~]

(13) All inmates shall be provided shower facilities within twenty-four (24) hours of admission. Inmates shall be permitted to shower daily.

(14) All inmates in the jail shall be provided with hot and cold running water in showers and lavatories.

[~~(15) As required in KRS 441.064, the jail shall be inspected by the Department of Corrections biannually.~~]

JACK C. LEWIS, Commissioner
APPROVED BY AGENCY: November 22, 1993
FILED WITH LRC: November 23, 1993 at 3 p.m.

DEPARTMENT OF CORRECTIONS
Division of Local Facilities
(As Amended)

501 KAR 3:120. Admission; release.

RELATES TO: KRS 441.055
STATUTORY AUTHORITY: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Department of Corrections to promulgate regulations establishing minimum standards for jails. This regulation sets forth admission and release procedures.

Section 1. Policy and Procedure. Each jail shall develop written admission, orientation, and release procedures to be included in the jail's policy and procedure manual.

Section 2. Admission. (1) Any person in need of emergency medical attention shall not be admitted to the jail until a medical examination has been conducted. A denial of admission form shall be completed which lists the reasons for the denial and shall be signed by the jail staff member on duty.

(2) The jail staff shall assure that each inmate is committed under proper legal authority by a duly authorized officer.

(3) An intake form shall be completed on every new inmate admission and shall include but not be limited to the following:

(a) Time and date of commitment;
(b) Name, alias, nickname;
(c) Official charge - cite five (5) digit UOR number;
(d) Authority ordering commitment;
(e) Unit of government to be billed;
(f) Signature and title of arresting or committing officer;
(g) Date of birth;
(h) Race;
(i) Sex;
(j) Height and weight;
(k) Current or last known address;
(l) Telephone number;
(m) Marital status;
(n) Spouse or next of kin;
(o) Emergency contact (name, relation, address, telephone number);
(p) Employer, place of employment, telephone number;
(q) Social Security number;
(r) Health status (including current medications, known allergies, diet or other special medical needs);
(s) Blood type, if known;
(t) The name of any known person in the jail who might be a threat to the arrestee; and
(u) Mental health history (including past hospitalizations, comprehensive care treatment, current treatment, and medication).

(4) The jail staff shall conduct a search of inmates and their possessions.

(a) Each inmate shall be searched for contraband in such a manner as responsible staff reasonably determine is necessary to protect the safety of fellow inmates, staff, and institutional security. Such search shall be conducted in a private area and in a manner which protects the inmate's dignity to such extent as possible in that particular jail.

(b) When a strip search is conducted, it shall be performed by a staff person of the same sex as the inmate.

(c) When a strip search of an inmate is conducted, it shall be done on reasonable belief to suspect contraband and include a thorough visual check for birthmarks, wounds, sores, cuts, bruises, scars, and injuries, "health tags," and body vermin. A less complete search shall include the same checks to the extent determined reasonably necessary.

(d) The probing of body cavities shall not be done except where there is reasonable suspicion to believe that the inmate is carrying contraband there and such search shall only be conducted by medically trained persons (physician, [~~emergency medical technician,~~] registered nurse, licensed practical nurse) in a private location and under sanitary conditions.

(5) Each jail shall develop written policies and procedures, specifying the personal property that inmates may retain in their possession.

(a) Any cash or personal property which is taken from the inmate upon admission shall be listed by complete description on a receipt form, and securely stored pending the inmate's release. The receipt shall be signed by the receiving officer and the inmate and kept for the jail record.

(b) If the inmate is in an inebriated state, is a mental inquest detainee, or is mentally ill or mentally retarded, there shall be at least one (1) witness to verify this transaction. As soon as the inmate is

able to understand and account for his actions, he shall sign the receipt.

(c) Personal property released to a third party **shall** [~~must~~] have the inmate's signature of approval and the signature receipt of the third party.

(6) The jailer may establish a written policy on hair length or beards if based on actual concerns for safety, security, identification, or hygiene. Inmates may be permitted freedom in personal grooming if not in conflict with the jail's policy. Caution shall be taken to protect the inmate's rights in accordance with court decisions regarding religion.

Section 3. Orientation. (1) As soon after assignment as possible, an oral or written orientation shall be made available to each inmate.

(2) The orientation shall provide the inmate with information regarding his confinement including but not limited to the following:

(a) Information pertaining to rising and retiring, meals, mail procedures, work assignments, telephone privileges, visitation, correspondence, commissary, medical care, and other matters related to the conditions of the inmate's confinement;

(b) Rules of inmate conduct;

(c) Disciplinary procedures;

(d) Information regarding programs (work, educational and vocational training, counseling, and other social services); and

(e) Procedures for making requests or registering complaints with the jail staff, judiciary, or Department of Corrections personnel.

Section 4. Release. (1) Written legal authorization shall be required prior to the release or removal of any inmate from confinement.

(2) When an inmate is released or removed for any legal purpose to the custody of another, the identity of receiving authority shall be verified.

(3) A written record shall be kept of the time, purpose, date, and authority for release or removal from confinement, and into whose custody the inmate is released or removed.

(4) Prior to the release or removal of an inmate, the receiving authority shall sign an authorized release form.

(5) Before the jailer releases an inmate to an out-of-state jurisdiction, he shall consult with the appropriate prosecutorial office in the county.

(6) Any property, not legally confiscated or retained, receipted from the inmate upon admission shall be returned to the inmate at the time of release.

(7) Each inmate shall sign a receipt for property returned at the time of release.

(8) Any complaint regarding property returned **shall** [~~must~~] be submitted in writing with specific details within twenty-four (24) hours.

JACK C. LEWIS, Commissioner
APPROVED BY AGENCY: November 22, 1993
FILED WITH LRC: November 23, 1993 at 3 p.m.

EDUCATION, ARTS, AND HUMANITIES CABINET
Department of Education
Office of District Support Services
(As Amended)

702 KAR 4:160. Capital construction process.

RELATES TO: KRS 156.160, 157.420, 162.060, 162.065, 162.070, **160.160**, 322.360

STATUTORY AUTHORITY: KRS 156.070, 156.160, 157.420, 162.060, 162.065

NECESSITY AND FUNCTION: KRS 156.160 requires the State Board for Elementary and Secondary Education (SBESE) to prescribe administrative regulations relating to construction of public school buildings and the use of uniform forms. KRS 157.420 requires each school district's capital outlay to be utilized in accordance with the district's facility plan. KRS 162.060 requires approval of all school building plans and specifications by the chief state school officer. KRS 162.065 requires the SBESE to prescribe administrative regulations governing construction managers. KRS 162.070 requires school construction contracts to be awarded to the lowest and best responsible bidder. KRS 322.360 requires a school district, when engaged in the construction of any public work involving engineering, to utilize an architect to directly supervise the preparation of plans and specifications, estimates, and the execution of construction. 702 KAR 4:010, 702 KAR 4:020, 702 KAR 4:030, and 702 KAR 4:040 are no longer required because they are being replaced by 702 KAR 4:160. This administrative regulation prescribes the procedures and criteria for the construction of public school buildings.

Section 1. Definitions. (1) "AIA" means the American Institute of Architects.

(2) "Architect" means any design professional licensed in the Commonwealth of Kentucky under KRS Chapters 322, 323, or 323A, which includes architects, engineers, and landscape architects.

(3) "Board" means the local board of education.

(4) "Construction manager" or "CM" means a qualified and experienced contracting organization which provides the services of construction management and possesses a general trades workforce, staff and equipment, financial base, insurance coverage, bonding capability, a minimum of three (3) years' construction management experience on projects of $1,000,000 or more, and the ability to provide the services required.

(5) "Division" means the Division of Facilities Management, Kentucky Department of Education (KDE).

(6) "Emergency" means the loss of use of physical facilities resulting from an unforeseen occurrence which requires prompt action.

(7) "Fixed equipment" means furnishings or equipment which are secured to the wall, floor, or ceiling to operate or function in the manner intended by the product manufacturer. Examples of fixed equipment are bleachers, student lockers, casework with sinks, and plumbing fixtures.

(8) "KERA" means Kentucky Education Reform Act.

(9) "Moveable equipment" means any furnishings or equipment not considered fixed equipment.

(10) "Owner" means the local board of education or financing corporation established for the purpose of financing school construction.

(11) "Superintendent" means the superintendent of the local school district or the employee the superintendent has selected to represent the board regarding construction issues.

Section 2. Construction Project Application. (1) The board shall submit an application on form BG #1 to the division for approval of a proposed construction project.

(2) An application shall be submitted for any project:

(a) Funded by Support Education Excellence in Kentucky (SEEK) capital outlay, special voted building tax funds, Facility Support Program of Kentucky (FSPK) funds as provided by KRS 157.620, School Facilities Construction Commission (SFCC) funds, or building funds as provided by KRS 160.476; or

(b) Proposing construction of a new building, addition, or alteration of an existing building which requires design by an architect for a building or building system.

(3) To initiate a project which is listed in its facility plan or a minor project permitted in subsection (9) of this section, a vote by the board approving the project shall be required.

(4) If SFCC funds multiple categories, then KERA strand priorities shall be considered equivalent to the next category of need listed on

the district facility plan. If no SFCC funding is included in the financing plan, the board may select any project on its facility plan without regard to categorical priority number.

(5) If a project exceeds $250,000, the superintendent shall submit the BG #1 in person to the division, and shall discuss the project scope and financing plan.

(6) The BG #1 shall be accompanied by:

(a) A copy of the board's action, either by official board minutes or an unofficial excerpt signed by the board secretary verifying authenticity, approving the application; and

(b) A narrative justification of the construction project selection, including its priority over other projects relative to district goals and maximization of funding and benefits to students.

(7) Within sixty (60) days of receiving the completed application documents, the BG #1 shall be approved by the division, if justified pursuant to the following criteria:

(a) Proposed project is on the facility plan or conforms to minor project criteria in subsection (9) of this section;

(b) SFCC funding does not exceed the SFCC maximum budget established for the project;

(c) Application has original signatures;

(d) A board order; and

(e) The narrative justification.

(8) The Division of Finance, KDE, may give tentative approval based on a review of the board's ability to support the financing plan for the proposed construction budget.

(9) The board may submit a BG #1 for minor projects not listed in the facility plan if the project meets the following criteria:

(a) Expansion of a permanent center or functional center to include a maximum of four (4) classrooms when documentation to support the request is provided for either student population growth or curriculum changes;

(b) Campus enlargement, minor renovation of buildings and building systems, or construction of an additional support space at permanent or functional centers when its need can be documented and justified; or

(c) Projects to comply with statutes and administrative regulations of other agencies having jurisdiction.

(10) If no action is taken by the board within one (1) year from the date of the BG #1 approval, the approval shall be no longer effective.

(11) If the division considers the architect, CM, or board to be nonresponsive or causing undue delays in the design schedule, it may request the chief state school officer to revoke the BG #1 approval.

(12) If an emergency requiring the submission of a BG #1 occurs:

(a) The emergency shall be declared in accordance with KRS 424.260 or 45A.380, whichever is applicable; and

(b) The board shall:

1. Notify the division and request approval to proceed with the plans and corrective action;

2. Submit to the division:

a. BG #1;

b. Copy of board order declaring the emergency; and

c. Copy of the written determination as required by KRS 45A.380 for those districts which have adopted the Model Procurement Code.

Section 3. Local Board Oversight Responsibilities. (1) All construction files and records of:

(a) Board actions;

(b) Proposals;

(c) Contracts;

(d) Correspondence; and

(e) Financial documents shall be maintained by the superintendent in the central office, organized and accessible for review.

(2) If the architect or CM indicates additional funding is necessary or a reduction of physical scope of the project is needed, the board shall approve a board action and forward it to the division.

(3) During the planning and bidding phase of the construction project, the board shall:

(a) Review bidding documents for compliance with statutes and administrative regulations, with particular attention to sales and use tax exemption when purchasing materials direct;

(b) Comply with all submission requirements resulting from the completed plans and specification review by the division;

(c) Not advertise before receipt of written approval from the division;

(d) Advertise in the newspaper having the largest circulation in the school district the following number of days prior to the date established to receive bids:

1. $1,000,000 or less project, a minimum of seven (7) days and a maximum of twenty-one (21) days; or

2. A project in excess of $1,000,000, a minimum of twenty-one (21) days;

(e) Hold the bid opening:

1. In a location accessible to the public;

2. Between 10 a.m. and 3 p.m. (local time); and

3. Within Monday through Friday, excluding holidays;

(f) Accept the architect's and CM's evaluation of the bids and approve or reject their recommendations;

(g) Review any bid package which receives only one (1) bid to ensure specifications allowed open competition. The board may approve the contract if the bid does not exceed 110 percent of the bid estimate and is within the budget for the project;

(h) Ensure the CM completes the KDE noncollusion affidavit;

(i) Hold possession of original bidding documents;

(j) Approve and submit the successful bidders' documents to the division for review and approval of the proposed contract(s) and the financial plan; and

(k) Have in its possession prior to executing the construction contract:

1. Contractor's performance and payment bond;

2. Certificate of required insurance;

3. Written approval from the division; and

4. Bids accepted for the bond sale, when applicable.

(4) During the construction administration of the project, the board shall:

(a) Name the superintendent to speak on behalf of the board as owner in the contract documents and set the parameters of that responsibility;

(b) Seek the superintendent's recommendation relative to proposed board actions;

(c) Approve all expenditures from the construction account;

(d) Seek SFCC approval of expenditures as applicable;

(e) At least once per month receive and review written inspection and progress reports provided by the architect;

(f) If the construction project is in excess of $250,000, forward to the division a monthly summary of payments and expenditures from the construction account after approval by the board;

(g) Review the need for changes to the contract;

(h) Assign partial or full responsibility to the proper party if additional costs are due to an oversight or omission;

(i) Monitor the administration of the project by its architect and CM to ensure no prepayment is made for their services;

(j) After notifying the division, hire a professional services firm experienced in architectural, engineering, accounting, or construction management services to provide an audit of the construction project if the board suspects nonfeasance or malfeasance;

(k) Secure all required inspections and close out documents for submittal to the appropriate agencies;

(l) Receive an occupancy permit from the Department of Housing, Buildings and Construction prior to occupying the facility;

(m) Retain a minimum five (5) percent retainage of the construction contract until the division has issued a written approval either to reduce the contract retainage or to make final payment on the

contract;

(n) Require the superintendent to participate in the year-end warranty inspection and report results of the inspection to the board;

(o) Contact the contractor's bonding company each month the contractor is more than two (2) weeks behind schedule or is not performing in accordance with the contract; and

(p) Not hire additional architectural services outside the architect's contract without approval from the division.

(5) If federal funds or federal agencies are involved, the board may request approval from the chief state school officer to waive or condense procedures to expedite the construction design process.

(6) If a lien is filed with a court and the board is given notice of the lien, the board shall stop partial payments on the contract and contact the division. Payments may begin after:

(a) The lien has been released;

(b) The division has approved a payment schedule which provides for retaining the lien amount being contested; or

(c) The division has approved a payment schedule after a surety bond has been provided to pay the lien.

Section 4. Architectural Services. (1) The board and architect shall negotiate a contract for services required. The board shall either advertise for architectural services or select a minimum of three (3) architectural firms which shall be evaluated through the request for proposal (RFP) process. Advertisement or RFP evaluation of three (3) firms is not required if the project is estimated at less than $500,000 or is the continuation of phased construction at the same site.

(2) The architectural services shall be negotiated using the following documents:

(a) KDE Architect RFP;

(b) AIA B141, or AIA B141-CMa, with KDE amendments;

(c) KDE noncollusion affidavit; and

(d) KDE architect fee guideline, or SFCC fee maximum.

(3) A letter of agreement stating services, terms, and conditions which has been approved by the board shall be acceptable in lieu of the AIA B141 for projects with an estimated construction cost of less than $25,000.

(4) The division shall review and approve the proposed architect's contract based on the following criteria:

(a) Copy of the board action approving the terms of the proposed contract;

(b) Scope and fee conforms to BG #1; and

(c) Submittal of required forms.

(5) The division shall advise the board of:

(a) Apparent deficiencies in completion of the contract;

(b) Discrepancies related to the scope of work and anticipated cost approved on the BG #1;

(c) Compliance of fee to fee schedule; and

(d) Concerns regarding modifications to the contract.

(6) The architect shall:

(a) Provide on-site visitation and inspection of, and reporting on, the construction of the project to the board;

(b) Certify, to the best of his ability, professional judgment, and with due diligence, that all phases of the project have been completed in conformance with the approved plans and specifications and any authorized changes;

(c) Provide professional liability insurance including errors and omission insurance in the following minimum amounts:

1. Projects less than $1,000,000 require $250,000 insurance with a five (5) percent maximum deductible;

2. Projects from $1,000,000 to $10,000,000 require $500,000 insurance with a maximum five (5) percent deductible; and

3. Projects $10,000,000 or greater require $1,000,000 insurance with a maximum five (5) percent deductible;

(d) Require his consultants to retain professional liability insurance including errors and omission insurance in the minimum amount of $250,000 with a maximum five (5) percent deductible;

(e) Provide copies of certificates of insurance to the division;

(f) Assist in preparing the bid advertisement for the board;

(g) List projects estimated in excess of $1,000,000 with a minimum of two (2) Kentucky construction reporting services;

(h) Submit to the board a written inspection report which includes a status of the project, dates and times architect was on site, conditions of the job, problems, delays, and concerns at least monthly after construction begins;

(i) Request payment of construction administration phase fee at the same proportionate percentage as the construction's completion with ten (10) percent of it being retained by the board until the approval of final payment on construction;

(j) Request approval by the board for any reimbursement or additional service prior to the service being rendered or expenditure being made;

(k) When requesting reimbursements or additional service fees, provide a detailed listing of each charge on the payment request;

(l) Request additional payment for construction time or services which extend beyond the scheduled completion date only if the owner is successful in receiving liquidated damages. Conditions to receive payments shall be:

1. Additional costs were incurred through no fault of the architectural firm and are documented due to the delay of the contractor; and

2. The pro rata share shall be determined by the board as a ratio of validated architect's damages to the total of all documented damages;

(m) Utilize his consultants listed on the contract form for design, construction administration and oversight;

(n) Pay his consultants the same percentage proportion of their fee as he has received from the board;

(o) Pay his consultants eighty (80) percent of the architect's fee based on the construction cost of the consultant's work. If the architect's fee is a lump sum, the consultant shall receive the same proportionate amount;

(p) If a joint venture, list on the contract form, the prime architectural firm accountable to the board and provide the board with a copy of the joint venture contract indicating each party's responsibilities and fees;

(q) Provide independent contract administration over construction contracts awarded to the project's CM; and

(r) Not include in the construction cost calculation change orders to the contract that the board has not requested. Changes to the contract requested by the board that decrease the construction cost shall be calculated at the hourly billing rate schedule or basic fee percentage, whichever is less.

(7) The board shall provide oversight of the architectural services in the following manner:

(a) The architect's contract shall be reviewed and signed by the board's attorney for compliance with the law; and

(b) The board shall submit to the division for approval:

1. The proposed architect contract and completed RFP;

2. A copy of the board order approving the contract;

3. A narrative of the evaluation process; and

4. A copy of the certificate(s) of professional liability insurance.

Section 5. Construction Management Services. (1) A CM shall not be employed on any project estimated at less than $1,000,000 or without the approval of the division if the number of work categories negate the need for full-time, on-site supervision for projects in excess of $1,000,000. The division may approve exceptions as follows:

(a) If the project is a phase of a phased project and the CM is to be employed on all subsequent phases; or

(b) If the project's complexity or fiscal soundness requires it.

(2) In hiring a CM, the board shall either advertise for CM services or select a minimum of three (3) construction management firms which shall be evaluated through the RFP process. Advertise-

ment or RFP evaluation of three (3) firms is not required if the project is the continuation of phased construction at the same site.

(3) The board shall negotiate a contract using the following:

(a) KDE CM RFP;

(b) AIA B801/CMa and KDE amendment;

(c) KDE CM fee guideline or lump sum price;

(d) KDE noncollusion affidavit;

(e) Projected number of months construction;

(f) On-site services fee per month; and

(g) Fee scale for additional construction cost and months.

(4) The number of months in the contract for construction shall not be altered unless:

(a) There is a change in the scope of the work; and

(b) The owner, architect, and CM agree to the revised number of months during the evaluation of construction bids.

(5) The preconstruction phase payment shall be a maximum of ten (10) percent of the total proposed fee.

(6) The CM shall:

(a) Provide a 100 percent performance and payment bond prior to the construction contracts being executed by the board in the amount of the CM fee from an insurance firm authorized to do business in Kentucky and listed in and written within the terms and limits established in 58 Federal Register, p. 35778, 1993;

(b) Provide professional liability insurance with errors and omissions in the following minimum amounts:

1. Projects of $10,000,000 or less, insurance in the amount of $500,000 with a maximum five (5) percent deductible; or

2. For projects in excess of $10,000,000, insurance in the amount of $1,000,000 with a maximum five (5) percent deductible;

(c) Develop bid packaging to ensure at least five (5) known potential bidders are notified on each bid package;

(d) Not transport any bidder's proposal to the bid opening;

(e) Complete a KDE noncollusion affidavit relative to both the superintendent and local board members and the apparent low bidders;

(f) Request approval by the board for any reimbursement or additional service fee prior to the service being rendered or expenditure being made;

(g) When requesting reimbursements or additional service fees, provide a detailed listing of each charge on the payment request;

(h) Request additional payment for construction time or services which extend beyond the scheduled completion date only if the owner is successful in receiving liquidated damages Conditions to receive payments shall be:

1. Additional costs were incurred through no fault of the construction management firm and are documented due to the delay of the contractor; and

2. The pro rata share shall be determined by the board as a ratio of validated construction manager's damages to the total of all documented damages;

(i) Not include in the construction calculation change orders to the contract that the board has not requested. Changes to the contract requested by the board that decrease the construction cost shall be calculated at the hourly billing rate schedule or basic fee percentage, whichever is less; and

(j) Request payment of the construction phase fee at the same proportionate percentage as the construction's completion with five (5) percent of it being retained by the board until approval of the final payment on construction.

(7) The board shall provide oversight of the CM services in the following manner:

(a) Retain an attorney to:

1. Review the contract as negotiated to ensure compliance with the law;

2. Request modifications to the contract as needed; and

3. Sign the contract form attesting to review;

(b) Take action approving the contract terms and conditions; and

(c) Forward to the division for review and approval:

1. Copy of the RFP and proposed contract;

2. Board order;

3. Narrative of the selection evaluation;

4. Certificate of professional liability insurance; and

5. KDE noncollusion affidavit.

(8) The CM contract shall be reviewed and approved by the division based on the following criteria:

(a) A copy of board order of approval;

(b) Fee based on a lump sum amount or fee guideline;

(c) Modifications to the contract comply with laws; and

(d) Submission of required forms.

Section 6. Plans and Specifications. (1) After approval of the BG #1 application by the division, the division shall provide a procedural checklist to the board that indicates required submissions for the project.

(a) The architect shall prepare schematic plan of the proposed construction from written educational program specifications supplied by the board.

(b) The schematic plans and a copy of the educational program specifications, approved by board action with a copy of the minutes, shall be submitted by the board to the division for review and approval.

(c) The division shall review and approve the schematic plan submittal based on:

1. Site plan: proper siting of the building footprint provides appropriate access, vehicular and pedestrian circulation, separation of bus loading area from other vehicular traffic, utility connections and drainage;

2. Floor plan: number, type, and size of the planned spaces, including support spaces, agree with the programmed spaces listed on the BG #1, the educational specifications, and are in compliance with 702 KAR 1:001, 702 KAR 4:060, and 702 KAR 4:070;

3. **Functional aspects** [~~Functionality~~]: review of the distribution of functions, or program space and the appropriateness for the needs of the facility;

4. Building efficiency: review of the percent of net program area to gross building area to meet or exceed the guidelines of 702 KAR 1:001;

5. Budget: review of the construction cost (gross area multiplied by the net cost) in relation to the BG #1. If the calculated construction cost exceeds BG #1 cost, an increase in the budget or a decrease in the physical scope of the project shall be approved by the board.

(2) After written approval of the schematic plans is received from the division, the architect shall prepare the design development plans.

(a) The board shall submit to the division for review and approval:

1. Design development plans;

2. Board order approving plans;

3. BG #2; and

4. BG #3.

(b) The division shall review and approve design development plans submittals based on:

1. Site plan: proper siting of the building with respect to vehicular and pedestrian circulation, separation of bus loading area, student play areas, athletic fields, utility construction and site drainage, with details appropriately developed;

2. Floor plan: number, type, and size of the planned spaces consistent with the schematic plan;

3. Enlarged plans and details: appropriate to describe the design intention;

4. Building efficiency: the percent of net program area to gross building area meets or exceeds the guidelines of 702 KAR 1:001;

5. Budget: the probable construction cost, BG #3, is within the approved BG #1 budget. If the probable construction cost exceeds the BG #1 budget, an increase in the budget or a decrease in the physical scope of the project shall be approved by the board;

6. BG #2 form is properly completed and conforms to the educational program specifications; and

7. Design development plans incorporate all previous schematic design review comments.

(3) After written approval of design development plans is received from the division, the completed plans and specifications and project manual shall be prepared by the architect and CM for bidding.

(a) The board shall submit to the division for review and approval:

1. Completed plans and specifications and project manual, if applicable;

2. Board order approving plans and specifications;

3. Revised BG #3; and

4. Proof of submission of completed plans to other agencies having jurisdiction.

(b) The division shall review and approve the completed plans and specifications and project manual submittals based on:

1. Compliance with 702 KAR 4:060 and 702 KAR 4:070, with special concern to reduce change orders during construction;

2. Each plan sheet and cover of specification booklet has the architect's seal and signature affixed;

3. Documents are of sufficient detail and complexity that they may be used:

a. To obtain a building permit;

b. As instruments in the competitive bidding process; and

c. By a general contractor to construct the project;

4. BG-3 does not exceed by ten (10) percent the approved BG #1 budget;

5. Deed, certificate of title insurance to the property, deed of easements for all utilities, and proof of road and utility access for the project are filed with the division;

6. Proposed floor elevation is a minimum of one (1) foot above the 100-year flood plain elevation for new construction and no state funds are proposed for renovation below the 100-year flood plain elevation;

7. Construction documents include the following forms to the extent applicable with KDE amendments appropriate for general construction or construction management:

a. AIA A201, general conditions;

b. AIA A201/CMa, general conditions with CM;

c. AIA A101, owner-contractor contract;

d. AIA A101/CMa, owner-contractor contract with CM;

e. AIA A701, instructions to bidders;

f. KDE form of proposal;

g. AIA A312, performance and payment bond;

h. AIA G702, application for payment;

i. AIA G702/CMa, application for payment with CM;

j. AIA G701, change order;

k. AIA G701/CMa, change order with CM;

l. AIA G704, certificate of substantial completion;

m. AIA G704/CMa, certificate of substantial completion with CM;

n. AIA G706, contractors' affidavit of payment;

o. AIA G706A, contractors' affidavit of release of liens;

p. AIA G707, consent of surety to final payment; and

q. AIA G707A, consent of surety to retainage reduction.

8. A 100 percent performance and payment bond is required for any contract in excess of $25,000 and on all contracts using CM process from an insurance firm authorized to do business in Kentucky. The insurance firm shall be listed in and the performance and payment bond shall be written within the terms and limits established in 58 Federal Register, P. 35778, 1993.

9. Contractor(s) are to carry all insurance required by law and by contract to hold the board safe from loss until the project is completed or an occupancy permit is received by the board. In the event the board elects to carry a portion of the necessary insurance, notification shall be given to the architect and CM and written into the bidding documents; and

10. Notification of other state and local agencies having jurisdiction, including:

(a) Department of Housing, Buildings and Construction;

(b) Division of Code Enforcement;

(c) Division of Plumbing;

(d) Division of Water;

(e) Division of Air Quality;

(f) Local health department; and

(g) Local building inspector.

(4) The board shall receive written approval of the construction bidding documents and authorization to bid from the division prior to advertisement for bids.

(5) Performance specification procedures may be used by the board for proposed capital construction projects. The proposed performance specifications as prepared by the board shall be approved in writing by the division prior to advertisement for bids.

(6) Leases, lease purchases, or leases with an option to purchase by a board for fixed equipment, capital construction, or alterations to existing buildings and building systems shall require the submittal of plans and specifications and lease documents to the division for review and approval.

Section 7. Construction Bidding and Contracting. (1) A minimum of ten (10) working days prior to the scheduled bond sale date, the board shall submit to KDE for review and approval:

(a) To the division:

1. Bid tabulation(s);

2. Bid security(ies);

3. Proposal form of successful bidder(s);

4. Proposed contract(s) or purchase order(s) (unsigned); and

5. Revised financial form (BG #1, page 3) to coincide with proposed construction costs; and

(b) To the Division of Finance, KDE:

1. Preliminary official statement;

2. Notice of bond sale; and

3. Official terms and conditions.

(2) If the submitted documents are not in an approvable form at least five (5) working days before the scheduled bond sale, the sale date shall be postponed.

(3) The board shall contract with a fiscal agent to assist in meeting all reporting, filing, and selling requirements for securing the financial approval of KDE when school revenue bonds are proposed for sale.

(4)(a) Bids for school revenue bond sales shall be received in Frankfort, Kentucky, at:

1. Kentucky Department of Education, Office of District Support Services, 15th Floor, Capital Plaza Tower; or

2. SFCC, Capital Annex, if SFCC funds are involved.

(b) A KDE or SFCC staff member shall be present to receive the bids.

(c) Bids shall be delivered by mail, in person, by telephone, or by facsimile (fax) machine. If the apparent winning bid is telephoned, the bid shall be reaffirmed by fax within thirty (30) minutes after the bid opening.

(5) The division shall approve a proposed construction contract based on:

(a) Submission of tabulation of bids, form of proposal, bid security and proposed contract;

(b) Board indicating low bid was accepted or written justification provided where other than low bid is proposed;

(c) Proposed construction contract is within approved budget; and

(d) Form of proposal is completed in accordance with the instructions to bidders.

(6)(a) Any discrepancies between the proposed contract and bidding documents shall be remedied prior to approval.

(b) The board's desire to waive irregularities and informalities as to a bid shall be reviewed and final judgement made by the division prior to approval of the contract and financing plan.

(c) Approval of the proposed contract by division shall not indicate the contract is the best or the most reasonable.

(7) The Division of Finance, KDE, shall issue the final approval for the financing plan, authorize the bond sale, and prepare the letter for the chief state school officer's approval.

(8) No negotiation of the bid price shall be allowed, except in accordance with KRS 45A.375 for those districts under the Model Procurement Code.

(9) Construction account expenditures that are subject to bidding shall be approved by the division, except for expenditures for moveable equipment.

(10) The board shall submit to the division:

(a) Copy of the executed contract(s) and purchase order(s);

(b) Insurance certificate(s); and

(c) Copy of the 100 percent performance and payment bond(s).

Section 8. Contract Change Orders. (1)(a) Changes in the contract which do not substantially alter the nature of the contract, or may be regarded as incidental to or which relate to an integral part of the original contract and specifications, may be approved by the division.

(b) A copy of any change order using the forms AIA G701 or AIA G701/CMa issued in connection with the project shall be signed by the appropriate parties as a recommendation and shall be subject to approval by the board.

(c) All change orders shall be submitted to the division.

(2) Any additive or deductive change order proposal in excess of $2,500 shall be subject to approval by the division prior to authorization by the board. All change order forms shall be accompanied with the following:

(a) Copy of local board action approving the change order;

(b) Properly completed KDE change order supplemental information; and

(c) Cost breakdown which separates labor, material, profit and overhead. If unit prices are utilized, this cost breakdown shall not be necessary.

(3) Approval of proposed change orders over $2,500 shall be based upon:

(a) Completed supplemental information form, board order, and cost breakdown;

(b) Cost is calculated according to contract unit prices or alternative method documentation is provided to support cost;

(c) The change order scope and cost is considered within the norms based upon the information submitted; and

(d) Cumulative cost of contract and all change orders are within the approved budget.

(4) The division approval shall not indicate the change order cost is the best cost or the requested change order is the most appropriate action.

Section 9. Construction Contract Retainage. (1)(a) **Until the construction contract is substantially performed, the board shall withhold ten (10) percent of the first $1,000,000 and five (5) percent of the completed performance above $1,000,000.** [~~The board shall withhold ten (10) percent of the first $1,000,000 and five (5) percent of the completed performance above $1,000,000 of the contract price of the work until the work is substantially completed.~~]

(b) Upon substantial completion of the work, the ten (10) percent retainage may be reduced to five (5) percent with certification of the architect and approval of the board.

(c) No part of the five (5) percent retainage shall be paid until the division has made a final inspection of the completed construction and has provided written approval.

(d) If after receipt of the punch list, reasons for reduction of the retainage are certified in writing by the architect and approved by the board, a reduction to a lump sum amount less than the five (5) percent retainage may be approved by the division when deemed reasonable and advisable. The minimum lump sum amount shall be twice the estimated cost to correct the punch list items.

(e) The board shall request the final inspection after approval of the architect's certification of substantial completion.

(2) The investment earnings resulting from any agreement entered into by a board involving the construction account, including the construction contract retainage for an approved project, shall be invested in such a manner that any additional income from the investment shall accrue only to the board.

Section 10. Construction Dispute Resolution. (1) Unresolved claims between parties arising out of or relating to any contract subject to this administrative regulation shall not utilize arbitration or the [~~procedures of the~~] American Arbitration Association unless agreed to by all parties.

(2) Prior to the institution of legal proceedings, unresolved claims arising out of or relating to any contract shall be submitted to mediation **by** [~~under the procedures of~~] the Mediation Center of Kentucky, 201 West Short Street, Suite 301, Lexington, Kentucky or any other nonprofit mediation council approved by the division.

(3) Mediation may be initiated by written request filed by any party [~~in accordance with the center's procedures currently in effect~~].

Section 11. Construction Contract Close-out Process. (1) The architect shall furnish the board a form BG #4 with applicable information requesting final approval.

(2)(a) If the board agrees the construction contract is complete, it shall approve the BG #4 and forward it to the division for approval of the final payment.

(b) If the board does not agree that the construction contract is complete, a letter to the division shall be issued to indicate those items in contention or requiring completion.

(3) Written approval by the division authorizing full payment of the contract shall be given when the completed BG #4 form is approved.

Section 12. Penalties for Malfeasance or Nonfeasance. (1) A determination by the board or the division of malfeasance or nonfeasance by the architect or CM shall be forwarded to the chief state school officer.

(2) The chief state school officer may make a recommendation to the SBESE to determine that the offending firm is ineligible to provide professional services on school construction projects for a period not to exceed five (5) years.

(3) The SBESE may prescribe alternative penalties.

(4) If the principals of the offending firm become associated with another firm(s) during the penalty period, upon recommendation by the chief state school officer the SBESE may determine that the penalty invoked shall also apply to that firm.

Section 13. Documents Incorporated By Reference. (1) The following documents used in the capital construction process are hereby adopted and incorporated herein by reference:

(a) BG #1-May, 1993, Project Application;

(b) AIA B141-1987, Standard Form of Agreement Between Owner and Architect and KDE Amendment, May, 1993;

(c) AIA B141/CMa-1992, Standard Form of Agreement Between Owner and Architect, Construction Manager-Adviser Edition, and KDE Amendment, May, 1993;

(d) KDE Noncollusion Affidavit, May, 1993;

(e) KDE Architect RFP, May, 1993;

(f) KDE Architect Fee Guideline, May, 1993;

(g) KDE Construction Manager (CM) RFP, May, 1993;

(h) AIA B801/CMa-1992, Standard Form of Agreement Between Owner and Construction Manager and KDE Amendment, May, 1993;

(i) KDE CM Fee Guideline, May, 1993;

(j) BG #2, May, 1993, Outline Specifications;

(k) BG #3, May, 1993, Estimate of Probable Construction Cost;

(l) AIA A201-1987, General Conditions of the Contract for Construction and KDE Amendment, May, 1993;

(m) AIA A201/CMa-1992, General Conditions of the Contract for Construction-Construction Manager-Adviser Edition, and KDE Amendment, May, 1993;

(n) AIA A101-1987, Standard Form of Agreement Between Owner and Contractor and KDE Amendment, May, 1993;

(o) AIA A101/CMa-1992, Standard Form of Agreement Between Owner and Contractor-Construction Manager-Adviser Edition, and KDE amendment, May, 1993;

(p) AIA A701-1987, Instructions to Bidders and KDE amendment, May, 1993;

(q) KDE Form of Proposal, May, 1993;

(r) AIA A312-1984, Performance Bond and Payment Bond and KDE amendment, May, 1993;

(s) AIA G702-1992, Application and Certificate for Payment;

(t) G702/CMa-1992, Application and Certificate for Payment-Construction Manager-Adviser Edition;

(u) AIA G701-1987, Change Order;

(v) AIA G701/CMa-1992, Change Order-Construction Manager-Adviser Edition;

(w) AIA G704-1992, Certificate of Substantial Completion;

(x) AIA G704/CMa-1992, Certificate of Substantial Completion-Construction Manager-Adviser Edition;

(y) AIA G706-4/70, Contractors' Affidavit of Payment of Debts and Claims;

(z) AIA G706A-4/70, Contractors' Affidavit of Release of Liens;

(aa) AIA G707-4/70, Consent of Surety to Final Payment;

(bb) AIA G707A-6/71, Consent of Surety to Reduction in or Partial Release of Retainage;

(cc) 58 Federal Register, p. 35778, 1993;

(dd) KDE Change Order Supplemental Information, May, 1993; and

(ee) BG #4, May, 1993, Final Approval and Payment Application.

(2) These documents are available for inspection, copying (subject to copyright law), and, except for the AIA forms, may be obtained from the Division of Facilities Management, Department of Education, 15th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The AIA forms are available for purchase from the American Institute of Architects by addressing the request to: AIA Order Dept., 9 Jay Gould Court, P. O. Box 753, Waldorf, MD 20604 or by calling 800-365-2724.

Section 14. 702 KAR 4:010, Construction project application; 702 KAR 4:020, Plans and specifications for construction; 702 KAR 4:030, Local board's contract with architect, engineer; and 702 KAR 4:040, Contract completion; changes; retainage; are hereby repealed.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the State Board for Elementary and Secondary Education, as required by KRS 156.070(4)

Thomas C. Boysen
Commissioner of Education

JOSEPH W. KELLY, Chairman
APPROVED BY AGENCY: November 15, 1993
FILED WITH LRC: November 15, 1993 at noon

CABINET FOR HUMAN RESOURCES
Department of Health Services
Division of Environmental Health and Community Safety
(As Amended)

900 KAR 1:015. Laetrile manufacturing standards.

RELATES TO: KRS 217.950, 217.952, 311.950 to 311.966, 311.991

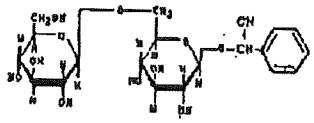
STATUTORY AUTHORITY: KRS 194.050, 217.950

NECESSITY AND FUNCTION: KRS 217.950 provides that Amygdalin (laetrile) may be manufactured in this state subject to licensing [~~and regulation~~] by the Cabinet for Human Resources and directs the Secretary for Human Resources to adopt administrative regulations which prescribe minimum standards for manufacturers in preparing, compounding, processing, and packaging the substance. The secretary is also directed to establish standards of purity and make periodic tests and inspections of both the facilities for manufacture and samples to ascertain the purity, quality, and identity [~~of the substance~~].

Section 1. Intent. In adopting an administrative regulation relating to the manufacture of Amygdalin (laetrile), [~~pursuant to the mandate of the General Assembly of Kentucky~~] the Cabinet for Human Resources takes official notice that this [~~such~~] substance has not been approved by the Federal Food & Drug Administration and that the interstate shipment of the [~~such~~] substance **has been held to** [~~shall~~] [~~has been held to~~] be illegal. This administrative regulation is adopted in recognition of existing federal restrictions.

Section 2. Definitions. [~~As used in this regulation:~~]

(1) "Amygdalin" (laetrile) means Amygdalin (D-mandelonitrile-beta-D-glucoside-6-beta-D-Glucoside), including all dosage forms [~~thereof~~].



It includes:

(a) D-Amygdalin; and

(b) D, L-Amygdalin.

(2) "Cabinet" means the Cabinet for Human Resources.

(3) "Current Good Manufacturing Practices" means [~~the applicable provisions of~~] 21 CFR 210.1 to 210.3 [~~Part 210~~] Current Good Manufacturing Practices in Manufacturing, Processing, Packing, or Holding of Drugs and 21 CFR 211.1 to 211.8 [~~Part 211~~] - Current Good Manufacturing Practice for Finished Pharmaceuticals adopted by the U.S. Food and Drug Administration.

Section 3. Licensing Requirements. (1) A [~~No~~] person, partnership, association, corporation, or other business organization shall not [~~may~~] manufacture, prepare, or compound amygdalin in this state without [~~first obtaining~~] a license from the cabinet [~~department~~].

(2) [~~An~~] Application for a license shall be made on Form DCB-1, "Application for License to Manufacture Amygdalin", provided [~~forms prescribed or approved~~] by the cabinet, [~~department~~] and shall include [~~among other things~~] the training and experience of personnel and a description of the facilities, equipment, and materials to be used in the manufacture of amygdalin. Form DCB-1, "Application for License to Manufacture Amygdalin", revised October 1993, is incorporated by reference, and may be viewed or obtained at the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. until 4:30 p.m., Monday through Friday.

(3) A [~~No~~] license shall not be issued to manufacture amygdalin unless the applicant:

(a) Is of good moral character, or if the applicant is an association or corporation, [that] its officers are of good moral character;

(b) Is in compliance with "Current Good Manufacturing Practices;"

(c) Has qualified personnel to perform assigned tasks;

(d) Submits the formula, including all components [thereof], involved in the manufacture of the product;

(e) Has submitted a label [for approval] which discloses all information required for a prescription drug, [under federal law] including a disclosure of possible side effects;

(f) Is financially responsible; and

(g) Is in compliance with all [other] provisions of this administrative regulation.

Section 4. License Expiration; Renewal. (1) Every license issued by the cabinet [department] to manufacture amygdalin shall expire on June 30 of each year following the date of issuance unless [sooner] suspended or revoked.

(2) A [No] license shall not be renewed by the cabinet [department] to manufacture amygdalin unless the applicant is in [full] compliance with the provisions of this administrative regulation.

Section 5. Manufacturing Practices. The Current Good Manufacturing Practices in Manufacturing, Processing, Packing, or Holding of Drugs [as set forth] in 21 CFR 210.1 to 210.3 [Part 210] and the Current Good Manufacturing Practice for Finished Pharmaceuticals [as set forth] in 21 CFR 211.1 to 211.208 [Part 211] adopted by the U.S. Food and Drug Administration, incorporated by reference, shall apply. [are hereby adopted by the department as applicable to the manufacture of amygdalin in this state. The Code of Federal Regulations is published by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.] A copy of 21 CFR 210.1 to 210.3 and 21 CFR 211.1 to 211.208 [this publication] shall be on file in the Office of the Commissioner for Health Services, [Inspector General, Cabinet for Human Resources,] 275 East Main Street, Frankfort, Kentucky 40621, and [is] available for public inspection and copying, Monday through Friday, 8 a.m. until 4:30 p.m. A copy may also be obtained [of this publication is also available] from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Section 6. Standards of Identity, Purity, and Tests for D-Amygdalin.

(1) Powder form:

(a) Molecular formula: $C_{20}H_{27}NO_{11}$;

(b) Molecular weight: 457.4;

(c) Description: White powder - melting range: varies with water of crystallization and previous melting;

(d) Solubility: (mg/ml) water 125, ethanol 0.33, ten (10) percent [10%] ethanol 20, ether insoluble, methylene chloride insoluble;

(e) Stability:

1. Solution: (10 mg/ml) Determined by gas chromatography of TMS derivative:

pH 6 phosphate buffer	Stable at least twenty-four (24) hours
pH 8 phosphate buffer	No more than fifteen (15) percent [15%] L-Amygdalin formed in twenty-four (24) hours
0.1 N HCl	No more than sixty-five (65) percent [65%] decomposition in ten (10) minutes
0.1 N NaOH	No more than fifty-six (56) percent [56%] decomposition in ten (10) minutes

2. Bulk: A sample stored at sixty (60) degrees Celsius [60°C] for thirty (30) days showed no degradation as indicated by gas chromatography;

(f) Elemental composition:

Carbon	52.51
Hydrogen	5.95
Nitrogen	3.06
Oxygen	38.48

(g) Water: The compound shall not contain [may contain no] more than six (6) percent water, determined by Karl-Fischer;

(h) Infrared spectrum: The infrared spectrum conforms to reference material;

(i) Ultraviolet absorption: (H_2O) a solution has the following absorption peaks (alpha max) and extinction coefficients (E):

Alpha max	E
268 nm	214
262 nm	312
257 nm	287
252 nm	203
208 nm	7400

(j) Nuclear magnetic resonance: (D_2O)

Chemical Shift (δ)	Pattern	No. Protons	Assignment
3.2-5.2	m	14	Glucosyl protons
5.9	s	1	H - C - C = N
7.6	s	5	Phenyl protons

(k) Optical rotation:

$$[\alpha]_D^{20} = -42^\circ \ (1, H_2O)$$

Merck Index, 8th Ed. (1968);

(l) Gas chromatography:

1. Column: three (3) percent [3%] OV-1 on 100/200 Chromosorb W, AW-DMCS in glass column;

2. Oven temperature: 250 degrees [°] to 275 degrees Celsius [°C] programmed at one (1) degree per [1°/] minute;

3. Carrier gas: N_2, thirty-five (35) ml. per [/] minute;

4. Sample: TMS-derivative of the sample (Prepare by dissolving one (1) mg. of the sample in five-tenths (0.5) ml. tri-sil with gentle heat.);

5. Detection: Flame ionization at 300 degrees Celsius [°C];

(m) Thin layer chromatography:

1. Adsorbent: SiO_2·HF;

2. Solvent system: n-BuOH/HOAc/H_2O (6:3:1);

3. Sample applied: 100γ, 200γ, (H_2O);

4. Detection: UV, I_2, KBR [KPR] Spray;

(n) Purity: The compound shall not contain [should contain no] more than one (1) percent [%] total impurities other than water;

(o) Suggested identity tests: IR, UV & NMR Spectra; and

(p) Suggested assay procedures: Thin layer and gas chromatography.

(2) Tablet form:

TEST	SPECIFICATION
Assay:	Ninety (90)-110 percent [%] of label
HPLC Method Column-Lichrosorb RP8, 300 mm. x 4 mm.	The total of all uv absorbing impurities shall not exceed

Mobile phase 25% CH_3OH in H_2O Flow rate - 2 ml./min. Detector/sensitivity-uv at 254 nm/0.02 aufs	five (5) of this chromatogram
Disintegration: Current USP method	100% within fifteen (15) minutes
Dissolution: Current USP method	100% within thirty (30) minutes
Weight variation	Conforms to current USP
Thin layer chromatography (Methanol extraction) Adsorbent: Silica gel GF Solvent system: n-BuOH/HOAc/H_2O, 4/1/1 Sample applied: 200, 100γ (MeOH) References: D,L-Amygdalin, 100γ (H_2O) D,L-Amygdalinamide, 2, 4γ (H_2O) D,L-Amygdalin acid, 3, 5γ (H_2O) Detection: uv, I_2,H_2SO_4 - charring.	Compares favorably to reference material

Section 7. Standards of Identity, Purity, and Tests for D,L-Amygdalin.

(1) Powder form:

(a) Molecular formula: $C_{20}H_{27}NO_{11}$;

(b) Molecular weight: 457.4;

(c) Description: White powder;

(d) Solubility: (mg./ml.) Water 350; Methanol 100+; Chloroform 0.1;

(e) Stability:

1. Solution: A solution of ten (10) mg. in one (1) ml. water shows no degradation as indicated by gas chromatography, after twenty-four (24) hours.

2. Bulk: A sample stored at sixty (60) degrees Celsius [~~60°C~~] for thirty (30) days shows no degradation as indicated by gas chromatography.

(f) Elemental composition:

Carbon	52.51
Hydrogen	5.95
Nitrogen	3.06
Oxygen	38.48

(g) Water: The compound shall not [~~may~~] contain [~~no~~] more than six (6) percent water, determined by Karl-Fischer;

(h) Infrared spectrum: The infrared spectrum conforms to reference material;

(i) Ultraviolet absorption: (H_2O)

Alpha max	E
268 nm	206
262 nm	300
257 nm	280
252 nm	200

(j) Optical rotation:

$$[\alpha]_D^{21} = -52^\circ \ (1,H_2O)$$

(k) Nuclear magnetic resonance: (D_2O)

Chemical Shift (δ)	Pattern	No. Protons	Assignment
3.2-5.2	m	14	Glucosyl protons
5.9	s	1/2	H - C - C = N (L-form)
6.1	s	1/2	H - C - C = N (D-form)
7.6	s	5	Phenyl protons

Internal Reference for Assay: Pyrocatechol, 6.9δ;

(l) Gas chromatography:

1. Column: three (3) percent [~~3%~~] OV-1 on 100/200 Chromosorb W-HP glass column, 6' x 2 mm;

2. Carrier gas: N_2, forty (40) ml. per minute [~~/min~~];

3. Oven temperature: 240 degrees [~~°~~] to 275 degrees Celsius [~~°C~~] programmed at two (2) ml. per minute;

4. Sample: TMS-derivative (Prepare by dissolving one (1) mg. in five-tenths (0.5) ml. tri-sil with gentle heat.);

5. Detection: FID at 280 degrees Celsius [~~°C~~];

(m) Thin layer chromatography:

1. Adsorbent: SiO_2-GF;

2. Solvent system: n-BuOH/HOAc/H_2O) (12:3:1);

3. Sample: 100γ , 200γ , (H_2O);

4. Detection: I_2, UV, $(NH_4)_2SO_4$ - charring;

(n) Purity: The compound consists of about 50:50 D,L-material. There shall not be [~~is to be no~~] more than three (3) percent [~~3%~~] total organic impurities. The compound shall not [~~may~~] contain [~~no~~] more than six (6) percent [~~6%~~] water;

(o) Suggested identity tests:

1. Infrared spectrum;

2. Ultraviolet absorption; or

3. Nuclear magnetic resonance;

(p) Suggested assay procedures:

1. Thin layer chromatography;

2. Karl-Fischer determination; or

3. Gas chromatography.

(2) Sterile injectable form:

TEST	SPECIFICATION
Content uniformity	Ninety (90) to 110 percent [~~%~~] of label
HPLC Method Column-300 mm. x 4 mm. I.D. Lichrosorb RP8 Mobile phase - 25% CH_3OH in H_2O Flow rate - 2 ml./min. Detector/sensitivity-uv at 254 nm./0.02 aufs.	The total of all uv absorbing impurities shall not exceed five (5) percent [~~5%~~] of this chromatogram.
Moisture - determine by Karl-Fischer	less than two (2) percent [~~2%~~]
Weight variation	Conforms to current USP
pH of reconstituted solution	4.0 to 8.0
Color of solution	Colorless
Clarity and completeness of solution	Conforms to current USP
Particulate matter	Conforms to current USP
USP sterility test	Sterile
USP pyrogen test	Nonpyrogenic at 600 mg./kg.
Thin layer chromatography	Compares favorably to

Adsorbent: Silica gel GF reference material
Solvent system:
n-BuOH/HOAc/H_2O, 4/1/1
Sample applied: 400, 200γ (H_2O)
References: D,L-Amygdalin, 200γ (H_2O)
D,L-Amygdalinamide, 1, 2γ (H_2O)
D,L-Amygdalin acid, 1, 2γ (H_2O)
Detection: uv, I_2, 30% H_2SO_4 - charring.

Section 8. Adulterated [When] Amygdalin [Deemed Adulterated]. Amygdalin shall be [deemed to be] adulterated if:

(1)[(a)] [If] It consists in whole or in part of a [any] filthy, putrid, or decomposed substance; [or]

(2) [(b) If it has been] Produced, prepared, packed, or held under unsanitary conditions where[by] it may have been contaminated with filth or [whereby it may have been] rendered injurious to health; [or]

(3) [(c) If] Its container is composed in whole or in part of a [any] poisonous or deleterious substance which may render the contents injurious to health;

(4) [(2) If] Its strength differs from, or its quality or purity falls below, the standard set forth in this administrative regulation. The [Such] determination of [as to] strength, quality, or purity shall be made in accordance with the tests or methods of assay [set forth] in this administrative regulation;

(5) [(3) If] Its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess; or

(6) It [(4) If amygdalin] has been:

(a) Mixed or packed [therewith so as] to reduce its quality or strength; or

(b) Substituted wholly or in part [therefor].

Section 9. Misbranded [When] Amygdalin [Deemed Misbranded]. (1) Amygdalin shall be [deemed to be] misbranded if:

(a) [(1) If its] Labeling is false or misleading in any particular;

(b) [(2) If] In package form, unless it bears a label containing:

1. [(a) The] Name and place of business of the manufacturer, and [the] name and place of business of the packer or distributor, if other than manufacturer; and

2. [(b)] An accurate statement of the quantity of the contents in [terms of] weight, measure, or numerical count; [provided that] reasonable variations shall be permitted;

(c) A [(3) If any] word, statement, or other information required by 21 CFR 201.1 to 201.317, incorporated by reference, and [or under authority of] this administrative regulation to appear on the label or labeling is not prominently placed [thereon] with clarity [such conspicuousness] ([as] compared with other words, statements, designs, or devices, in the labeling) and in [such] terms [as to render it] likely to be read and understood by the ordinary individual under customary conditions of purchase and use. A copy of 21 CFR 201.1 to 201.317 shall be on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, and available for public inspection and copying, Monday through Friday, 8 a.m. until 4:30 p.m.;

(d) The [(4) Unless its] label does not state [bears]:

1. [(a)] The common or usual name of amygdalin;

2. [(b) Adequate] Directions for use; and

3. [(c) Such adequate] Warnings against:

a. Use in [those] pathological conditions where a danger to health exists;

b. Use [or] by children where a danger to health exists; and [its use may be dangerous to health, or against]

c. Unsafe dosage, [or] methods, or duration of administration or application[, in such manner and form, as are necessary for the protection of users];

(e) [(5) If] It has been found by the cabinet [department] to be apt [liable] to deteriorate [deterioration], unless it is packaged in a manner to protect public health [such form and manner], and its label bears a statement of [such] precautions;

(f) The [(6)(a) If its] container is [so] made, formed, or filled [as] to be misleading; [or]

(g) [(b) If] It is an imitation of another substance; [or]

(h) [(c) If] It is offered for sale under the name of another substance;

(i) [(7) If] It is dangerous to health if [when] used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling [thereof];

(j) [(8) If:

(a) It is] Intended for use by man [which because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use is not safe for use except under the supervision of a practitioner, and is not dispensed upon a prescription] unless, prior to dispensing, its label bears the statement "Caution: Kentucky law prohibits dispensing without prescription;" or

(k) The [(b) Its] label (as originally packed) directs that it is to be dispensed or sold only on prescription, unless [it is] dispensed or sold on a prescription of an authorized practitioner, and its label (as dispensed) bears the name and place of business of the dispenser or seller, the serial number and date of the [such] prescription, and the name of the [such] licensed practitioner. Amygdalin [Such] prescriptions shall not be refilled.

(2) [(9)] Amygdalin sold on a prescription of a practitioner shall be exempt from the requirements of this section if:

(a) The [Such] practitioner is licensed by law to administer amygdalin; and

(b) Amygdalin bears a label containing:

1. The name and place of business of the seller;

2. The serial number and date of the [such] prescription; [and]

3. The name of the [such] practitioner; and

4. The name of the patient for whom prescribed.

(3) [(10)] It is not the intention of subsection (1)(b)1 [(2)(a)] of this section to require the name and place of business of the wholesaler to appear upon the label of the package.

Section 10. Inspections. The cabinet [department] or its duly authorized agent shall have free access at all reasonable times to a [any] factory, warehouse, or establishment in which amygdalin is manufactured, processed, packed, or held for sale for the purpose of:

(1) [Of] Inspecting the [such] factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling [thereon], to determine if any of the provisions of this administrative regulation are being violated; [; and]

(2) [Of] Securing samples or specimens of [any] amygdalin. It shall be the duty of the cabinet [department] to make or cause to be made examinations of samples secured under the provisions of this section to determine if a [whether or not any] provision of this administrative regulation is being violated; [; and]

(3) [Of] Examining or reproducing books, papers, documents, or other evidence pertaining to [such] amygdalin.

Section 11. Detention or Quarantine of Amygdalin if Adulterated or Misbranded. (1) If [Whenever] a duly authorized agent of the cabinet [department] finds, or has probable cause to believe, that any amygdalin is adulterated or misbranded pursuant to [within the meaning of] this administrative regulation, the agent [he] shall affix [to such article] a tag or [other appropriate] marking, giving notice that [such] amygdalin is, or is suspected of being, adulterated or misbranded and has been detained or quarantined. The tag or marking shall be a [and] warning [all persons] not to remove or dispose of [such] amygdalin [by sale or otherwise] until permission for removal or disposal is given by the [such] agent or [by] the district court. A [No] person shall not remove or dispose of [such] detained or quarantined amygdalin [by sale or otherwise] without [such] permission.

(2) If [When] amygdalin detained or quarantined under subsection (1) of this section has been found by the [such] agent to be adulterat-

ed or misbranded, the agent [he] shall petition the judge of the district court where [in whose jurisdiction] the amygdalin is detained or quarantined for an order for condemnation. [of such article; provided that] Nothing in this section shall require [that] the cabinet [department] or its agent to [shall] go to court if destruction of the quarantined amygdalin is accomplished by agreement made in writing with the owner [of the property]. If the [When such] agent has found [that] amygdalin [so] detained or quarantined is not adulterated or misbranded, the agent [he] shall remove the tag or [other] marking.

Section 12. Revocation or Suspension of License. (1) The cabinet [department] may suspend or revoke a [any] license to manufacture amygdalin for violation of a [any] provision of this administrative regulation after proper notice and an opportunity for a due process hearing.

(2) [(1)] Upon notification of intent to suspend or revoke or upon suspension or revocation of a manufacturer's license, the manufacturer may request a hearing. The request for a hearing shall be made in writing on Form DCB-2, "Request for Hearing," and received by the cabinet within ten (10) days after notification by the cabinet of an enforcement proceeding. Form DCB-2, "Request for Hearing," revised October 1993, is incorporated by reference, and may be viewed or obtained at the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. until 4:30 p.m.

(3) [(2)] The cabinet shall notify the requesting party in writing of the:

(a) Name of the hearing officer; and

(b) Time and place of the hearing.

(4) [(3)] All parties shall be allowed a reasonable time to prepare for the hearing, including the right to:

(a) Be represented by counsel;

(b) Present evidence on **their** [his] behalf; and

(c) Cross-examine witnesses.

(5) [(4)] A transcript of the hearing shall not be made unless requested. The expense of transcribing the hearing shall be the responsibility of the requesting party.

(6) [(5)] The hearing officer shall make written findings of fact and conclusions of law, and render a final decision based upon the evidence presented.

RICE C. LEACH, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: October 26, 1993
FILED WITH LRC: December 15, 1993 at 11 a.m.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Environmental Health & Community Safety
(As Amended)

902 KAR 10:050. Refuse bins.

RELATES TO: KRS 211.025, 211.090, 211.180, 16 CFR Part 1301

STATUTORY AUTHORITY: KRS 194.050, 211.090

NECESSITY AND FUNCTION: KRS 211.090 and 211.180 authorize [grant] the Cabinet for Human Resources [the authority] to adopt administrative [establish] regulations relating to all matters of public health for the prevention and control of health hazards. The purpose of this administrative regulation is to establish a standard for certain refuse bins, to prescribe testing conditions and procedures for refuse bins and to set forth procedures for structurally modifying unstable bins or those not complying with the standard. Because unstable refuse bins are a potential hazard to the health and well being of children and because the average life of a refuse bin is estimated to be from ten (10) to fifteen (15) years, standards are required to minimize the risk from injury of the product.

Section 1. Definitions. [The following definitions shall apply to all refuse bin administrative regulations:]

(1) "Refuse bin" means a metal receptacle having an internal volume one (1) cubic yard or greater, by actual measurement, which temporarily receives and holds refuse for ultimate disposal either by unloading into the body or loading hopper of a refuse collection vehicle or by other means.

(2) "Internal volume" means the actual volumetric capacity of the container. This **shall not be required to** [may not] [necessarily] correspond to the nominal size rating used by industry.

(3) "Tip over" **means that a refuse bin begins to rotate forward about its forwardmost ground supports during the application of either test force described in Section 3 of this administrative regulation.** [and "tipping over" mean that during the application of either test force described in Section 4 of this administrative regulation, the refuse bin begins to rotate forward about its forwardmost ground supports.]

(4) "Unstable refuse bin" means a bin which has an actual internal volume of one (1) cubic yard or greater **that may tip** [and tips] over if [when] an external vertically downward force is applied to the bin in a position which most adversely affects stability.

(5) **"Distributed in commerce" means to:**

(a) Sell;

(b) Introduce or deliver for sale; or

(c) Hold or offer for sale or distribution. ["Distribute in commerce" and "distribution in commerce" mean to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.]

(6) "Cabinet" means the Cabinet for Human Resources.

(7) "Risk of injury" means a risk of death, personal injury, or serious or frequent illness.

(8) ["Retrofit" and] "Retrofitting" means the structural modification of a bin to make it stable.

Section 2. [Applicability. Refuse bins under the ownership of municipalities or local, state, or federal agencies or their political subdivisions, private individual customers, retail and wholesale businesses [such as restaurants, grocery stores, warehouses]; manufacturers and other similar establishments or firms on the effective date of this administrative regulation, are exempt from the provisions of this administrative regulation if the [; provided, however, such] bins introduced into commerce are subject to Section 6 of this administrative regulation.

Section 3.] Test Conditions. A refuse bin **distributed in commerce** shall be subject to the required tests under the following conditions.

(1) The refuse bin shall be empty and have its lids or covers in a position which would most adversely affect the stability of the bin [when tested].

(2) The refuse bin shall be tested on a hard, flat surface. During testing, the bin shall not be tilted from level [in such a way as] to increase its stability.

(3) Those refuse bins equipped with casters or wheels shall have the casters or wheels positioned in a position which would most adversely affect the stability of the bin and shall be chocked to prevent movement.

(4) The stability of the refuse bin shall be tested without dependence upon nonpermanent attachments or restraints [such as chains or guys].

(5) For purposes of enforcement, bins shall [will] be tested by the cabinet in that position which most adversely affects their stability.

Section **3.** [4.] Test Procedures. The following procedures shall

apply to the testing of a refuse bin:

(1) The refuse bin shall be tested by applying forces as described below and in the order indicated:

(a) A horizontal force of seventy (70) pounds [~~(311N)~~] shall be applied to a point and in a direction most likely to cause tipping; and

(b) A vertically downward force of 191 pounds [~~(850N)~~] shall be applied to a point most likely to cause tipping.

(2) These forces shall be applied separately and the bin shall not tip over under the application of either action cited above.

~~[(3) A refuse bin is considered to tip over if [when] it begins to rotate forward about its forwardmost ground supports.]~~

Section 4. [~~5.~~] Modification of Unstable Bins. Bins that do not meet the requirements of the test procedures [~~and are[, therefore,] unstable~~] may be structurally **retrofitted to comply with the provisions of this administrative regulation** [~~modified so the bin will be in compliance and no longer hazardous~~]. [~~Structural modification (~~]Retrofitting[~~)~~] may be accomplished in several ways including: [~~but not limited to the following:~~]

(1) Metallic extensions may be welded to the front of the sloping side, **and the wheels may be moved forward on the extensions; or** [~~and moving the wheels forward on the extensions~~].

(2) **A permanent counter weight may be placed on the back of the bin. Retrofitting to stabilize refuse bins shall be of durable construction so as to last the useful life of the bin.** [~~Placing a permanent counter weight [(permanent)] on the back of the bin. Structural modification made to stabilize unstable refuse bins shall [must] be of [such] durable construction so as to last the useful life of the bin to which applied.~~]

~~[Section 6. Refuse Bins that are not in Compliance with Standards. A [Any] refuse bin of metal construction produced or distributed, for sale to, or for the personal use, consumption, or enjoyment of consumers, in or around a permanent or temporary household or residence, a school, in recreation or otherwise, which is in commerce or being distributed in commerce on or after the effective date of these standards and which has an actual internal volume one (1) cubic yard or greater and tips over if [when] tested under conditions which are compatible with Section 3 of this administrative regulation, and using the procedures described in Section 4 of this administrative regulation, shall be deemed a prohibited product and prohibited from distribution in commerce if [when] found to be not in compliance with these standards.~~

~~Section 7. Compliance. Refuse bins which are in compliance with applicable standards adopted by the United States Consumer Product Safety Commission shall be considered to be in compliance with these standards.]~~

Section 5. [~~8.~~] Issuance and Service of Notice of Violations. (1) If [~~When~~] test procedures described in Section **3** **[4]** of this administrative regulation **establish that** [~~reveal~~] the bin[~~(s)~~] **does not comply with the standards prescribed by this administrative regulation** [~~is not in compliance with the prescribed standards~~], the cabinet shall notify the owner **in writing** [~~of the [such] violations by means of a written notice~~]. The [~~Such~~] notification shall:

(a) Set forth the specific violations found;

(b) Establish a specific and reasonable period of time for the correction of the [~~such~~] violations;

(c) State that an opportunity for appeal from a [~~any~~] notice of inspectional findings shall [~~will~~] be provided if a written request for a hearing is filed with the cabinet within the period of time established in the notice for correction; **and**

(d) State that the owner may be represented by counsel during the course of the hearing and may cross-examine witnesses against the owner.

(2)**(a)** Notices provided for under this administrative regulation shall be deemed to have been properly served if [~~when~~] the written notification of findings has been**:**

1. Delivered personally to the owner of the bin or person in charge **of the bin;** or

2. [~~if the [when such] notice has been~~] Sent by registered or certified mail, return receipt requested, to the last known address of the owner or person in charge.

(b) A copy of the [~~such~~] notice shall be filed with the records of the cabinet.

Section 6. [~~9.~~] Hearings. **(1) A hearing shall be conducted by the cabinet at a time and place designated by it if:**

(a) Nonconforming bins are not brought into compliance with the applicable standards within the prescribed period of time; or

(b) An appeal from the findings of violations is requested by the owner or person in charge.

(2) [~~Should nonconforming bins not be brought into compliance with the applicable standards within the prescribed period of time or an appeal from the findings of violations is requested by the owner or person in charge, a hearing shall be conducted by the cabinet at a time and place designated by it.~~] Based upon the record of the [~~such~~] hearing, the cabinet shall make findings of fact and conclusions of law and a final decision on the appeal.

(3) A transcript of the hearing shall not be made unless requested by the interested party [~~assumes the costs thereof~~].

RICE C. LEACH, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: October 26, 1993
FILED WITH LRC: December 15, 1993 at 11 a.m.

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

902 KAR 11:030. Personnel standards.

RELATES TO: KRS Chapter 333
STATUTORY AUTHORITY: KRS 194.050
NECESSITY AND FUNCTION: KRS Chapter 333 authorizes [~~empowers~~] the Cabinet for Human Resources to license and regulate medical laboratories in Kentucky, including **the** [~~, but not limited to,~~] setting **of** qualifications for medical laboratory personnel. [~~The function of~~] This administrative regulation establishes [~~is to establish~~] personnel standards for medical laboratory directors, supervisors, technologists, and technicians.

Section 1. Medical Laboratory Director. (1) A medical laboratory director shall, in addition to the responsibilities specified in KRS Chapter 333, be responsible for the following:

(a) [~~The~~] Technical and scientific operation of the laboratory;

(b) [~~The~~] Performance of tests made in the laboratory;

(c) [~~The~~] Reporting of findings of laboratory tests; and

(d) [~~The~~] Employment of qualified laboratory personnel and their in-service training.

(2) The director may serve the laboratory on a full-time or regular part-time basis.

(a) A director may not serve more than three (3) medical laboratories on a regular part-time basis, unless the director [~~he or she~~] provides for an associate**, qualified according to the standards in subsection (4) of this section,** in each additional laboratory**[**~~, qualified according to the standards [set forth] in subsection (4) of this section,~~**]** to serve as assistant director in each laboratory.

(b) An assistant director [~~so designated~~] shall not serve more than three (3) laboratories.

(3) Commensurate with the laboratory workload, the director shall spend [an] adequate [amount of] time in the laboratory to effectively direct and supervise its technical operation. [In addition,] The director shall be [readily] available for personal or telephone consultation. If [In the event that] the director is to be continuously absent from the laboratory for more than one (1) month, the director shall [he or she must] make arrangements for a qualified substitute director.

(4) [In order] To qualify as a medical laboratory director, a person shall [must] meet one (1) of the following requirements:

(a) [He or she] Is a physician certified in anatomical [and/]or clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology, or **possessing** [possesses] qualifications [which are] equivalent to those required for the [such] certification.

(b) [He or she] Is a physician certified by the American Board of Pathology or the American Osteopathic Board of Pathology in at least one (1) of the laboratory specialties.

(c) [He or she] Is a physician certified by the American Board of Medical Microbiology, the American Board of Clinical Chemistry, the American Board of Bioanalysis, or any other national accrediting board[s] in one (1) of the laboratory specialties.

(d) [He or she] Is a physician certified by the American Society of Cytology to practice cytopathology or **possessing** [possesses] qualifications which are equivalent to those required for [such] certification.

(e) [He or she] Is a physician who, subsequent to graduation, [has] **has** [had] [at least] two (2) years of experience in a [an approved] medical laboratory approved by the cabinet.

(f) [He or she] Holds an earned doctoral degree from an accredited institution with a chemical, physical, or biological science as a major subject; and

1. Is certified by the American Board of Medical Microbiology, the American Board of Clinical Chemistry, the American Board of Bioanalysis, or any other national accrediting board acceptable to the cabinet in one (1) of the laboratory specialties; or

2. Subsequent to graduation [has] **has** [had] [at least] two (2) years' full-time experience in one (1) of the laboratory specialties.

(5) A dentist certified by the American Board of Oral Pathology or possessing qualifications [which are] equivalent to those required for certification may serve as director of a medical laboratory specializing in the area of oral pathology only.

(6) [In the event that] An individual [was] responsible for the direction of a medical laboratory for twelve (12) months between January 1, 1968, and May 4, 1977, [the effective date of this regulation, he or she] may continue to serve as a medical laboratory director if one (1) of the following requirements is met:

(a) [He or she] Holds a master's degree from an accredited institution with a chemical, physical, or biological science as a major subject and, subsequent to graduation, [has] **has** [had] [at least] four (4) years of pertinent full-time laboratory experience. [; or]

(b) [He or she] Holds a bachelor's degree from an accredited institution with a chemical, physical, or biological science as a major subject, and subsequent to graduation, [has] **has** [had] [at least] six (6) years of pertinent full-time medical laboratory experience. [; or]

(c) [He or she] Has achieved a satisfactory grade through an examination approved by the cabinet.

Section 2. Medical Laboratory Supervisors. (1) [In] Each medical laboratory [there] shall have [be] a general supervisor and a technical supervisor. A general supervisor may [also] be a technical supervisor in those specialties in which requirements of competency are met as [otherwise] provided in 902 KAR Chapter 11 [the cabinet's regulations relating to medical laboratories].

(2) The general supervisor shall [must] be present on the laboratory premises during all hours in which tests are being performed.

(3) The technical supervisor shall spend [an] adequate [amount of] time in the laboratory to supervise the technical performance of the staff in the specialty and shall be [readily] available for personal or telephone consultation.

(4) Emergency procedures [which must be] implemented outside [of] regularly scheduled hours of duty may [can] proceed without the general supervisor being on the premises if [provided that] the technologist performing the tests is qualified to do so. [In such instances,] The supervisor who is responsible for the result of the work shall [must] review the tests [them] during the next duty period, and a record shall [must] be maintained reflecting the actual review.

(5) [In order] To qualify as a general supervisor, a person shall [must] meet one (1) of the following requirements:

(a) [He or she] Is a physician, or has earned a doctoral degree from an accredited institution with a major in one (1) of the chemical, physical, or biological sciences and, subsequent to graduation, [has] **has** [had] [at least] two (2) years of experience in one (1) of the laboratory specialties in a [an approved] medical laboratory approved by the cabinet.

(b) [He or she] Holds a master's degree from an accredited institution with a major in one (1) of the chemical, physical, or biological sciences and, subsequent to graduation, [has] **has** [had] [at least] three (3) years of pertinent full-time laboratory experience of which [not less than] two (2) years have been spent working in the designated laboratory specialty in a [an approved] medical laboratory approved by the cabinet.

(c) [He or she] Is qualified as a medical laboratory technologist pursuant to [the provisions of] Section 3 of this administrative regulation and, subsequent to the date of qualifying as a medical laboratory technologist, [has] **has** [had] [at least] four (4) years of pertinent full-time laboratory experience of which [not less than] two (2) years have been spent working on the designated laboratory specialty in a [an approved] medical laboratory approved by the cabinet.

(6) [In order] To qualify as a technical supervisor, the [such] person shall meet competency [the] requirements [of competency as otherwise] provided in 902 KAR Chapter 11 [the cabinet's regulations relating to medical laboratories].

(7) [In order] To serve as general supervisor of medical laboratory personnel specializing in the area of diagnostic cytology, a person shall [must] qualify as a cytotechnologist pursuant to Section 3 of this administrative regulation and, subsequent to the qualification, [such qualifications has] **have** [had] four (4) years of full-time experience as a cytotechnologist in a laboratory directed or supervised by a pathologist or other physician recognized as a specialist in diagnostic cytology within the preceding ten (10) years.

(8) A person not meeting the training and experience requirements of subsection (5)(a),(b), and (c) of this section may [nonetheless] qualify as a medical laboratory general supervisor if the person:

(a) [He or she] Was performing the duties of a medical laboratory general supervisor anytime between January 1, 1968, and May 4, 1977 [the effective date of these regulations]; and

(b) [He or she] Has [had at least] fifteen (15) years of pertinent full-time medical laboratory experience. [For purposes of this subsection,] A minimum of thirty (30) semester hours of credit from an approved school of medical technology or toward a bachelor's degree from an accredited institution with a chemical, physical, or biological science as a major subject shall be considered equivalent to two (2) years of experience. Additional education shall be equated to the rate of fifteen (15) hours of credit for one (1) year of experience.

(9) [In the event] An individual [has been] serving as a [in the capacity of] medical laboratory supervisor in Kentucky for a period of [not less than] one (1) year prior to May 4, 1977, [the effective date of this regulation, he or she] may continue to supervise the [such] laboratory unless otherwise exempted in [notwithstanding the requirements of] subsections (5), (6), (7), and (8) of this section. [; provided, however, that] The cabinet may require, in the interest of the health, safety, and welfare of the people of this state **and** as a condition to

[~~precedent to the~~] issuance of an original or renewal license, the individual **to** satisfactorily [~~hereunder that such individuals~~] demonstrate the [~~their~~] ability [~~satisfactorily~~] to perform medical laboratory examinations and [~~to~~] supervise a medical laboratory.

Section 3. Medical Laboratory Technologists and Cytotechnologists. (1) Medical laboratory technologists and cytotechnologists shall be in sufficient number to adequately supervise the work of technicians or trainees.

(2) An individual qualifying as a medical laboratory technologist shall:

(a) Perform tests requiring the exercise of independent judgment and responsibility with minimal supervision by the director or supervisors only in those specialties or subspecialties in which the technologists are qualified by education, training, and experience.

(b) Perform tests only under the direct supervision of the laboratory supervisor or qualified technologist in those specialties in which the medical laboratory technologist is not qualified by education, training, or experience.

(3) [~~In order~~] To qualify as a medical laboratory technologist, a person shall [~~must~~] meet one (1) of the following requirements:

(a) [~~He or she~~] **Earn** [~~Has earned~~] a bachelor's degree in medical technology from an accredited university or college. [~~; or~~]

(b) [~~He or she~~] **Successfully complete** [~~Has successfully completed~~] three (3) years of academic study (a minimum of ninety (90) semester hours or equivalent) in an accredited college or university which meet the specific requirements for entrance into a school of medical technology accredited by an accrediting agency approved by the cabinet [~~appropriate state agency~~] and **successfully complete** [~~has successfully~~] completed a course of training of [~~at least~~] twelve (12) months in [~~such~~] a school of medical technology. [~~; or~~]

(c) **Earn** [~~He or she~~] [~~Has earned~~] a bachelor's degree in one (1) of the chemical, physical, or biological sciences, **with an additional** [~~and[, in addition,] has~~] [~~at least~~] one (1) year of pertinent full-time laboratory experience [~~and/~~]or training in the specialty or subspecialty in which the individual performs. [~~; or~~]

(d) **Successfully complete** [~~He or she~~] [~~Has successfully completed~~] three (3) years (a minimum of ninety (90) semester hours or equivalent) in an accredited college or university with the following distribution of courses:

1. For those whose training was completed prior to September 15, 1963, the course work shall [~~must~~] include [~~at least~~] twenty-four (24) semester hours in chemistry and biology courses of which [~~at least~~] six (6) semester hours **are** [~~were~~] in inorganic chemistry, and [~~at least~~] three (3) semester hours **are** [~~were~~] in other chemistry courses, and [~~at least~~] twelve (12) semester hours **are** [~~were~~] in biology courses pertinent to the medical sciences; or

2. For those whose training was completed after September 14, 1963, the course work shall [~~must~~] include [~~at least~~] sixteen (16) semester hours in chemistry courses which include [~~at least~~] six (6) semester hours in inorganic chemistry [~~and which are~~] acceptable toward a major in chemistry, [~~; and~~] sixteen (16) semester hours in biology courses which are pertinent to the medical sciences and are acceptable toward a major in biology, and three (3) semester hours of mathematics; and

3. [~~He or she~~] Has experience [~~and/~~]or training covering several fields of medical laboratory work of [~~at least~~] one (1) year and of a [~~such~~] quality [~~as~~] to provide [~~him with~~] education and training in medical technology equivalent to that described in paragraphs (a) and (b) of this subsection.

(e) A person not meeting the training and experience requirements defined in paragraphs (a), (b), (c), or (d) of this subsection may [~~nonetheless~~] qualify as a medical laboratory technologist if the person:

1. [~~He or she~~] Was performing the duties of a medical laboratory technologist any time between January 1, 1968, and May 4, 1977; [~~the effective date of these regulations,~~] and

2. [~~He or she has~~] Had [~~at least~~] ten (10) years of pertinent medical laboratory experience prior to May 4, 1977. [~~the effective date of these regulations. For purposes of this subsection,~~] A minimum of thirty (30) semester hours of credit from an approved school of medical technology or toward a bachelor's degree from an accredited institution with a chemical, physical, or biological science as a major subject shall be considered equivalent to two (2) years of experience. Additional education shall be equated to the rate of fifteen (15) hours of credit for one (1) year of experience.

(f) [~~He or she~~] Has achieved a satisfactory grade in a proficiency examination approved by the cabinet. [~~However,~~] After December 31, 1978, initial qualification as a technologist shall [~~must~~] be in accordance with the requirements of paragraphs (a), (b), (c), or (d) of this subsection.

(4) [~~In order~~] To qualify as a medical laboratory cytotechnologist, a person shall [~~must~~] meet one (1) of the following requirements:

(a) **Successfully complete** [~~Have successfully completed~~] two (2) years in an accredited college or university with [~~at least~~] twelve (12) semester hours in science, eight (8) hours of which are in biology; and

1. **Complete** [~~Have~~] twelve (12) months of training in a school of cytotechnology accredited by an accrediting agency approved by the cabinet [~~appropriate state agency~~]; or

2. [~~He or she~~] Has received six (6) months of formal training in a school of cytotechnology accredited by an accrediting agency approved by the cabinet [~~appropriate state agency~~] and six (6) months of full-time experience in cytotechnology in a laboratory acceptable to the pathologist who directed the [~~such~~] formal six (6) months of training. [~~; or~~]

(b) [~~He or she~~] Has, prior to May 4, 1977 [~~the effective date of these regulations~~]:

1. Graduated from high school; [~~and~~]

2. Completed six (6) months of training in cytotechnology in a laboratory directed by a pathologist or other physician recognized as a specialist in cytotechnology; and

3. Completed two (2) years of full-time supervised experience in cytotechnology.

(c) [~~He or she~~] Has achieved a satisfactory grade in a proficiency examination approved by the cabinet. [~~However,~~] After December 31, 1978, initial qualification as a cytotechnologist shall [~~must~~] be in accordance with the requirements of paragraphs (a) or (b) of this subsection.

(5) An individual qualifying as a cytotechnologist solely under subsection (4) of this section may supervise technicians and trainees only in the specialty of cytology.

(6) [~~In the event~~] An individual [~~has been~~] serving as [~~in the capacity of~~] a laboratory technologist or cytotechnologist in Kentucky for a period of [~~not less than~~] one (1) year prior to May 4, 1977, [~~the effective date of these regulations, he or she~~] may continue to serve the laboratory in a [~~such~~] capacity unless otherwise exempted in [~~notwithstanding the requirements of~~] subsections (3) and (4) of this section. [~~, provided, however, that~~] The cabinet may require, in the interest of the health, safety, and welfare of the people of this state **and** as a condition to [~~precedent to the~~] issuance of an original or renewal license, the individual **to** satisfactorily [~~hereunder, that such individuals~~] demonstrate the [~~their~~] ability [~~satisfactorily~~] to perform medical laboratory functions under supervision.

Section 4. Medical Laboratory Technicians and Trainees. (1) Medical laboratory technicians shall:

(a) Perform only [~~those~~] medical laboratory procedures which require a degree of skill commensurate with their education, training, and technical abilities, and which involve limited exercise of independent judgment.

(b) Perform procedures only in the presence of a qualified medical laboratory technologist, supervisor, or director.

(2) A medical laboratory technician trainee shall perform only repetitive procedures which require a minimal exercise of independent judgment. These [He or she may perform such] procedures shall be performed only under the personal and direct supervision of a qualified supervisor or technologist.

(3) [In order] To qualify as a medical laboratory technician, a person shall [must] meet one (1) of the following requirements:

(a) [He or she] **Successfully complete** [Has successfully completed] sixty (60) semester hours of academic credit, including chemistry and biology, and [as well as] a structured curriculum in medical laboratory techniques at an accredited institution, or **possess** [has] an associate degree based on a course of study including those subjects from an accredited institution. [; or]

(b) [He or she] **Be** [Is] a high school graduate or equivalent [thereof] and **have** [has] completed [at least] one (1) year in a technician training program in a school accredited by an accrediting agency approved by the cabinet. [appropriate state agency; or]

(c) [He or she] **Be** [Is] a high school graduate or equivalent [thereof] and **have** [has] [had] two (2) years of pertinent full-time laboratory experience as a technician trainee in a [an approved] medical laboratory approved by the cabinet. [; or]

(d) [He or she] **Be** [Is] a high school graduate or equivalent, [thereof and] **have** [has] successfully completed an official military medical laboratory procedures course of [at least] fifty (50) weeks [duration] and **have** [has] held the military enlisted occupational specialty of Medical Laboratory Specialist (Laboratory Technician). [; or]

(e) A person not meeting the training and experience requirements defined in paragraphs (a), (b), (c), or (d) of this subsection may [nonetheless] qualify as a medical laboratory technician if the person:

1. [He or she] Was performing the duties of a medical laboratory technician any time between January 1, 1968, and May 4, 1977 [the effective date of these regulations]; and

2. [He or she has] Had [at least] five (5) years of pertinent medical laboratory experience prior to May 4, 1977 [the effective date of these regulations].

(f) [In the event that] An individual [has been] serving as [in the capacity of] a laboratory technician in Kentucky for a period of [not less than] one (1) year prior to May 4, 1977, [the effective date of these regulations he] may continue to serve the laboratory unless otherwise exempted in [notwithstanding the requirements of] paragraphs (a), (b), (c), (d), and (e) of this subsection. [; provided, however, that] The cabinet may require, in the interest of the health, safety, and welfare of the people of the state **and** as a condition [precedent] to the issuance of an original or renewal license, the individual **to** satisfactorily [hereunder, that such individuals] demonstrate the [their] ability [satisfactorily] to perform medical laboratory functions under supervision. [; or]

(g) [He or she] Has achieved a satisfactory grade in a proficiency examination approved by the cabinet. [However,] After December 31, 1978, initial certification as a technician shall [must] be in accordance with paragraphs (a), (b), (c), or (d) of this subsection.

Section 5. Personnel Policies. Each laboratory shall create and maintain written personnel policies, practices, and procedures that [adequately] support sound laboratory practice. Work assignments shall be consistent with qualifications. [In addition,] The laboratory shall maintain written employment records which include:

(1) A resume of each employee's initial and continued training, experience, duties, and date or dates of employment. [; and]

(2) Evidence of adequate health supervision of employees, including results of preemployment physical examinations, including chest X-rays, immunization records, and records of all illnesses and accidents occurring on duty.

RICE C. LEACH, Commissioner
FONTAINE BANKS, JR., Secretary

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FILED WITH LRC: December 15, 1993 at 11 a.m.

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

902 KAR 11:040. Specialty test procedure.

RELATES TO: KRS Chapter 333
STATUTORY AUTHORITY: KRS 194.050
NECESSITY AND FUNCTION: KRS Chapter 333 authorizes [empowers] the Cabinet for Human Resources to issue licenses to medical laboratories in Kentucky, and directs that [such] licenses be issued only for the performance of those medical laboratory procedures which the particular laboratory, by virtue of the educational and experience background of its laboratory personnel, is competent to perform. [Further,] The cabinet is authorized to adopt reasonable rules and regulations to effectuate the purposes and provisions of KRS Chapter 333. [The function of] This administrative regulation [is to] establishes standards for determining the specialty of test procedures for which a laboratory may be licensed.

Section 1. Tests Performed. The medical laboratory shall perform only those laboratory procedures and tests that are within the specialties and subspecialties [in which] the laboratory director or supervisor is qualified. The following standards shall apply:

(1) A laboratory may perform anatomical and clinical laboratory procedures and tests in all specialties if the laboratory director or a supervisor is a physician certified in both anatomical and clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possesses qualifications [which are] equivalent to those required for certification.

(2) Unless otherwise exempted in [Notwithstanding the provisions of] subsection (1) of this section, a laboratory may perform tests in the specialty of:

(a) Microbiology, including the subspecialties of bacteriology, virology, mycology, and parasitology if the director or a supervisor is a physician or holds an earned doctoral or master's degree in microbiology from an accredited institution and, subsequent to graduation, [has] had [at least] two (2) years of experience in clinical microbiology.

(b) [(3) Notwithstanding the provisions of subsection (1) of this section, a laboratory may perform tests in the specialty of] Serology if the director or a supervisor is a physician or holds an earned doctoral or master's degree in biology, chemistry, immunology, or microbiology from an accredited institution and, subsequent to graduation, [has] had [at least] two (2) years of experience in serology.

(c) [(4) Notwithstanding the provisions of subsection (1) of this section, a laboratory may perform tests in the specialty of] Hematology, including gross and microscopic examination of the blood, if the director or a supervisor holds a master's or bachelor's degree in biology, immunology, microbiology, chemistry, or medical technology from an accredited institution and, subsequent to graduation, [has] had [at least] two (2) years of experience in hematology.

(d) [(5) Notwithstanding the provisions of subsection (1) of this section, a laboratory may perform tests in the specialty of] Immunohematology if the director or a supervisor is a physician with [at least] two (2) years of experience in immunohematology subsequent to graduation.

(e) [(6) Notwithstanding the provisions of subsections (1) and (5) of this section, a laboratory may perform tests in the immunohematology subspecialties of ABO grouping and Rh typing, antibody detection, identification and titering if the director or a supervisor

~~holds a master's or bachelor's degree in biology, immunology, microbiology, chemistry, or medical technology from an accredited institution and subsequent to graduation has had at least two (2) years of experience in immunohematology;~~

~~(7) Notwithstanding the provisions of subsection (1) of this section, a laboratory may perform tests in the specialty of~~] Clinical chemistry if the director or a supervisor is a physician or holds an earned doctoral or master's degree in chemistry from an accredited institution and, subsequent to graduation, [~~has~~] had [~~at least~~] two (2) years of [~~approved~~] experience in clinical chemistry approved by the cabinet.

(f) [~~(8) Notwithstanding the provisions of subsection (1) of this section, a laboratory may perform tests in the specialty of~~] Radiobioassay if the director or a supervisor is a physician or holds an earned doctoral, master's, or bachelor's degree in chemistry, physics, biology, or medical technology from an accredited institution and, subsequent to graduation, [~~has~~] had [~~at least~~] two (2) years of [~~approved~~] experience in radiobioassay approved by the cabinet.

(g) [~~(9) Notwithstanding the provisions of subsection (1) of this section, a laboratory may perform tests in the specialty of~~] Tissue pathology, limited to skin pathology, if the director or a supervisor is a physician certified in dermato-pathology by the American Board of Dermatology or possesses qualifications [~~which are~~] equivalent to those required for certification.

(h) [~~(10) A laboratory may perform tests in the specialty of tissue pathology if the director or a supervisor is a physician who is certified in anatomical pathology by the American Board of Pathology or possesses qualifications which are equivalent to those required for certification;~~

~~(11) Notwithstanding the provisions of subsection (1) of this section, a laboratory may perform tests in the specialty of~~] Diagnostic cytology if the director or a supervisor is a physician who is certified by the American Society of Cytology to practice cytopathology or possesses qualifications [~~which are~~] equivalent to those required for certification. [~~Under this provision~~] The laboratory shall be qualified to perform the [~~such~~] tests only on that anatomic site for which the director or supervisor is certified.

(i) [~~(12) Notwithstanding the provisions of subsection (1) of this section, a laboratory may perform tests in the specialty of~~] Oral pathology if the director or supervisor is a dentist or physician who is certified in oral pathology by the American Board of Oral Pathology or possesses qualifications [~~which are~~] equivalent to those required for certification.

(3) Unless otherwise exempted in subsections (1) and (2)(d) of this section, a laboratory may perform tests in the immunohematology subspecialties of ABO grouping and Rh typing, antibody detection, identification, and titering if the director or a supervisor holds a master's or bachelor's degree in biology, immunology, microbiology, chemistry, or medical technology from an accredited institution and, subsequent to graduation, **has** [~~had~~] two (2) years of experience in immunohematology.

(4) A laboratory may perform tests in the specialty of tissue pathology if the director or a supervisor is a physician who is certified in anatomical pathology by the American Board of Pathology or possesses qualifications equivalent to those required for certification.

Section 2. Special Exceptions. (1) Unless otherwise exempted in [~~Notwithstanding the provisions of~~] Section 1(2)(a), (b), (c), (e), or (f) [~~, (3), (4), (6), (7), and (8)~~] of this administrative regulation, if an individual qualifies as a medical laboratory director by reason of having served as director of a medical laboratory for twelve (12) months between January 1, 1968, and May 4, 1977, [~~the effective date of these regulations and~~] having attained a bachelor's degree from an accredited institution with a chemical, physical, or biological science as a major subject, and, subsequent to graduation, [~~has~~] had [~~at least~~] six (6) years of pertinent full-time medical laboratory experience, [~~;~~

~~(1)~~] the laboratory may perform tests in the specialty of:

(a) Microbiology if the director holds a bachelor's degree in a biological science and, subsequent to graduation, [~~has~~] had [~~at least~~] four (4) years of experience in microbiology.

(b) [~~(2) The laboratory may perform tests in the specialty of~~] Hematology if the director holds a bachelor's degree in biology, immunology, or microbiology from an accredited institution and, subsequent to graduation, [~~has~~] had [~~at least~~] four (4) years of experience in hematology.

(c) [~~(3) The laboratory may perform tests in the specialty of~~] Serology if the director holds a bachelor's degree in biology, chemistry, immunology, or microbiology and, subsequent to graduation, [~~has~~] had [~~at least~~] four (4) years of experience in serology.

(d) [~~(4) The laboratory may perform tests in the specialty of~~] Radiobioassay if the director, subsequent to graduation, [~~has~~] had [~~at least~~] one (1) year of experience in radiobioassay.

(e) [~~(5) The laboratory may perform tests in the subspecialties of blood grouping and Rh typing, antibody detection, identification, and titering if the director holds a bachelor's degree in biology, immunology, or microbiology from an accredited institution and, subsequent to graduation has had at least four (4) years of experience in immunohematology;~~

~~(6) The laboratory may perform tests in the specialty of~~] Clinical chemistry if the director holds a bachelor's degree in a chemical science or its equivalent and, subsequent to graduation, [~~has~~] had [~~at least~~] four (4) years of experience in clinical chemistry.

(2) The laboratory may perform tests in the subspecialties of blood grouping and Rh typing, antibody detection, identification, and titering if the director holds a bachelor's degree in biology, immunology or microbiology from an accredited institution and, subsequent to graduation, had four (4) years of experience in immunohematology.

(3) [~~(7)~~] The laboratory may perform tests in any of the specialties or subspecialties mentioned in subsections (1) and (2) [~~through (6)~~] of this section if the director holds a bachelor's degree in medical technology and, subsequent to graduation, [~~has~~] had [~~at least~~] the designated years of specialized experience.

Section 3. Special Qualification by Examination. Unless otherwise exempted in [~~Notwithstanding the provisions of~~] Sections 1 and 2 of this administrative regulation, if an individual qualifies as a medical laboratory director by reason of having served as director of a medical laboratory for twelve (12) months between January 1, 1968, and May 4, 1977, [~~the effective date of these regulations~~] and has achieved a satisfactory grade through an examination approved by the cabinet, the laboratory may perform tests in the laboratory specialties the [~~in which such~~] director achieved a satisfactory grade in an examination approved by the cabinet.

RICE C. LEACH, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: November 9, 1993
FILED WITH LRC: December 15, 1993 at 11 a.m.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Health Systems Development
(As Amended)

902 KAR 13:090. Disciplinary actions.

RELATES TO: KRS 211.960 to 211.968, 211.990(5)
STATUTORY AUTHORITY: KRS 194.050, 211.964
NECESSITY AND FUNCTION: KRS 211.964 directs the Cabinet for Human Resources to adopt [~~rules and~~] administrative regulations relating to emergency medical technicians. [~~The function of~~] This administrative regulation [~~is to~~] establishes procedures for taking

disciplinary action against an applicant for certification or certified emergency medical technician (EMT), EMT-first responder, EMT-first responder instructor, EMT [and emergency medical technician]-instructor, or EMT-instructor trainer.

Section 1. Denial, Revocation, [and] Suspension, and Restriction of Certificates. The cabinet may deny, revoke, [or] suspend, or restrict the certificate of a person who:

(1) Has engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public;

(2) Uses drugs or controlled substances to the extent it may effect his ability to perform the duties of an EMT, or becomes a drug dependent person or drug abuser as defined in KRS 222.011(8);

(3) Uses alcohol to the extent that it may affect his ability to perform the duties of an EMT or becomes an alcoholic person who suffers from alcoholism as defined in KRS 222.011(3);

(4) Has or develops a [such] physical or mental disability or other condition that continued practice or performance of his duties may be dangerous to patients or the public; [or]

(5) Fails to:

(a) Follow the appropriate standards of care in the management of a patient;

(b) Administer medicine or treatment in a responsible manner in accordance with:

1. His level of certification;

2. Orders of a physician; or

3. Locally approved medical protocols;

(c) Maintain patient confidentiality;

(d) Meet the requirements for certification or recertification pursuant to:

1. 902 KAR 13:050 for an EMT, EMT-instructor or EMT-instructor trainer; or

2. 902 KAR 13:110 for an EMT-first responder or EMT-first responder instructor;

(e) Meet the requirements for an applicant for certification pursuant to 902 KAR 13:020; or

(f) Meet the requirements for an EMT-instructor or EMT-instructor trainer pursuant to 902 KAR 13:070;

(6)(a) Reproduces or reconstructs, or attempts to reproduce or reconstruct, a portion of an emergency medical technician examination **for the purpose of assisting another to cheat on the examination**; or

(b) Disseminates information for purposes of reproduction or reconstruction of a portion of an emergency medical technician examination **in order to assist another to cheat on the examination**;

(7) Cheats, or assists another to cheat, on an examination for certification, recertification, challenge, or reentry;

(8) Does not meet the qualifications, minimum requirements, special requirements, and basic competency areas outlined in the "Emergency Medical Technician/Basic Functional Position Description". The "Emergency Medical Technician/Basic Functional Position Description", April 1993, is incorporated by reference, and may be inspected, copied, or obtained from the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. until 4:30 p.m., Monday through Friday;

(9) Issues a check for a certificate on an invalid account or an account which does not have sufficient funds to pay the fee for the certificate required by 902 KAR 13:030;

(10) Discriminates in the provision of services on the basis of race, sex, age, religion, color, creed, or national origin;

(11) Practices outside or beyond the scope of his level of certification, or represents he is qualified at a level other than his current certification;

(12) **Takes or possesses, without authorization, for personal use or gain, medicines, supplies, equipment, or personal items of a patient; [**~~Appropriates or possesses without authorization medicines, supplies, equipment, or personal items of a patient;~~**]**

(13) Materially alters a certificate, or uses or possesses an altered certificate;

(14) Obtains or attempts to obtain a certificate by fraud, forgery, deception, misrepresentation, or subterfuge; or assists another to obtain a certificate by fraud, forgery, deception, misrepresentation, or subterfuge.

(15) Falsifies an application for certification or recertification;

(16) Falsifies a patient record;

(17) Has had an EMT, EMT-first responder, EMT-first responder instructor, EMT-instructor, EMT-instructor trainer, or equivalent certificate denied, suspended, revoked, or restricted in another state while holding a Kentucky certificate;

(18) Uses or attempts to use his certificate to obtain or attempts to obtain any benefit to which he is not entitled by duress, coercion, fraud, or misrepresentation;

(19) Is not at least eighteen (18) years of age at the time of application for certification;

(20)(a) Has been convicted of a felony or misdemeanor **described in KRS 335B.010(4); or**

(b) Has been convicted of other crimes directly related to the ability of a person to perform the duties of an EMT. [~~for which a jail sentence may be imposed.~~**]** [~~comply with an administrative regulation of the cabinet relating to the certification of an EMT.~~]

Section 2. Restricted Certificate. The cabinet may restrict the certificate of a person who is certified or obtains certification as an EMT or EMT-first responder while incarcerated in a prison, correctional facility, reformatory, or jail to function as an EMT or EMT-first responder only within that facility during the period of incarceration.

Section 3. Cease and Desist Order. The cabinet may issue an order directing a person to immediately cease and desist functioning as an EMT, EMT-first responder, EMT-first responder instructor, EMT-instructor, or EMT-instructor trainer if the cabinet has reasonable cause to believe that the person may cause harm or create an imminent danger to the public if his certificate is not denied, suspended, revoked, or restricted.

Section 4. Notice Procedures. (1) The cabinet shall notify a person by certified mail sent to his last known address of record of an action to deny, revoke, suspend, or restrict his certificate, and of his right to request a hearing. Failure of an EMT to notify the cabinet of a change of address or to accept or claim the certified notice at his last known address of record shall not:

(a) Delay or negate the disciplinary action;

(b) Change the effective date of the action; or

(c) Suspend, alter, or negate the time period allowed to respond to the action or request a hearing.

(2) The written notice shall state [~~Hearings. (1) The cabinet shall furnish the certificate holder with written notice setting out~~] the substance of each offense charged with sufficient detail to reasonably apprise him of the nature, time, and place of the violation [~~thereof~~].

Section 5. Hearings. (1) An applicant or certificate holder shall have twenty (20) days to request, in writing, a hearing after written notice is given by the cabinet of its decision to deny, suspend, revoke, or restrict a certificate.

(2) The applicant or certificate holder shall have the right to:

(a) Be present in person;

(b) Be represented by counsel;

(c) Present evidence or witnesses on his behalf; and

(d) Be heard in opposition to the charges which may be instituted; and

(e) Cross-examine witnesses.

(3) The hearing may be conducted by a hearing officer appointed by the cabinet.

(4) A transcript of the hearing shall not be made unless requested. The expense of transcribing the hearing shall be the responsibility of the requesting party.

(5) The hearing officer shall[:

~~(a)~~] make written findings of fact and conclusions of law, [;] and enter a decision based upon the evidence presented. The decision of the hearing officer shall be the final decision of the cabinet.

[~~(b) Submit them to the cabinet for a final decision.~~]

(6) If an applicant or certificate holder does not request a hearing within twenty (20) days of the written notice of intended action, the action shall be final.

(7) If a person receives a certificate and his check for the certification fee is later returned unpaid due to an invalid account or insufficient funds, the certificate shall be automatically suspended until:

(a) The fee is paid in full by cash, certified check, or money order; or

(b) The person requests a hearing on the suspension.

(8) The cabinet may publish in the EMS newsletter:

(a) The name of a person whose certificate has been denied, suspended, revoked, or restricted and the time period involved;

(b) The administrative regulation violated; and

(c) The nature of the violation.

(9) If a person is employed as an EMT, EMT-first responder, EMT-first responder instructor, EMT instructor, or EMT-instructor trainer at the time a final decision is made by the cabinet to deny, suspend, revoke, or restrict a certificate, the cabinet may notify the employer of the action taken.

(10) If a person fails to abide by a decision of the cabinet to deny, suspend, revoke, or restrict his certificate, the person shall be in violation of KRS 211.962 and may be charged with a Class A misdemeanor under KRS 211.990(5).

RICE C. LEACH, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: November 10, 1993
FILED WITH LRC: November 17, 1993 at 3 p.m.

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

904 KAR 2:006. Technical requirements; AFDC.

RELATES TO: KRS 205.010, 205.200(2), (3), 45 CFR 205.52, 205.10, 232.11-12, 232.40-48, 233.10, 233.40, 233.50, 45 CFR 233.90, 233.100, 250, "Expansion of Definition of Specified Caretaker Relative", Transmittal No. ACF-AT-91-33 (December 12, 1991), U.S. Department of Health and Human Services, Administration for Children & Families, Office of Family Assistance

STATUTORY AUTHORITY: KRS 194.050, 205.200(2), (3)

NECESSITY AND FUNCTION: The Cabinet for Human Resources has the responsibility under the provisions of KRS Chapter 205 to administer the assistance program of Aid to Families with Dependent Children (AFDC). KRS 205.200(2) requires that the conditions of eligibility to receive AFDC money grants be prescribed by administrative regulations in conformity with 42 USC 602 and federal regulations. This administrative regulation sets forth the technical requirements of school attendance, residence, citizenship, deprivation, living with a relative, age, one (1) category of assistance, work registration, cooperation in child support enforcement activities, strikers and potential entitlement for other programs for eligibility for AFDC.

Section 1. Definitions. (1) "Child" means an individual age seventeen (17) or under or, if eighteen (18), in regular full-time attendance in high school or equivalent level of vocational or technical school and expected to complete a course of study before reaching age nineteen (19) or during the month of the 19th birthday.

(2) "Deprivation" means loss of parental support due to the unemployment, death, voluntary or involuntary absence, or incapacity of a child's natural or adoptive parent.

(3) "Parent" means the natural, adoptive, or adjudicated (including administrative establishment of paternity) parent of the child.

(4) "Principal wage earner" means the parent who earned the greater amount of income in the twenty-four (24) months immediately preceding the month of application for AFDC benefits based on the deprivation of unemployment.

(5) "Prior labor market attachment" means the parent has earned not less than fifty (50) dollars during each of six (6) or more calendar quarters ending on March 31, June 30, September 30 or December 31, with any thirteen (13) calendar quarter period ending within one (1) year of the application, for AFDC benefits based on the deprivation of unemployment.

(6) "Striker" means an employed individual who is participating in:

(a) A work stoppage;

(b) A concerted slowdown of work; or

(c) An interruption of operations at his place of employment.

Section 2. Age and School Attendance. (1) The definition of a "child", as specified in Section 1 of this administrative regulation shall be met for at least one (1) person in the home.

(2) Verification of school attendance shall be required for:

(a) A child who is eighteen (18) years of age, in order to determine his continuing eligibility; or

(b) A child who is sixteen (16) to eighteen (18) years of age and living in an active JOBS county, in order to determine his status as exempt or nonexempt for participation in the JOBS program, as specified in 904 KAR 2:370.

(3) Full- and part-time school attendance is defined in 904 KAR 2:016, Standards for need and amount; AFDC.

(4) Unless **the parent states the child shall not** [~~he has indicated an intention not to~~] reenter school, a child shall be considered in regular attendance in months in which he is not attending because of:

(a) Official school or training program vacation;

(b) Illness;

(c) Convalescence; or

(d) Family emergency.

Section 3. Enumeration. (1) Each person included in the AFDC case shall furnish his Social Security number [~~card~~] or apply for a number if one has not been issued.

(2) Refusal to furnish the Social Security number [~~card~~] or apply for a number shall result in the ineligibility of the person whose Social Security number is not verified.

(3) The agency shall assist an individual in making application for a Social Security number, if needed.

Section 4.Residence and Citizenship. (1) Residence. A resident is anyone who:

(a) Is living in the state voluntarily and not for a temporary purpose; or

(b) Entered the state with a job commitment or seeking employment; and

(c) Is not receiving AFDC benefits from another state.

(2) Citizenship.

(a) AFDC shall be provided only to:

1. [~~(a)~~] Citizens;

2. [~~(b)~~] Aliens lawfully admitted for permanent residence; or

3. [~~(c)~~] Aliens otherwise permanently residing in the United States under color of law.

(b) Failure of the parent or other adult, applying for or receiving benefits, to sign a citizenship or alien status declaration shall cause

the needs of the parent or other adult to be removed from the case.

Section 5. Deprivation. (1) To be eligible for AFDC, a child shall be in need and shall meet the definition of deprivation as specified in Section 1 of this administrative regulation.

(2) A specific deprivation factor shall be verified for each child for whom assistance is approved.

Section 6. Deprivation Due to Death. The death of either parent shall qualify a child as deprived due to death.

Section 7. Deprivation Due to Absence. (1) To be considered deprived due to absence, a needy child shall be physically separated from the parent and:

(a) The nature of the absence of the parent interrupts or terminates the parent's functioning as a provider of maintenance, physical care, or guidance for the child; and

(b) The known or indefinite duration of absence precludes counting on the parent's performance of his function in planning for the present support or care of the child.

(2) Absence may be voluntary or involuntary.

(a) Voluntary absence includes:

1. Divorce;
2. Legal separation;
3. Marriage annulment;
4. Desertion of thirty (30) days or more;
5. Forced separation of seven (7) days or more; or
6. Birth out-of-wedlock.

(b) Involuntary absence includes:

1. Commitment to a penal institution for thirty (30) days or more;
2. Long-term hospitalization;
3. Deportation; or
4. Single parent adoption.

(3) A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

Section 8. Deprivation Due to Incapacity. (1) Each determination of a deprivation of incapacity shall be based on a full consideration and assessment of the following factors affecting the claimant:

(a) Medical;

(b) Social; and

(c) Economic.

(2) If a verified medical condition exists, then all relevant social and economic factors shall be considered to determine whether the parent's condition is the cause of and results in the parent's inability to support or care for the child.

(a) Incapacity exists in a case when the following criteria are met:

1. It is medically determined that one (1) parent has a physical or mental defect, illness or impairment which was:

a. Present at the time of application; and

b. Which has continued or is expected to last for a period of at least thirty (30) calendar days.

2. The thirty (30) day period may include a period in which the claimant is undergoing:

a. Planned diagnostic studies; or

b. Evaluation of rehabilitation potential; and

3. It is determined by nonmedical evaluation that the defect, illness or impairment is debilitating to the extent of reducing substantially or eliminating the parent's ability to support or care for an otherwise eligible child.

(b) A determination regarding incapacity shall be made by:

1. Field staff if the criteria specified in 904 KAR 2:040, Section 3(2) **are** **[~~is~~]** met; or

2. The medical review team, consisting of a licensed physician and a social worker employed by the agency, if a determination by field staff is precluded.

(c) Factors to be considered by the medical review team in making the medical determination shall include:

1. The claimant's medical history and subjective complaints regarding an alleged physical or mental defect, illness or impairment; and

2. Competent medical testimony relevant to:

a. Whether a physical or mental defect, illness or impairment exists;

b. Whether the defect, illness or impairment is **sufficient** **[~~enough~~]** to reduce the parent's ability to support or care for a child; and

c. Whether the defect, illness or impairment is likely to last thirty (30) days.

(d) Factors to be considered in making the nonmedical evaluation shall include:

1. The claimant's:

a. Age;

b. Employment history;

c. Vocational training;

d. Educational background; and

e. Subjective complaints regarding the alleged effect of the physical or mental condition on the claimant's ability to support or care for the child; and

2. The extent and accessibility of employment opportunities available in the claimant's area of residence.

(e) In determining the extent and accessibility of available employment opportunities, the limited employment opportunities of disabled individuals shall be taken into account; and

1. Available printed materials that provide information regarding available employment opportunities shall be researched;

2. The local Department for Employment Service (DES) office shall be contacted regarding accessible employment opportunities within the claimant's area of residence; and

3. The claimant shall be referred, if necessary, for further appraisal of his abilities.

(f) A written report shall be made of the determination under this subsection.

(g) Each claimant shall be provided timely and adequate notice of and an opportunity for a fair hearing as provided in 904 KAR 2:055.

Section 9. Deprivation Due to Unemployment. (1) The determination that a child is deprived of parental support due to the unemployment of a parent shall be based on the determination that the principal wage earner meets the criteria of unemployment and has a prior labor market attachment.

(2) The determination of the principal wage earner (PWE) shall include the following:

(a) If the agency is unable to secure primary evidence of earnings to determine which parent is the PWE, the agency shall designate the PWE using the best evidence available.

b. If both parents earned identical amounts of income, or no income, the agency shall designate the parent meeting the criteria of unemployment, as specified in subsection (3) of this section.

(c) Earnings of each parent shall be considered in determining the PWE regardless of when their relationship began.

(d) The PWE designation shall remain with the same parent as long as assistance is received on the basis of the same application.

(3) Unemployment. A parent shall be considered to be unemployed if:

(a) Employed less than 100 hours in a calendar month; or

(b) Employment exceeds 100 hours in a particular month, but the work is intermittent and the excess is of a temporary nature. This would be evidenced by the fact that the parent:

1. Was under the 100 hour standard in the prior two (2) months; and

2. Is expected to be under the 100 hour standard in the following

month.

(4) Prior labor market attachment (PLMA) shall be established if the parent:

(a) Attests to an employment history meeting the definition in Section 1(5) of this administrative regulation;

(b) Within twelve (12) months prior to application, received unemployment compensation; or

(c) Is currently receiving unemployment compensation or if potentially eligible, has made application for and complies with the requirements to receive unemployment insurance benefits.

(5) In determining whether or not criteria in subsection (4) of this section is met, the following shall be taken into consideration:

(a) Participation in Community Work Experience Program (CWEP) or Work Incentive Program (WIN) prior to October 1, 1990, and in the Job Opportunities and Basic Skills (JOBS) Program shall be considered as earning an income in determining PLMA.

(b) Full-time attendance, as defined by the school or institution, may be substituted for two (2) of the six (6) calendar quarters. Qualifying activities shall be:

1. An elementary;

2. Secondary; or

3. Vocational or technical training course designed to prepare the individual for gainful employment.

(c) Gross income from self-employment and farming qualify as earned income in determining prior labor market attachment. The self-employed individual does not have to realize a profit to meet this requirement.

(6) Restrictions. Unemployment shall not exist if the PWE:

(a) Is on strike;

(b) Is temporarily unemployed:

1. Due to weather conditions or lack of work;

2. If there is a job to return to; and

3. Return can be anticipated within thirty (30) days or at the end of a normal vacation period;

(c) Is unavailable for full-time employment;

(d) Is under contract for employment, unless a written statement from the employer verifies that the individual is subject to release from the contract if full-time employment is secured;

(e) Has not met the criteria of unemployment for at least thirty (30) days;

(f) [~~Has not applied for unemployment benefits, if potentially eligible;~~

~~(g)~~] Is not:

1. Registered for work under Section 14 of this administrative regulation; or

2. Subject to JOBS, as specified in 904 KAR 2:370; or

(g) [~~(h)~~] Has refused a bona fide offer of employment or training for employment without good cause in the thirty (30) days prior to AFDC-UP eligibility or during the course of receipt of AFDC- UP benefits. Good cause exists if criteria specified in 904 KAR 2:016, Section 4(4)(a)1, 2, 3, or 4 **are** [~~is~~] met.

Section 10. Living with a Specified Relative. To be eligible for AFDC a needy child shall be living in the home of a relative as follows:

(1) A blood relative, including:

(a) Father;

(b) Mother;

(c) Grandfather;

(d) Grandmother;

(e) Brother;

(f) Sister;

(g) Uncle;

(h) Aunt;

(i) Nephew;

(j) Niece;

(k) First cousin; and

(l) First cousin once removed;

(2) A relative of the half-blood;

(3) Preceding generations denoted by prefixes of:

(a) Grand;

(b) Great;

(c) Great-great; or

(d) Great-great-great;

(4) A stepfather, stepmother, stepbrother, stepsister;

(5) Any person listed in subsections (1) through (4) of this section if the alleged father has had paternity established through the administrative determination process as specified in Section 11 of this administrative regulation.

(6) An adoptive parent, the natural and other legally adopted child and other relative of the adoptive parent.

(7) The husband or wife of any person listed in subsections (1) through (6) of this section, even if the marriage may have terminated, providing termination occurred after the birth of the child.

(a) For AFDC eligibility purposes, a couple that has been considered married by a state with common-law marriage provisions shall be considered married.

(b) The statement of the applicant or recipient that he resides in a state which recognizes common-law marriage shall be accepted as verification by the agency.

(8) If the specified relative continues to exercise control over the child, a child is considered as living in the home even when temporarily absent for:

(a) Medical care;

(b) Attendance at boarding school;

(c) College or vocational school;

(d) Emergency foster care; or

(e) Short visits with friends or relatives.

Section 11. Administrative Establishment of Paternity. (1) An administrative determination of paternity is limited to situations in which the following types of evidence are present:

(a) A birth certificate listing the alleged parent; or

(b) Legal documents such as:

1. Hospital records;

2. Juvenile court records;

3. Wills; and

4. Other court records which clearly indicate the relationship of the alleged parent or relative; or

(c) Receipt of statutory benefits as a result of the alleged parent's circumstances; or

(d) A sworn statement or affidavit of either parent acknowledging paternity plus one (1) of the following:

1. School records;

2. Bible records;

3. Immigration records;

4. Naturalization records;

5. Church documents, such as baptismal certificates;

6. Passport;

7. Military records;

8. U.S. Census records; or

9. Sworn statement or affidavit from an individual having specific knowledge about the relationship between the alleged parent and child.

(2) Rebuttal of administrative paternity may occur if:

(a) The parent or, in the absence of the parent, the caretaker relative alleges the evidence present in subsection (1)(a) or (b) of this section is erroneous and provides substantiation of the erroneous information; and

(b) The parent or caretaker relative provides a sworn statement or affidavit acknowledging the erroneous information and containing the correct information on the actual alleged parent.

(3) Presence of the sworn statement or affidavit specified in subsection (2)(b) of this section will serve as rebuttal to the evidence

present in subsection (1)(a) or (b) of this section and a determination of paternity will not be acknowledged.

Section 12. One (1) Category of Assistance. (1) A child or adult relative shall not be eligible for AFDC if receiving supplemental security income (SSI).

(2) If a child who receive SSI meets the AFDC requirements of age, deprivation and living in the home of a specified relative, the specified relative may be approved for AFDC if all other eligibility factors are met.

Section 13. Strikers. (1) A family shall be ineligible for benefits for any month in which the parent, with whom the child is living is, on the last day of the month, participating in a strike; and

(2) A specified relative other than the parent shall be ineligible for benefits for any month if, on the last day of the month, the relative is participating in a strike.

Section 14. Work Registration. (1) In a case based on the deprivation of unemployment, the PWE and the second parent shall register for work with the Department for Employment Services (DES) if:

(a) He resides in a non-JOBS county; or

(b) He resides in a JOBS county and is exempt from participation as specified in 904 KAR 2:370.

(2) Failure of the PWE **or the second parent** to register for work shall result in removal of the needs of the **[~~sanctioned~~]** individual **who fails to register. [~~and the second parent, unless the second parent has volunteered for or is participating in JOBS.~~]**

Section 15. Job Opportunities and Basic Skills (JOBS) Training Program. The technical requirements for participation in the JOBS Program are specified in 904 KAR 2:370.

Section 16. Cooperation in Child Support Enforcement Activities. (1) The Department for Social Insurance shall attempt to secure parental support, and if necessary establish paternity, for children receiving AFDC based on the following voluntary absence deprivation factors:

(a) Divorce;

(b) Desertion;

(c) Birth out-of-wedlock;

(d) Legal separation;

(e) Forced separation; or

(f) Marriage annulment.

(2) With the exception of good cause reasons, specified in subsection (4) of this section inclusion of a specified relative in the AFDC budget is dependent upon his cooperation in child support activities. This includes, but is not limited to:

(a) Identifying the absent parent;

(b) Providing information to assist in the location of the absent parent;

(c) Establishing paternity; and

(d) Forwarding child support payments received to the agency.

(3) The Cabinet for Human Resources shall provide written notice to the applicant or recipient that he may claim good cause for refusing to cooperate.

(4) The applicant or recipient shall be determined to have "good cause" for failing to cooperate only when one (1) or more of the following criteria is met:

(a) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to the child; or

(b) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to himself to such an extent that it would reduce his capacity to care for the child adequately; or

(c) The child was conceived as a result of incest or forcible rape and the department believes it would be detrimental to the child to require the applicant's or recipient's cooperation; or

(d) Legal proceedings for adoption of the child by a specific family are pending before a court of competent jurisdiction and the department believes it would be detrimental to the child to require the applicant's or recipient's cooperation; or

(e) The applicant or recipient is being assisted by a public or licensed private social service agency:

1. To resolve whether to keep the child or release him for adoption; and

2. Discussion has not gone on for more than three (3) months; and

3. The cabinet believes it would be detrimental to the child to require the applicant's or recipient's cooperation.

(5) Unless an extension is granted, the applicant or recipient shall have twenty (20) days from the date the good cause claim is filed to provide evidence to substantiate the claim.

(a) Evidence upon which a determination of good cause shall be made includes, but is not limited to, the following:

1. Birth certificates, medical, or law enforcement records indicating that the child was conceived as a result of incest or forcible rape;

2. Court documents or other records indicating legal proceedings for adoption of the child by a specific family are pending before a court of competent jurisdiction;

3. Records (court, medical, criminal, child protective services, social services, psychological or law enforcement) indicating the absent or alleged parent might inflict physical or emotional harm on the child or caretaker relative;

4. A written statement from a public or licensed private social agency that assistance is being given to the applicant or recipient to resolve the issue of whether to keep the child or relinquish the child for adoption and the issue has not been pending more than three (3) months; and

5. Notarized statements from individuals, other than the applicant or recipient, with knowledge of the circumstances which provide the basis for the "good cause" claim.

(b) In each good cause determination based upon anticipation of serious emotional harm to the child or caretaker relative, the following shall be considered:

1. The present emotional state of the individual subject to emotional harm;

2. The emotional health history of the individual;

3. The extent and probable duration of the individual's emotional impairment; and

4. The extent of involvement required by the individual in establishing paternity or enforcing support obligations.

(c) When the good cause claim is based on the anticipation of physical harm to the child or caretaker relative, and corroborative evidence is not submitted:

1. The agency shall conduct an investigation if it is believed that:

a. Corroborative evidence is not available; and

b. The claim is credible without corroborative evidence.

2. If the agency conducts an investigation of a good cause claim, it shall not contact the absent or alleged parent regarding support unless the contact is necessary to establish the good cause claim.

3. If it is necessary for the agency to make the contact, the worker shall notify the applicant or recipient of the proposed contact to either:

a. Obtain permission for the contact; or

b. To enable the applicant or recipient to:

(i) Present additional evidence or information so that such contact is unnecessary;

(ii) Withdraw the application for assistance or request discontinuance of AFDC; or

(iii) Have the good cause claim denied.

(6) After receipt of evidence to substantiate the good cause claim or conducting an investigation, the agency shall:

(a) Document the case;

(b) Determine that:

1. Good cause exists and support activities cannot be initiated without endangering:

a. The best interests of the child; or

b. The physical or emotional health of the child or the relative; or

2. Good cause exists and support activities can be initiated without endangering the physical or emotional health of the child or the relative; or

3. Good cause does not exist.

(c) Advise the specified relative in writing of the result of the good cause claim determination; and

(d) Identify each case in which good cause is established, but may be subject to change, for subsequent review.

(7) If the specified relative refuses to cooperate without good cause criteria being claimed, or claimed but not deemed to be met by the agency:

(a) The relative shall be ineligible for benefits; and

(b) The agency shall attempt to obtain a protective payee to administer the AFDC payment on behalf of the child.

(8) If, after the exclusion from the grant for failure to cooperate, the specified relative states he will cooperate, the agency shall:

(a) Add the specified relative to the case effective with the date the individual states he will cooperate;

(b) Remove the protective payee from the case; and

(c) Not authorize back payments for the period of time for which the individual did not cooperate.

Section 17. Potential Entitlement for other Programs. (1) An applicant or recipient shall apply for and comply with the requirements to receive any benefit if potential entitlement exists.

(2) Except for the PWE in an AFDC-UP case, failure to apply for another benefit or comply with its requirements **shall result** [~~results~~] in ineligibility for AFDC.

(3) If a PWE in an AFDC-UP case fails to apply for unemployment insurance benefits or comply with its requirements, the PWE and second parent shall have their needs removed from the case.

(4) If an applicant or recipient voluntarily reduces the amount of benefits received from another source, other than for the purpose of reimbursing the source for a previous overpayment, this action shall result in ineligibility.

Section 18. Material Incorporated by Reference. (1) Forms necessary to establish technical eligibility requirements for the AFDC program, with the exception of JOBS participation, are being incorporated effective December [~~May~~] 1, 1993. These forms include:

(a) PA.1C Supplement D, revised 3/92;

(b) PA-14, revised 11/91;

(c) PA-33D, revised 1/92;

(d) PA-121, revised 8/87;

(e) [~~(c)~~] PA-125, revised 6/83;

(f) [~~(d)~~] PA-125 Supplement A, revised 6/83;

(g) [~~(e)~~] PA-125 Supplement B, revised 12/82; [~~and~~]

(h) PA-125.1, revised 5/90;

(i) [~~(f)~~] PA-511, revised 10/92;

(j) KA-125, revised 7/92;

(k) KA-125, Supplement A, revised 1/93;

(l) KA-125, Supplement B, revised 7/92;

(m) KA-125, Supplement C, revised 7/92;

(n) CS-333, revised 10/91; and

(o) CS-333.1, revised 9/86.

(2) Material incorporated by reference 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
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: November 23, 1993
FILED WITH LRC: December 13, 1993 at 11 a.m.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING OR RECEIPT OF WRITTEN COMMENTS

CABINET FOR HUMAN RESOURCES
Interim Office of Health Planning & Certification
(Amended After Hearing)

902 KAR 20:004. Certificate of need process.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1), (2)
STATUTORY AUTHORITY: KRS 13A.350, 216B.040, 216B.075, Executive Orders 92-419, 92-540
NECESSITY AND FUNCTION: KRS 216B.040 and 216B.075 require the promulgation of administrative regulations relating to certificate of need applications and review procedures and requirements for batching, issuing advisory opinions, cost escalations and cost overruns and progress reports.

Section 1. Definitions. (1) "Affected persons" is defined by KRS 216B.015(2).

(2) "Capital expenditure authorized" means the amount of the capital expenditure approved by the interim office to implement a proposal.

(3) "Cost escalation" means an increase in the capital expenditure authorized on a certificate of need which has not been obligated as prescribed in KRS 216B.015(28).

(4) "Cost overrun" means an increase in the capital expenditure authorized on a certificate of need which has been obligated without hearing officers' approval.

(5) "Emergency circumstances" means an act of God, fire, vandalism, structural or mechanical failure, other situations that pose a threat to life, health, or safety if not acted upon immediately, and the unavailability of ambulance services within a thirty (30) minute response time.

(6) "Hearing officers" means those persons appointed by the Secretary of the Cabinet for Human Resources to perform the adjudicatory and decision-making functions of the Interim Office of Health Planning and Certification.

(7) "Improvement" means change or addition to the premises of an existing facility so as to enhance its capability to deliver those services which it is authorized to offer under its existing license or under an outstanding certificate of need approval.

(8) "Interim office" means the Interim Office of Health Planning and Certification created by Executive Order 92-419, dated April 27, 1992, and any successor office or agency.

(9) "Mobile health services" means those services which provide medical services in various locations and which in some instances utilize a specially equipped vehicle such as a van, trailer or mobile home. These services include mobile diagnostic imaging and examination services, mobile treatment services, and any other medical or dental services provided through the use of a mobile vehicle or performed at various locations.

(10) "New construction" means building projects other than those which constitute the repair, renovation, alteration or improvement to the physical plant of an existing health facility.

(11) "Public information channels" means the Office of Communications in the Cabinet for Human Resources.

(12) "Review commences" means the date of public notice of the appropriate batching cycle for the particular application after it is deemed complete.

(13) "Temporary basis" means on an occasional and irregular basis or until the applicant's proposal for permanent acquisition or regular use by a health care facility is reviewed under the formal or nonsubstantive review process.

Section 2. Criteria. In determining whether to issue or deny a certificate of need, an applicant shall provide and the hearing officer shall utilize the following information:

(1) Consistency with state plan. Whether the proposal is consistent with the state health plan.

(2) Need and accessibility.

(a) The need that the population that is to be served has for the services proposed to be offered or expanded;

(b) The extent to which residents of the area to be served, in particular members of medically under-served groups, are likely to have access to the services;

(c) Whether the proposed service will assist in meeting the health needs of members of medically under-served groups, by:

1. Comparing the percentage of the medically under-served in the applicant's service area that currently use the applicant's service with the percentage of the medically under-served who will use the proposed services if the application is approved; and

2. Determining the means, such as a clinic or emergency room and excluding admission by a physician, by which a person will have access to its services.

(d) The effect of the means proposed for the delivery of health services on the clinical needs of health professional training programs in the area in which the services are to be provided.

(e) If proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools in the area will have access to the services for training purposes.

(f) The special needs and circumstances of an entity, such as a medical and other health profession school, multidisciplinary clinic, or specialty center, that provides a substantial portion of its services or resources to persons who do not reside in the:

1. Health service area in which the entity is located; or

2. Adjacent health service areas.

(g) Whether the approval of the proposal will adversely impact the public's access to needed services.

(3) Interrelationships and linkages.

(a) The relationship of the services to be provided to the existing health care system of the area in which the services are proposed to be provided.

(b) The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services.

(c) For proposed health services or facilities, the efficiency and appropriateness of the use of similar existing services and facilities.

(4) Costs, economic feasibility, and resource availability.

(a) The availability of less costly or more effective alternative methods of providing the services to be offered, expanded or relocated.

(b) The immediate and long-term financial feasibility of the proposal, including the probable impact of the proposal on the costs of and charges for providing health services by the person proposing the service.

(c) The availability of:

1. Resources, including health personnel, management personnel, and funds for capital and operating needs; and

2. Alternative uses of resources for the provision of other health services.

(d) The impact of the proposal on the financial resources of the overall health care delivery system.

(e) For of construction or renovation projects the:

1. Costs and methods of the project, including the costs and methods of energy provision; and

2. Probable impact of the project on the:

a. Costs of providing health services by the applicant; and

b. Costs and charges to the public of providing health services by other persons.

(f) The effect of competition on the supply of the health services being reviewed, and whether the approval of the application will unnecessarily increase the cost of health care to the public.

(g) Improvements or innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost effectiveness.

(5) Quality of services.

(a) The quality of care provided by the applicant in the past; or

(b) The qualifications of the principals who will provide the health service which would assure that quality care will be provided; and

(c) Any perceivable detrimental effects of the proposal on the quality of similar services in the area including:

1. Whether the approval of the applicant's proposal will have an adverse impact on the quality of care provided by any person offering the same or similar services in any portion of the applicant's proposed service area due to decreased volume or number of procedures; and

2. Whether the applicant will be able to comply with applicable licensure requirements.

Section 3. Proposed New Use. If a person acquires major medical equipment without a certificate of need and proposes at any time to use that equipment to serve inpatients of a health care facility, the proposed new use must be reviewed unless the equipment will be used to provide services to inpatients of a health care facility only on a temporary basis in the case of an emergency, a natural disaster, a major accident, or an equipment failure.

Section 4. Letter of Intent. (1) At least thirty (30) days prior to submitting an application for a certificate of need, an applicant shall file a letter of intent with the Interim Office on "Letter of Intent Form #1".

(2) A letter of intent shall be valid for one (1) year.

(3) If an application is denied, a new letter of intent shall be filed in order to resubmit an application.

(4) If an application is withdrawn prior to a final decision, a new letter of intent shall be filed.

(5) A letter of intent shall not be required for a request for nonsubstantive review under the provisions of Section 8 of this administrative regulation.

Section 5. Application For Certificate Of Need. (1) Upon receipt of a letter of intent, the interim office shall:

(a) Acknowledge receipt of the letter of intent; and

(b) Provide an applicant with, as applicable:

1. "Certificate of Need Application Form #2a"; or

2. "Certificate of Need Application for Ground Ambulance, Air Ambulance and Nonemergency Health Transportation Services Form #2b".

(2) An original, and two (2) copies of, a certificate of need application shall be filed with the interim office as provided by the schedule established by Section 6 of this administrative regulation.

(3)(a) Fifteen (15) days after receipt of an application, the interim office shall:

1. Acknowledge receipt of the application; and

2. Notify the applicant whether the application is complete.

(b) If an application is not complete, the notice shall state that the applicant shall:

1. Complete the application by submitting specific additional information; or

2. Notify the interim office that its application shall be processed as submitted.

(4) Upon receipt of an applicant's response, the interim office shall:

(a) Deem an application complete [~~except as provided in subsection (5) of this section~~]; and

(b) Notify the applicant of the beginning of the review.

(5) [~~An application to establish or relocate a psychiatric residential treatment facility (PRTF) shall not be declared complete unless the applicant provides the names and addresses of all persons owning property adjoining the proposed location of the PRTF, the county judge executive and the nearest municipal or city government.~~

~~(6)~~](a) An application shall be included in the next appropriate public notice of review, if it has been declared complete at least six (6) working days prior to the date of the public notice.

(b) After an application has been declared complete, an applicant may submit additional information to be made part of the public record only at the public hearing.

(6) [~~(7)~~] [~~(6)~~](a) The notification of the beginning of the review shall include the:

1. Schedule for the review; and

2. Period during which a public hearing may be requested by the applicant and other affected persons.

(b) Notice to members of the public, and third party payors, shall be provided through public information channels **and notice mailed to local newspapers and county judge executives**.

(c) Notice to all other known affected persons shall be by mail.

[~~(d) In the case of an application to establish or relocate a psychiatric residential treatment facility (PRTF) legal notice shall be given pursuant to KRS Chapter 424. Notice shall also be given to adjoining property owners, the county judge executive, and the nearest municipal or city government by mail.~~]

Section 6. Review of Certificate of Need Application. (1) Batching review cycles shall be as follows:

TYPE OF PROPOSAL	Applications shall be filed by third Wednesday of:	Month of public notice, ninety (90) days prior to decision date	Month of decision, third Wednesday of:
(a) Acute, psychiatric, rehab, chemical dependency facilities, psychiatric residential treatment facilities and other related components in the SHP (except specialized equipment and services) such as IC/CC, neonatal, and surgical services (including free-standing ambulatory surgical center) and birthing centers.	October, January, April, July	November, February, May, August	February, May, August, November
(b) Skilled nursing, nursing home, intermediate care, personal care, or nursing facility.	November	December	March

(c) Personal care or IC MR/DD	November, February, May, August December, June	December, March, June, September January, July	March, June, September, December April, October
(d) Transplantation, magnetic resonance imaging, lithotripter, radiation therapy, C.T. scanner, cardiac catheterization, open heart surgery, and new technological developments.			
(e) Day health care center, ambulatory care clinic, rehab agency, hospice, home health or home health/hospice.	October, January, May, July	November, February, June, August	February, May, September, November
(f) Ambulance, NE health transportation, and air ambulance services.	November, January, April, June, August	December, February, May, July, September	March, May, August, October, December
(g) All mobile services except those covered under specialized equipment and services.	October, December, February, April, June, August	November, January, March, May, July, September	February, April, June, August, October, December
(h) Any proposals not listed above shall be placed in the most appropriate cycle as determined by the interim office.			
(i) Any proposals granted nonsubstantive review status as specified in KRS 216B.095(3)(a)(b)(c)(d)(e)(f) and (g) shall be processed in accordance with KRS 216B.095(1).			

(2) The interim office shall notify the applicant by certified mail, and any party to the proceeding by regular mail, of the hearing officers' final action on a certificate of need application.

(3) The written notification shall include:

(a) Verification that the criteria have been met;

(b) If the application is inconsistent with any criteria, the reasons for approval notwithstanding the inconsistency;

(c) Amount of capital expenditure authorized, where applicable;

(d) If the application is disapproved, the reasons for the disapproval; and

(e) Notice of appeal rights.

(4) If an application is not declared complete with a year from the date of filing it shall expire and shall not be reviewed.

(5) If an application for certificate of need is disapproved, it shall not be refiled for a period of twelve (12) months, absent a showing of a significant change in circumstances to be determined by a hearing officer.

Section 7. Certificate of Need Hearings. (1) Notice of the date, time and location of the hearing shall be:

(a) Given to third party payors and members of the public through public information channels **and notice mailed to local newspapers and county judge executives**; and

(b) Mailed to other known affected persons at least ten (10) days before the date of the hearing.

~~[(c) In the case of an application to establish a psychiatric residential treatment facility (PRTF) legal notice shall be given pursuant to KRS Chapter 424. Notice shall also be given to adjoining property owners, the county judge executive, and the nearest municipal or city government by mail at least ten (10) days before the date of the hearing.]~~

(2)(a) A hearing request may be withdrawn by written request filed with the interim office.

(b) If a hearing has been scheduled, a written request to withdraw shall be accepted if it is received by the interim office at lest three (3) working days prior to the scheduled hearing date.

(c) A public hearing shall be canceled if all persons who requested the hearing agree in writing to its cancellation.

(d) Agreement of other affected persons shall not be required.

(3) A hearing officer may:

(a) Conduct prehearing conferences to resolve issues not in dispute or not requiring an evidentiary record; and

(b) Issue prehearing orders which shall determine the form and the manner in which the evidentiary hearing is conducted.

(4) A hearing officer may, by prehearing order, require affected persons to submit to the interim office five (5) working days prior to the scheduled date of the hearing a list of:

(a) Witnesses on Form #3 (Witness List (1993));

(b) Exhibits they intend to introduce on Form #4 (Exhibit List (1993)); or

(c) Those persons who will enter an appearance on behalf of a party on Form #5 (Notice of Appearance (1993)).

(5) A hearing officer may:

(a) Place reasonable time limits upon the presentation of testimony, evidence, and argument; and

(b) Terminate or exclude irrelevant or redundant evidence, testimony, or argument.

(6) Except for the exchange of exhibits, prehearing discovery of an affected person by another affected person shall not be permitted.

(7) Upon completion of the hearing, the record on a certificate of need application shall be:

(a) Final for evidentiary purposes; and

(b) Reopened only upon order of the hearing officer.

(8) Upon completion of a public hearing, parties to the proceedings may submit proposed findings of fact and conclusions of law for consideration by the hearing officers, within reasonable time limits set by the hearing officers.

Section 8. Request for Reconsideration. (1) The hearing officers shall act upon request for reconsideration no later than thirty (30) days following receipt of a request.

(2) If reconsideration is granted, a reconsideration hearing shall be held within thirty (30) days of the decision to grant reconsideration, and a final decision shall be made no later than thirty (30) days following the reconsideration hearing.

Section 9. Nonsubstantive Review. (1) In addition to the projects specified in KRS 216B.095(3)(a) through (f), a proposal specified in this section that requires approval of a certificate

shall be granted for nonsubstantive review status.

(a) Technical modifications to an approved certificate of need;

(b) Cost overruns of the capital expenditure authorized by an approved certificate of need;

(c) Emergency circumstances which, if not promptly acted upon, would pose a threat to the life, health and safety of any citizen of the Commonwealth. An applicant acting under this subsection may proceed to relieve any of these listed emergency circumstances provided the:

1. Office is notified in writing prior to an action; and

2. Application is submitted within thirty (30) days of the occurrence of the emergency.

(d) New construction which does not involve a substantial change in bed capacity, a substantial change in a health service, or the addition of major medical equipment;

(e) Applications proposing the use of existing mobile services and equipment to provide health care access in unserved geographic areas of the Commonwealth;

(f) Applications proposing the use of existing mobile services to provide health care access for which the Kentucky General Assembly has specifically appropriated funds; and

(g) Department of Corrections applications proposing the establishment or construction of nursing facility beds for which the Kentucky General Assembly has specifically appropriated funds.

(h) Day health care programs.

(2) Procedures for nonsubstantive review shall be as follows:

(a) The original certificate of need application and two (2) copies, with a request for nonsubstantive review shall be submitted to the interim office.

(b) Within fifteen (15) days of the receipt of the application, the interim office shall:

1. Acknowledge receipt of the application; and [~~in writing to the applicant, and shall~~]

2. Notify the applicant whether [~~or not~~] the application is complete.

(c) If the application is not complete, the notice shall state that [~~to~~] the applicant shall:

1. Complete the application by submitting specific additional information; or

2. Notify the interim office that its application shall be processed as submitted. [~~give the applicant the option of submitting the additional information or of notifying the interim office upon receipt of the request for additional information, that he elects for the application to be processed as originally submitted.~~]

(d) Upon receipt of an applicant's response, the interim office shall:

1. Deem an application complete [~~except as provided in subparagraph 3 of this paragraph~~]; and

2. Notify the applicant of the beginning of the review.

[~~3. An application to relocate a psychiatric residential treatment facility (PRTF) shall not be declared complete unless the applicant provides the names and addresses of all persons owning property adjoining the proposed location of the PRTF, the county judge executive and the nearest municipal or city government.~~] [~~the requested additional information by the interim office, or upon receipt of a letter from the applicant that he elects for the application to be processed as originally submitted, the interim office shall declare the application to be deemed complete.~~]

(e) No later than ten (10) days after an application has been deemed complete, a decision by a hearing officer on a request for nonsubstantive review shall be mailed to the applicant. A notice of a decision to conduct a nonsubstantive review shall be:

1. Given to third party payors and members of the public through public information channels, **notice mailed to local newspapers and county judge executives**; and

2. Mailed to other known affected persons.

[~~3. In the case of a request for a change of location of a psychiatric residential treatment facility (PRTF) legal notice shall be given pursuant to KRS Chapter 424. Notice shall also be given to adjoining property owners, the county judge executive, and the nearest municipal or city government by mail no later than the tenth day after the application is deemed complete.~~]

(f) If nonsubstantive review status is denied, the applicant may request a public hearing by filing a request with the interim office within ten (10) days of the notice to deny nonsubstantive review. As applicable, hearings shall be conducted as provided by KRS 216B.085.

(g) If a certificate of need is denied following a nonsubstantive review and a formal review is requested, no letter of intent shall be required, but the filing of the request for nonsubstantive review shall be considered compliance with any requirement for a letter of intent.

Section 10. Conditions Relative to a Certificate of Need. (1) A person shall not transfer from one (1) legal applicant to another an approved certificate of need for the establishment of a new health facility or the replacement of an existing facility without first obtaining a certificate of need.

(2) Other certificates of need may be transferred to the new owner of the facility or service if the change of ownership occurs prior to the implementation of the project for which the certificate of need was issued.

(3) A certificate of need approved for establishment of a new health facility or the replacement of an existing facility is valid only for the location stated on the certificate.

(4) A certificate of need holder shall notify the interim office of any reduction or termination of a health service or a reduction in bed capacity for an approved project no later than the first progress report after the decision to make the change has been determined.

Section 11. Administrative Cost Escalations and Overruns. (1) A certificate of need using Form #2c (1993) shall be required for an escalation or cost overrun of the capital expenditure authorized by an approved certificate of need in all instances where there is a substantial change in the project, or where the escalation or overrun exceeds the following limits:

(a) Twenty (20) percent of the capital expenditure authorized or $100,000, whichever is greater, in the case of projects with a capital expenditure of less than $500,000;

(b) Twenty (20) percent of the capital expenditure authorized, in the case of projects with a capital expenditure of $500,000 or greater, but less than $5,000,000;

(c) Ten (10) percent of the amount in excess of $5,000,000, plus $1,000,000, in the case of projects with a capital expenditure of $5,000,000 or greater, but less than $25,000,000;

(d) Five (5) percent of the amount in excess of $25,000,000, plus $3,000,000, in the case of projects with a capital expenditure of $25,000,000 or greater, but less than $50,000,000; or

(e) Two (2) percent of the amount in excess of $50,000,000, plus $4,250,000 in the case of projects with a capital expenditure of $50,000,000 or greater.

(2)(a) Requests for administrative cost escalations or cost overruns shall be submitted to the interim office, on the following forms:

1. Form #6 (Cost Escalation (1992)); or

2. Form #7 (Cost Overrun (1992)).

(b) The requests shall include:

1. Amount of the escalation of overrun;

2. Factors causing the escalation or overrun; and

3. Information to assure that the scope of the project as originally approved has not changed.

(c) The hearing officers shall review all requests for administrative cost escalations and overruns and the interim office shall notify the certificate of need holder within thirty (30) days of

receipt whether the requested escalation or overrun meets the requirements of subsection (1) of this section.

(3) The certificate of need holder shall submit any additional certificate of need application fee required by the increased capital expenditure pursuant to the requirements of 902 KAR 20:135.

Section 12. Timetables and Standards for Implementation. (1) As a condition for the issuance of a certificate of need, a holder of a certificate of need shall submit progress reports on "Progress Report Form #8" at the six (6) month intervals specified in this section.

(2)(a) A notice specifying the date each progress report is due shall be sent to a holder of a certificate of need.

(b) The interim office shall review a progress report and shall:

1. Determine whether the items required to be completed during the six (6) month period covered by the progress report have been completed; and

2. If the items have not been completed, whether sufficient reasons for failure to complete have been provided.

(3) A certificate of need shall be deemed complete when:

(a) The project has been approved for licensure and occupancy by the Division of Licensing and Regulation; or

(b) The appropriate license has been obtained; and

(c) A final cost breakdown has been submitted; and

(d) For projects for which a certificate of need has been issued for a specific service area, documentation that services are being provided to all of the licensed service area has been submitted.

(4) Until a project has been deemed complete by the interim office, if the information submitted is deemed incomplete, or otherwise deficient, the interim office may require:

(a) The submission of additional reports; or

(b) Progress reports in addition to those required at six (6) month intervals under the provisions of this section.

(5) If the interim office determines that the items have not been completed for reasons other than those set forth in paragraph (c) of this subsection, for the failure to complete, it shall notify the holder of the certificate of need, in writing, that:

(a) It has determined to revoke the certificate of need;

(b) The revocation shall become final thirty (30) days from the date of the notice of revocation, unless the holder requests a hearing to show cause why the certificate of need shall not be revoked.

(c) A certificate of need shall not be revoked for failure to complete the items required during a six (6) month period, if the holder of the certificate of need establishes that the failure to complete the items required was due to emergency circumstances, or other causes that:

1. Could not reasonably be anticipated and avoided by the holder; or

2. Were not the result of action or inaction of the holder.

(6) The first progress report shall include the following:

(a) On all projects for purchase of equipment only, a copy of the purchase order;

(b) For all projects involving the acquisition of real property, evidence of an option to acquire the site;

(c) For all construction or renovation projects, evidence that schematic plans have been submitted to the Department of Housing, Buildings and Construction and the Division of Licensing and Regulation.

(7) For projects not deemed complete a second progress report shall include the following:

(a) Documentation that beds in all projects for conversion of beds are licensed;

(b) Documentation that all projects for addition of new services or expansion of existing services, not involving construction or renovation or the installation of equipment, are approved for licensure and occupancy by the Division of Licensing and Regulation and licensed, if applicable; and

(c) All construction or renovation projects shall include:

1. Schedule for project completion with projected dates;

2. Evidence of preliminary negotiation with financial agent; and

3. Evidence of preliminary negotiation with contractors.

(8) For projects not deemed complete, a third progress report shall include the following:

(a) For construction or renovation projects:

1. Copy of deed or lease of land;

2. Documentation of final financing. If the source of capital is to be a financing agreement, the holder must have evidence that a final enforceable agreement or note has been executed;

3. Documentation that final plans have been submitted to the Department of Housing, Buildings and Construction and the Division of Licensing and Regulation;

4. Enforceable contract with construction contractor;

(b) On all projects for purchase of equipment only, evidence of approval for licensure and occupancy by the Division of Licensing and Regulation.

(9) For projects not deemed complete, a fourth progress report shall include documentation of final plan approval by the Department of Housing, Buildings and Construction and the Division of Licensing and Regulation and that the walls and roof are up and plumbing is roughed in on all construction/renovation projects.

(10) For projects not deemed complete, a fifth progress report shall include documentation that construction/renovation is progressing according to schedule for project completion on all construction or renovation projects.

(11) For projects not deemed complete, a sixth progress report shall include documentation that the project has been approved for licensure and occupancy by the Division of Licensing and Regulation and where applicable, that the appropriate license has been obtained for the project.

(12) For projects not deemed complete after the sixth progress report, the certificate holder shall, upon request, provide the interim office with a written statement showing cause why the certificate should not be revoked. The interim office may defer revocation action upon a showing by the certificate holder that the project will be completed on a revised schedule of completion, subject to progress reports which the interim office may require.

(13) Within six (6) months following licensure of a project for which a certificate of need has been issued for a specific service area, the certificate holder shall submit documentation that services are being provided to all of the licensed service area. Failure to provide such documentation shall constitute grounds for revocation of the certificate of need and the license for those areas where service is not being provided.

(14) If the project involves a capital expenditure, a final cost breakdown shall be included in the final progress report.

Section 13. Advisory Opinions. The process for seeking an advisory opinion from the hearing officers shall be as follows:

(1) Requests for advisory opinions shall be completed on Form #9 (Advisory Opinion (1993 [~~1992~~])).

(2) The hearing officers may require verification of information and may request additional documentation, if necessary.

(3) The hearing officers shall issue a written advisory opinion within thirty (30) days of receipt of a completed request for an opinion or of receipt of additional information.

(4) An affected person may request a public hearing regarding a written advisory opinion by requesting same from the interim office in writing within thirty (30) days of the public notice of the advisory opinion which shall be published in the monthly certificate of need newsletter and disseminated through public information channels. If a public hearing is not requested, the advisory opinion shall be the final action of the administrative

agency, subject to judicial review. Failure to request a public hearing shall not constitute a failure to exhaust administrative remedies.

(5) Advisory opinion hearings shall be conducted pursuant to the provisions of Section 5 of this administrative regulation.

Section 14. Final Decisions. All final decisions regarding certificate of need related matters will be decided by the individual hearing officer to whom that particular matter is assigned.

Section 15. Incorporation by Reference. (1) "Form #1 (Letter of Intent (1992))", "Form #2a (Certificate of Need Application (1993-1))", "Form #2b (Certificate of Need Application for Ground Ambulance, Air Ambulance and Nonemergency Health Transportation Services (1993))", "Form #2c (Certificate of Need Application for Change of Location, Ownership, Replacement, Cost Escalation or Cost Overrun (1993-1))", "Form #3 (Witness List (1993))", "Form #4 (Exhibit List (1993))", "Form #5 (Notice of Appearance List (1993))", "Form #6 (Cost Escalation (1992))", "Form #7 (Cost Overrun (1992))", "Form #8 (Progress Report (1993))" and "Form #9 (Advisory Opinion (1993))", "Form #10 (Acquisition of a Health Facility Notice of Intent (1993))" are incorporated by reference.

(2) These forms may be inspected, copied or obtained at the Interim Office of Health Planning & Certification, Cabinet for Human Resources, 275 East Main, Frankfort, Kentucky 40621, 8 a.m. to 4:30 p.m., Monday through Friday.

Section 16. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

GREG LAWTHER, Acting Executive Director
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: February 3, 1994
FILED WITH LRC: February 4, 1994 at 11 a.m.

PROPOSED ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, FEBRUARY 15, 1994

KENTUCKY LEGISLATIVE ETHICS COMMISSION
(Proposed Amendment)

2 KAR 2:010. Legislative agent or employer registration statement, legislative agent's updated registration statement, legislative agent's notice of termination of engagement, employer's updated registration statement, employer's notice of termination of engagement.

RELATES TO: KRS 6.666(6) to (13), 6.807, 6.821, 6.824, 6.827
STATUTORY AUTHORITY: KRS 6.666(5)
NECESSITY AND FUNCTION: KRS 6.807 requires each legislative agent and employer to file an initial registration statement, periodic updated registration statements, and a notice of termination of engagements. This administrative regulation establishes the required forms [~~registration statement~~].

Section 1. Definitions. "Personal expenses" mean expenses which are neither reimbursable to the legislative agent by the employer, nor deductible as a business expense under the Internal Revenue Code.

Section 2. [~~1.~~] The registration forms and termination forms required by KRS 6.807 shall be mailed to the Kentucky Legislative Ethics Commission, Room 318, Capitol Annex, Frankfort, Kentucky 40601.

Section 3. [~~2.~~] (1) The "Initial Legislative Agent/Employer Registration Statement", "Legislative Agents Updated Registration Statement", "Legislative Agents Notice of Termination of Engagement", "Employers Updated Registration Statement", "Employers Notice of Termination of Engagement", are [~~(KLEC 7/93)" is~~] incorporated by reference.

(2) These documents [~~This document~~] may be inspected, copied, or obtained at the Kentucky Legislative Ethics Commission, Capitol Annex, Room 318, Frankfort, KY 40601, 8 a.m. to 4:30 p.m., Monday through Friday.

JUDGE GEORGE E. BARKER, Chair
APPROVED BY AGENCY: February 15, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.
PUBLIC HEARING: A public hearing will be held at the Legislative Ethics Commission Office in Room 318, Capitol Annex, Frankfort, Kentucky 40601, 10 a.m. on March 25, 1994. Individuals interested in attending this hearing shall notify this agency in writing by March 20, 1994, 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 canceled. 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 and prior arrangements for a transcript are 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: Michael O'Connor, Attorney, Kentucky Legislative Ethics Commission, Room 318, Capitol Annex, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Michael O'Connor
(1) Type and number of entities affected: The initial registration statements, legislative agent's updated registration statement, legislative agent's notice of termination of engagement, the employer's updated registration statement, and the employer's notice of termination of engagement, will affect all legislative agents and their employers. The number of legislative agents is anticipated to be as large as 600, and the number of employers is anticipated to be as large as 400. The exact numbers cannot be determined in advance.
(a) Direct and indirect costs or savings to those affected:
1. First year: KRS 6.809 requires that each employer of one or more legislative agents shall pay a fee of $250 for registration which shall be valid through the next 31st day of December of an odd-numbered year, unless previously terminated. This regulation adds no additional costs.
2. Continuing costs or savings: KRS 6.807 requires that an employer will pay the $250 fee each time the employer re-registers after expiration on the 31st day of December of an odd-numbered year, or reregisters after voluntarily terminating registration before it expires. This regulation adds no additional costs.
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no known additional factors which will increase or decrease costs.
(b) Reporting and paperwork requirements: KRS 6.807 requires that each legislative agent and employer shall file an initial registration statement with the Legislative Ethics Commission within 7 days following engagement. Updated registration statements are required to be filed by employers of legislative agents and by legislative agents on or before the 15th day of January, February, March, April, May, and September of even numbered years and the 15th day of January, May, and September of odd numbered years. Notice of termination forms must be filed with the commission within 30 days after the termination of engagement. This regulation creates the required forms.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Costs to the Legislative Ethics Commission will be approximately one cent per page for printing costs. The original printing of 5,000 pages will cost $50. The costs will be paid from money already budgeted from general and restricted funds, and fees collected.
2. Continued costs or savings: The costs should be consistent on an annual basis.
3. Additional factors increasing or decreasing costs: None known.
(b) Reporting and paperwork requirements: KRS Chapter 6 requires the commission shall make the completed forms available for public inspection, and shall maintain an alphabetical index. Completed forms shall be preserved for 2 years. The commission shall provide the Legislative Research Commission and every member of the General Assembly with a list of every registered legislative agent and employer on or before the 10th day of every month. This regulation adds no additional requirements.
(3) Assessment of anticipated effect on state and local revenues: This regulation should not have any effect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The forms are required by the 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: No conflict determined.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict determined.
(6) Any additional information or comments: None
TIERING: Is tiering applied? No. Tiering is not applicable as this regulation applies equally to all legislative agents and employers.

GENERAL GOVERNMENT CABINET
Board of Embalmers and Funeral Directors
(Proposed Amendment)

201 KAR 15:040. Examination.

RELATES TO: KRS 316.050, 316.070
STATUTORY AUTHORITY: KRS 316.210(4)
NECESSITY AND FUNCTION: This administrative regulation is necessary to comply with KRS 13A.100(2) which requires that the process for matters for which an application would be appropriate be prescribed by administrative regulation. The function of this administrative regulation is to establish [Sets forth] the procedure, content, and time of the Funeral Director's and Embalmer's examination.

Section 1. [Examination. (1)] Content of Examination. (1) The examination[s] for a license to practice embalming and a license to practice funeral directing shall be a written examination administered by one (1) or more [held under the control of] members of the Board of Embalmers and Funeral Directors [and shall consist of a written examination].

(2) The subjects to be covered in the examination for embalmer's license shall be [are] as follows:

(a) Embalming;
(b) Anatomy;
(c) Microbiology; [Bacteriology,]
(d) Pathology;
(e) Chemistry;
(f) Restorative art;
(g) [and] Mortuary administration and law;
(h) Accounting;
(i) Sociology; and
(j) Psychology.

(3) The subjects to be covered in the examination for funeral director's license shall be [are] as follows:

(a) Mortuary administration;
(b) Ethics;
(c) Accounting;
(d) Sociology; [Microbiology,]
(e) Business law;
(f) Primary psychology;
(g) Transportation rules;
(h) Hygiene and sanitation; and
(i) Disinfection and fumigation.

(4)(a) The board may accept the results of the National Board Examination of Embalmers [which is given under the direct supervision of a member of the Board of Directors of the Conference of Funeral Service Examining Boards of the United States, Inc.,] in lieu of the written [portion of the regular] examination administered [as usually provided] by the board.

(b) The applicant seeking to take the examination for embalmer or funeral director shall [must] file an [regular] application, along with the required fee, with the board at least thirty (30) days before the date of the examination and shall present himself before the board for further examination as may [shall] be required. [The board at its discretion may refuse to accept the results of any national board examination and may require these persons who apply for license under this provision to write the regular state board examination.

(2) Procedure of examination. The examination for license to engage in the business and practice of funeral directing and the practice of embalming shall be held under the control of members of the Board of Embalmers and Funeral Directors and shall consist of a written examination. While taking the examination no applicant shall leave the examination room unless a member of the board accompanies him.

(a) The members of the board shall grade each applicant's paper within a reasonable period of time.]

Section 2. Procedure for Examination. (1) [The] Applicants shall [must] attain a proficiency of seventy-five (75) percent on the examination to make a passing grade.

(2) [entire application.

(b)] All written questions for the embalmer's and funeral director's examinations [submitted for examination of applicants for licenses] are the property of the board and [the] applicants shall [must] return the questions [same] to the board with their answers.

[(c) When the applicant has complied with all the above requirements to the satisfaction of a majority of the board he shall be issued a license to practice embalming or to practice funeral directing, according to the examination taken by the applicant.

(d) All licenses shall be signed by the president, secretary and at least one (1) other member of the board and shall have the seal of the board affixed.]

Section 3. [(3)] Time of Examinations. (1) [(a)] Examinations shall normally [will] be held for funeral director's and embalmer's licenses [annually] at the regular meeting of the board[, on the second Monday and Tuesday] in December and June of each year.

(2) Examinations may be held [conducted, however,] at other regular or special meetings at the board's discretion. [that may be held by the board.

(b) Notices of the date of funeral director's and embalmer's examination must be mailed by the secretary of the board to all funeral firms in this state thirty (30) days prior to the date of examinations advising them of the place and date when the examinations will be held.

(c) A complete list of all applicants for funeral director and embalmer license taking the examination must be mailed to each funeral firm in the state by the secretary of the board fifteen (15) days before each examination. Upon receipt of this list, if any person receiving the list has a reason for complaint they will file the complaint with the secretary of the board before the date of examination.]

(3) [(d)] An applicant shall be [is] entitled to only one (1) examination for the fee of thirty-five (35) dollars.

EDD PRESTON, President
APPROVED BY AGENCY: February 9, 1994
FILED WITH LRC: February 10, 1994 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held the 28th day of March, 1994, at 9 a.m. in Room 127, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by the 23rd day of March, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William B. Pettus, Assistant Attorney General, Office of Attorney General, Box 2000, Frankfort, Kentucky 40602-2000, (502) 573-7600.

REGULATORY IMPACT ANALYSIS

Agency Contact: William B. Pettus
(1) Type and number of entities affected: Approximately 60 to 70 applicants for embalmer and funeral director licenses in Kentucky.
(a) Direct and indirect costs or savings to those affected: 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 continuing direct or indirect costs or savings.

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 continuing 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 the anticipated effect on state and local revenues: There is no effect anticipated on state and local revenues.

(4) Assessment of alternative methods: reasons why alternatives were rejected: This proposal amends an existing regulation to comply with state law. No other alternatives were deemed appropriate.

(5) Identify any state or federal statute or regulation that may conflict with, overlap, or duplicate the administrative regulation being promulgated: There is no such statute or regulation.

(6) Any additional information or comments: None

TIERING? Was tiering applied? No. Tiering was not applied because all applicants for licensure are treated uniformly under the law.

GENERAL GOVERNMENT CABINET
State Board of Examiners & Registration of Architects
(Proposed Amendment)

201 KAR 19:085. Fees.

RELATES TO: KRS 323.080, 323.110

STATUTORY AUTHORITY: KRS 323.210

NECESSITY AND FUNCTION: To define the basis of fees and fee payments.

Section 1. Annual Renewal [~~Fee~~]. (1) The annual renewal fee shall be due and paid before the first day of July each year. Anyone failing to pay the annual fee on or before the 30th day of August, who has not voluntarily surrendered his registration by that date, shall be guilty of violation of the law and his license shall be [~~is~~] automatically revoked.

(2) Licenses granted on July 1 and thereafter through December 31 shall be first renewed before the first day of July following. Licenses granted January 1 and thereafter through June 30 following shall be first renewed before the first day of July in the year following. This requirement [~~rule~~] shall also apply to licenses restored or reinstated.

(3) During a period of active military duty an architect in the service may, upon written application to the board, be excused from paying the annual fee until such time as his military service is terminated and he wishes to resume practice. An identification card or renewal certificate shall be issued upon notification of his return from duty and payment of the current annual renewal fee.

(4) An architect whose license has been revoked for failure to pay the annual renewal fee, who wishes to have his license reinstated, shall make a written request [~~therefor,~~] giving the reason why he neither surrendered his registration nor paid the fee within the time prescribed by law. Upon payment of the prescribed fees and acceptance by the board, his license shall be reinstated. [~~and thereafter bide by the board's decisions and follow its instructions in applying for reinstatement.~~]

(5) The board shall require the application for annual license renewal to include a signed affidavit that the licensee has not been in violation of the professional practice standards stated in 201 KAR 19:095. Failure to sign the affidavit shall be cause for the renewal application to be rejected.

Section 2. Examination Applications. (1) An application for admission to the Architect Registration Examination (ARE) shall be accompanied by the payment of fees set forth by these regulations.

(2)(a) Applicants who either fail to pass the entire examination, or who were not admitted to the examination, within the prescribed three (3) year eligibility period shall submit another application, updated to the time of submission with supplemental information. These applicants shall be required to pay the same [~~an additional~~] application fee [~~same~~] as [~~for~~] new applicants.

(b) Applicants receiving credit from the previous full examination sequence shall not be required to pay additional examination fees during their three (3) year period of eligibility.

Section 3. Fee Schedule. (1) Application for admission to, and administration of the Architect Registration Examination - $100.

(2) Reapplication for admission to and administration of the Architect Registration Examination after original application has expired - $100.

(3) For a license certificate after passing of examination - $25.

(4) Application for restoration of a voluntarily surrendered license - $50.

(5) Application for a license by reciprocity with another state or country - $75.

(6) Application for reinstatement of license revoked for failure to pay renewal fee, or suspended by the board; renewal fees from date of revocation plus application as directed plus - $50.

(7) Annual renewal fee: determined each year by board. Not to exceed - $45.

(8) No fee shall be refunded in whole or in part. All payments shall be by check made payable to "Kentucky State Treasurer." All shall be certified except those for the annual renewal fee, and examination questions.

Section 4. Charges for Examination Questions. Applicants shall be charged the cost [~~, at actual cost to the board, for the use of each set~~] of examination questions required. Payment shall be made when the board is notified by the applicant that he intends to appear. The [~~Such~~] charges shall be made each time the examinations are taken and shall not be refunded.

JOHN B. GARTNER, JR., President

APPROVED BY AGENCY: November 19, 1993

FILED WITH LRC: February 4, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 21, 1994, at 1 p.m. at 3302 Brookhill Circle, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by March 16, 1994, five days prior to the meeting, 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 the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for at 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.

CONTACT PERSON: L. Wayne Tune, Executive Director, State

Board of Examiners & Registration of Architects, P.O. Box 22097, Lexington, Kentucky 40522, (606) 277-3312.

REGULATORY IMPACT ANALYSIS

Contact person: L. Wayne Tune

(1) Type and number of entities affected: 30± new applicants; 60± retake applicants; 2200± registered architects.

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

1. First year: $100 new applicants for examination. Zero for retakes. $75 - out-of-state applications for reciprocity.

2. Continuing costs or savings: Maximum $45 annual renewal for all registered architects.

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None additional on staff.

(a) Direct and indirect costs or savings: No additional.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Processing notices, receipts, depositing funds and maintaining records.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None applicable.

(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 being amended to include certification of nonviolation by architects when paying annual renewal fee.

TIERING: Is tiering applied? No. There is only one class of person to which each fee type applies.

GENERAL GOVERNMENT CABINET
Kentucky State Board of Podiatry
(Proposed Amendment)

201 KAR 25:011. Approved schools; examination application, fees.

RELATES TO: KRS 311.420

STATUTORY AUTHORITY: KRS 311.410(4)

NECESSITY AND FUNCTION: KRS 311.420 requires all persons engaging in the practice of podiatry in [~~the state of~~] Kentucky to be licensed by the State Board of Podiatry. KRS 311.420 provides that each applicant shall submit to an examination conducted by the board. This administrative regulation establishes [~~sets out~~] the procedures to be followed in obtaining an application, the fees to be charged, and the procedures relating to the examination and issuance of a license to practice podiatry in this state.

Section 1. (1) The board approves [~~recognizes~~] the following schools or colleges of podiatry as having [~~these~~] standards and requirements adequate to satisfy the educational requirement for taking the podiatry examination for licensure [~~comply with the provisions of KRS 311.420(1)(d). Those schools and colleges are as follows~~]:

(a) Barry University School of Podiatric Medicine, Miami Shores, Florida.

(b) California College of Podiatric Medicine, [~~1770 Eddy Street,~~] San Francisco, California [~~94115~~].

(c) College of Podiatric Medicine and Surgery, Des Moines, Iowa.

(d) [~~(b)~~] Dr. William M. Scholl [~~School~~] College of Podiatric Medicine, [~~1001 N. Dearborn Street,~~] Chicago, Illinois [~~60610~~].

[~~(c) Pennsylvania College of Podiatric Medicine, Race and Eighth Streets, Philadelphia, Pennsylvania 19107.~~]

(e) [~~(d)~~] New York College of Podiatric Medicine, [~~53 East 124th Street,~~] New York, New York [~~10035~~].

(f) [~~(e)~~] Ohio College of Podiatric Medicine, [~~10515 Carnegie Avenue,~~] Cleveland, Ohio [~~44106~~].

(g) Pennsylvania College of Podiatric Medicine, Philadelphia, Pennsylvania.

(2) All other schools or colleges of podiatry shall have academic standards and requirements equivalent to the schools or colleges listed above as evaluated by the board in order to be approved by the board. Evaluation of the academic standards and requirements shall be made by the board after an applicant has filed an application for a license with the board. [~~The board will evaluate the academic standards of schools and colleges of podiatry desiring to be approved by the board following receipt by the board of applications for approval from said schools or colleges.~~]

Section 2. All applications for examination [~~mentioned herein shall be submitted on application forms prescribed and provided by the board, accompanied by such evidence, statements, or documents as therein required, and~~] shall be filed with the board at its principal office within the times prescribed by this administrative regulation [~~herein~~].

(1) Every applicant, eligible to take the examination pursuant to the provisions of KRS 311.420, shall file [~~must submit~~] an application with [~~to the secretary of~~] the board at least forty (40) [~~thirty (30)~~] days prior to the date of the examination.

(2) The fee for the examination or reexamination shall be $250 [~~the sum of $200~~] and shall [~~must~~] be paid when [~~at the time~~] the application for examination or reexamination is filed with the board. The fee [~~sum~~] shall be made payable to the Kentucky State Treasurer in United States currency by certified check, cashier's check, or postal money order and shall not be refundable.

(3) Any applicant who fails to attain a passing score as required by the board may apply to the board for reexamination [~~by submitting another application to the secretary of the board at least thirty (30) days prior to the date of the next examination~~].

[~~Section 3. The board shall not refund the examination or reexamination fee except where good and sufficient cause for refunding all or a portion of the fees are shown to the board within a reasonable time prior to the date of the examination or reexamination.~~]

JOSEPH P. LEONE, President

APPROVED BY AGENCY: January 29, 1994

FILED WITH LRC: February 14, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held the 21st day of March, 1994, at 9 a.m. in Room 127, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by the 16th day of March, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportu-

nity 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: William B. Pettus, Assistant Attorney General, Office of Attorney General, Box 2000, Frankfort, Kentucky 40602-2000, (502) 573-7600.

REGULATORY IMPACT ANALYSIS

Agency Contact: William B. Pettus

(1) Type and number of entities affected: Approximately three to ten applicants seeking licensure as a podiatrist in Kentucky each year.

(a) Direct and indirect costs or savings to those affected: There will be an additional $50 cost to persons seeking licensure as a podiatrist.

1. First year: There will be an additional $50 cost to persons seeking licensure as a podiatrist the first year.

2. Continuing costs or savings: There will be a continuing additional $50 cost to persons seeking licensure as a podiatrist.

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 an additional $150 to $500 of money for the Kentucky State Board of Podiatry.

1. First year: There will be an additional $150 to $500 of money for the Kentucky State Board of Podiatry.

2. Continuing costs or savings: There will be a continuing additional $150 to $500 of money for the Kentucky State Board of Podiatry each year.

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 the anticipated effect on state and local revenues: There will be a continuing additional $150 to $500 of revenue for the Kentucky State Board of Podiatry each year.

(4) Assessment of alternative methods: reasons why alternatives were rejected: This proposal amends an existing regulation. No other alternatives were deemed appropriate.

(5) Identify any state or federal statute or regulation that may conflict with, overlap, or duplicate the administrative regulation being promulgated: There is no such statute or regulation.

(6) Any additional information or comments: None

TIERING? Was tiering applied? No. Tiering was not applied because all applicants are treated uniformly under the law.

GENERAL GOVERNMENT CABINET
Kentucky State Board of Podiatry
(Proposed Amendment)

201 KAR 25:012. Licensing examinations; fees.

RELATES TO: KRS 311.420

STATUTORY AUTHORITY: KRS 311.410(4)

NECESSITY AND FUNCTION: This administrative regulation establishes [~~sets out~~] the scope [~~and subject matter~~] of the licensing examination and the examination fee.

Section 1. (1) Scope of examination. The examination shall test the knowledge of applicants in various subjects relating to the practice of podiatry and may include written, oral, and clinical questions. [~~Examination to obtain licensure shall consist of two (2) parts: a written examination and a clinical examination.~~]

(2) Notice [~~Examinations shall be held at such times and places as shall be determined by the board. A schedule~~] of the date[s], time[s], and place[s] of the examination[s] shall be mailed to each applicant whose application is accepted by the board.

(3) The passing score for the examination shall be seventy-five (75) percent on the entire examination. [~~The board in its discretion may accept certified, successful national board of podiatry examinations in lieu of the written portion of its examination.~~

~~Section 2. (1) Written examination. To successfully complete the written portion of the examination, the applicant must receive an average grade of not less than seventy five (75) percent on the entire written examination.~~

~~(2) This requirement must be satisfied prior to admission to the clinical portion of the Kentucky Board of Podiatry's licensure examination.~~

~~(3) Scope of examination. Examinations shall be adequate to test the knowledge, education and training of applicants in all subjects relating to the practice of podiatry, but must remain within the subjects contained in the regular curriculum of accredited schools of podiatry.~~

~~Section 3. (1) Clinical examination. The requirements of the clinical examination shall be within the discretion of the board as to subject matter but must remain within the subjects contained in the regular curriculum of accredited schools of podiatry.~~

~~(2) Scope of examination. Examinations shall be adequate to test the ability of the applicants to apply their knowledge, education, and training in a clinical setting.~~]

JOSEPH P. LEONE, President

APPROVED BY AGENCY: January 29, 1994

FILED WITH LRC: February 14, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held the 21st day of March, 1994, at 9 a.m. in Room 127, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by the 16th day of March, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William B. Pettus, Assistant Attorney General, Office of Attorney General, Box 2000, Frankfort, Kentucky 40602-2000, (502) 573-7600.

REGULATORY IMPACT ANALYSIS

Agency Contact: William B. Pettus

(1) Type and number of entities affected: Approximately three to ten applicants seeking licensure as a podiatrist in Kentucky each year.

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

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 continuing 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 the anticipated effect on state and local revenues: There is no effect anticipated on state and local revenues.

(4) Assessment of alternative methods: reasons why alternatives were rejected: This proposal amends an existing regulation. No other alternatives were deemed appropriate.

(5) Identify any state or federal statute or regulation that may conflict with, overlap, or duplicate the administrative regulation being promulgated: There is no such statute or regulation.

(6) Any additional information or comments: None

TIERING? Was tiering applied? No. Tiering was not applied because all applicants are treated uniformly under the law.

GENERAL GOVERNMENT CABINET
Kentucky State Board of Podiatry
(Proposed Amendment)

201 KAR 25:021. Annual renewal notice for licenses, fees.

RELATES TO: KRS 311.450

STATUTORY AUTHORITY: KRS 311.410(4)

NECESSITY AND FUNCTION: KRS 311.450 requires the board to send notices to all podiatrists licensed by the [~~this~~] board to their last known address on or before June 1 of each year. This administrative regulation [~~requires the mailing of an annual renewal notice to all licensed podiatrists and~~] requires all licensed podiatrists to complete the annual renewal notice and return it, along with the annual renewal fee to the board. This administrative regulation [~~It~~] further [~~requires all licensed podiatrists to keep the board apprised of the current address of the licensee;~~] establishes an annual license renewal fee and a delinquent penalty fee [~~penalty for noncompliance~~].

Section 1. [~~The State Board of Podiatry shall on or before June 1 of each year mail to each licensed podiatrist an annual renewal notice. This annual renewal notice must be completed and returned to the board on or before July 1 of each year.~~] The annual renewal fee, in the amount of $150 [~~100~~] shall be attached to the completed annual renewal notice when the notice [~~it~~] is returned to the board by the podiatrist seeking licensure renewal. The [~~Said~~] annual renewal fee shall be made payable to the Kentucky State Treasurer in United States currency [~~paid~~] by certified check, cashier's check, or postal money order[~~, payable to the State Board of Podiatry~~]. All information requested on the annual renewal notice form shall be furnished to the board when the completed annual renewal notice form is returned to the board, together with a statement of compliance with the continuing education administrative regulations of the board.

[~~Section 2. In addition, the licensed podiatrist shall return with the annual renewal notice form a statement showing his compliance with the continuing education requirements of the board.~~]

Section 2. [~~3.~~] Failure to complete the requirements for annual renewal of the license by July 1 of each [~~the current~~] year shall result in a delinquent penalty fee of $100.

JOSEPH P. LEONE, President

APPROVED BY AGENCY: January 29, 1994

FILED WITH LRC: February 14, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held the 21st day of March, 1994, at 9 a.m. in Room 127, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by the 16th day of March, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William B. Pettus, Assistant Attorney General, Office of Attorney General, Box 2000, Frankfort, Kentucky 40602-2000, (502) 573-7600.

REGULATORY IMPACT ANALYSIS

Agency Contact: William B. Pettus

(1) Type and number of entities affected: Approximately 80-90 podiatrists licensed in Kentucky.

(a) Direct and indirect costs or savings to those affected: There will be an additional $50 cost of license renewal for approximately 80-90 podiatrists licensed in Kentucky.

1. First year: There will be an additional $50 cost of license renewal for approximately 80-90 podiatrists licensed in Kentucky.

2. Continuing costs or savings: There will be a continuing cost of $50 for license renewal for approximately 80-90 podiatrists licensed in Kentucky.

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 an additional $4,000 to $4,500 in revenue each year for the Kentucky State Board of Podiatry.

1. First year: There will be an additional $4,000 to $4,500 in revenue each year for the Kentucky State Board of Podiatry.

2. Continuing costs or savings: There will be a continuing additional $4,000 to $4,500 in revenue each year for the Kentucky State Board of Podiatry.

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 the anticipated effect on state and local revenues: There will be a continuing additional $4,000 to $4,500 in revenue each year for the Kentucky State Board of Podiatry.

(4) Assessment of alternative methods: reasons why alternatives were rejected: This proposal amends an existing regulation. No other alternatives were deemed appropriate.

(5) Identify any state or federal statute or regulation that may conflict with, overlap, or duplicate the administrative regulation being promulgated: There is no such statute or regulation.

(6) Any additional information or comments: None

TIERING? Was tiering applied? No. Tiering was not applied because all podiatrists are treated uniformly under the law.

GENERAL GOVERNMENT CABINET
Kentucky State Board of Podiatry
(Proposed Amendment)

201 KAR 25:051. Procedure for complaints and hearings involving licensees [~~denial, suspension, nonrenewal or revocation hearings~~].

RELATES TO: KRS 311.490
STATUTORY AUTHORITY: KRS 311.410(4)
NECESSITY AND FUNCTION: To establish [~~outline~~] the administrative adjudication procedure for all proceedings before the board [~~in license denial, suspension, nonrenewal and revocation hearings~~].

Section 1. Scope and Definitions. (1) These regulations govern the procedure for the Kentucky State Board of Podiatry in all proceedings before the board in which the legal rights, duties, or privileges of any person is required by statute or by these administrative regulations [~~rules~~] to be determined after an opportunity for a hearing. [~~These rules shall be construed to secure a just, speedy and inexpensive determination of every proceeding.~~]

(2) The following definitions shall apply for purposes of administrative adjudicatory procedure unless the context otherwise requires:

(a) "Party" means any person or agency named or admitted as a party[~~,~~] to any proceedings of the board and shall include only persons who have a real interest in a matter before the board.

(b) "Person" means any individual, partnership, corporation, association, or public or private organization of any character other than an agency.

(c) "Order" means the whole or any part of a final disposition of an adjudication.

(d) "Contested case" means an adjudicatory proceeding before the board in which the legal rights, duties, or privileges of any person are required by law to be determined after an opportunity for a hearing, without regard to whether the proceeding is instituted by the board or by some other person.

(e) "Board" means the Kentucky State Board of Podiatry.

Section 2. Complaints and Investigations. (1) Complaints. A complaint may be made by the board or any person against the holder of a license by the filing of written charges with the board's offices. The board may require the complainant to make the complaint on a printed complaint form provided by the board. [~~The written complaint shall contain the name and address of any person making charges as well as the name and address of the person or persons against whom charges are being made and a clear and concise statement of the facts giving rise to the complaint.~~] Any complaint or charge filed with the board shall [~~will~~] be forwarded to the licensee involved and the licensee shall [~~will~~] be given twenty (20) [~~thirty (30)~~] days to resolve the problem or to make a [~~full satisfactory~~] reply to the complaint. [~~thereto. Any defamatory matter in a formal written complaint will be exercised by the board prior to being forwarded to the licensee. The person filing the complaint or charge will be informed of the resolution or reply received from the licensee.~~]

(2) Investigations. Upon the receipt of a complaint and following the expiration of the twenty (20) [~~thirty (30)~~] days provided for in subsection (1) of this section, the board or its appointed committee may cause an investigation to be made by an individual board member, by any investigation committee, [~~by the full board~~] or by any agent or representative appointed by the board. The board may also cause an investigation to be made on its own initiative at any time without a complaint. [~~Upon the completion of any investigation, the person or persons making such investigation shall submit a full written report to the board containing a succinct statement of the facts disclosed by the investigation.~~]

Section 3. Commencement of Adjudicatory Proceedings. Upon completion of the investigation [~~the receipt of any investigative report~~] referred to in Section 2(2) of this regulation or after the expiration of the twenty (20) [~~thirty (30)~~] day period referred to in Section 2(1) of this regulation where an investigation is not made or whenever the board has completed an investigation made on its own initiative, the board may begin formal adjudicatory proceedings in accordance with the following procedure:

(1) If it is determined that the facts alleged in the complaint [~~and/~~] or obtained from the investigation [~~investigative report could~~] constitute grounds for disciplinary action against a licensee [~~the suspension, probation or revocation of a license~~], a hearing shall be scheduled before the board on these allegations. In any case in which the board has denied an application for a license or failed to renew a license, a hearing shall [~~will~~] only be scheduled upon receipt by the board of a written request submitted by or on behalf of the person whose application for license was denied or not renewed. [~~Any required hearing will be held within three (3) months, or as soon thereafter as practicable, after the announcement of the proceedings by receipt of a complaint or after receipt of the investigation report, whichever is later, or within three (3) months, or as soon thereafter as practicable, after the board's receipt of a written request for a hearing. In any contested case, whether it be instituted by the board or by some other person, all the parties to the proceeding shall be given reasonable notice and an opportunity to be heard.~~]

(2) Notice. The notice of hearing [~~provided for~~] shall be issued [~~in the name of the board~~] by the chairman of the board [~~thereof~~] and shall state:

(a) The time, date, and place [~~and nature~~] of the hearing;

(b) The legal authority [~~and jurisdiction~~] under which the hearing is to be held;

(c) The [~~particular sections of the~~] statutes or administrative regulations [~~rules~~] involved; and

(d) A short and plain statement of the complaint or charges which are being preferred and the remedy which is being sought.

The notice shall be served by certified mail [~~personally served or mailed~~] to the last known address of the party or parties not less than twenty (20) days before the date of the hearing.

(3) Appearance and service. In any contested case, the parties to the proceeding shall have the right to appear personally at the hearing, to be represented [~~and~~] by counsel, [~~and shall have the right~~] to cross-examine witnesses appearing against them, and to produce witnesses on their own behalf. When a party has appeared by an attorney, or otherwise designated an attorney as his representative, all communications, notices, orders, or other correspondence shall be served on such attorney; service on the attorney shall [~~will~~] be considered as service on the party and the board shall be notified of any change in such attorney by the party.

(4) Hearing tribunal. Any member or members of the board who participated in the [~~were appointed as individuals or as a committee for~~] investigation of a complaint or charge against a licensee shall [~~will~~] not sit on the board for adjudicatory purposes in connection with the same complaint or charge investigated. [~~The remaining members of the board will constitute a hearing committee which will conduct all hearings before the board.~~] The chairman of the board or a hearing officer designated by the board shall [~~his designate will~~] preside over the hearing proceedings[~~; if the chairman is unavailable or ineligible to preside at such hearing the vice chairman of the board shall preside~~].

[~~(5) Authority to administer oaths. In hearings before the board any oath or affirmation required may be administered by any person authorized to administer oaths by the laws of the Commonwealth of Kentucky.~~

~~(6) Presentation of evidence. The evidence against the licensee or other person concerning the pending complaint or charge will be presented by the individual member or committee of the board who conducted the investigation, if any, or by any other qualifying person or persons. Additionally or in the alternative, any witness or other~~

~~evidence may be questioned or introduced by any member of the hearing committee of the board.~~]

Section 4. Conduct of Hearings; Witnesses; Burden of Proof; Evidence. (1) The board may hear testimony of any person [~~present at the hearing~~] who has information to offer bearing on the subject matter of such hearings. The board may ask any witness questions as may be required for a full and true disclosure of the facts. [~~The board shall have only one (1) witness before them at any one (1) time or other witnesses may be excluded from the hearing room while any one (1) witness is being questioned.~~]

(2) A [~~The~~] hearing in a contested case involving possible disciplinary action against a licensee, [~~a suspension, probation or revocation of a license~~] shall proceed in the following order[~~,~~] unless the board[~~, for special reasons~~] otherwise directs:

(a) The party filing the complaint or preferring the charges or the persons appointed or designated to present the evidence against the license may [~~must~~] briefly state the substance of the charges and the evidence by which he expects to sustain them.

(b) The party against whom a complaint has been filed or charges otherwise preferred may briefly state the substance of his defense and the evidence which he expects to offer in support of it.

(c) The party filing the complaint or otherwise preferring the charges or the person(s) appointed or designated to present the evidence against the licensee shall have the burden of proof by a preponderance of the evidence and shall [~~in the whole action, therefore he must~~] produce his evidence first; the party against whom a complaint has been filed or charges preferred may then produce his evidence. The board[~~, however,~~] may alter [~~regulate~~] the order of proof in any proceeding [~~to expedite the hearing and to enable the board to obtain a clear view of the whole evidence~~].

(d) The parties shall [~~will~~] then be confined to rebuttal evidence, unless the board, in its discretion, permits them to offer additional evidence in chief.

(e) The parties may then submit the matter to the board for decision, or present oral arguments on the issues involved. In the arguments, the party filing the complaint or otherwise preferring the charges or the person appointed or designated to present the evidence against the licensee shall have the conclusion and the party against whom the complaint was filed or charges otherwise preferred shall have the opening.

(3) In a hearing requested in writing by a person whose application for a license has been denied or not renewed, the burden of proof and order of proceedings delineated in subsection (2) of this section shall be reversed.

(4) In any contested case, the board shall [~~will~~] as far as practical adhere to the following rules of evidence:

(a) Any evidence which would be admissible [~~under the statutes of the Commonwealth of Kentucky, and under the rules of evidence followed~~] by circuit courts of the Commonwealth of Kentucky, shall [~~will~~] be admitted in hearings before the board; evidence which would not be admissible by circuit courts of the Commonwealth of Kentucky [~~however, in the board's discretion, such matter~~] may be admitted if the board deems it necessary for a full and true disclosure of the facts and the evidence would [~~matter will~~] be of assistance to the board in determining the rights of the parties.

(b) Every party shall have the right to present [~~such~~] oral testimony, [~~or~~] documentary evidence, exhibits, and rebuttal evidence and conduct [~~such~~] cross-examination as may be required for a full and true disclosure of the facts. [~~Documentary evidence may be introduced in the form of copies or excerpts, if the original is not readily available; provided that upon request the parties or the board shall be given an opportunity to compare the copy with the original.~~

~~(c) When a hearing will be expedited and the interests of the parties will not be substantially prejudiced thereby, all or part of the evidence may be received in written form by affidavit or prepared statement. Prepared statements shall not be read or made a part of the record until the party against whom the statement is offered has been given a reasonable time for review and objection.~~]

(c) [~~(d)~~] Irrelevant, immaterial, or unduly repetitious evidence may [~~will~~] be excluded and the board shall [~~will~~] give effect to the rule of privilege recognized by the laws of the Commonwealth of Kentucky.

(d) [~~(e)~~] The board may take notice of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the board's specialized knowledge; provided, however, the parties shall be afforded an opportunity to contest any [~~the~~] facts [~~so~~] noticed.

(e) [~~(f)~~] Objections to evidentiary offers may be made and shall be noted in the record.

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

(5) The parties to any hearing may agree to waive any [~~one (1) or more~~] of the procedural steps which would otherwise precede the reaching of a final decision by the board, but such waiver shall not be binding on the board.

Section 5. Deliberations; Records; Final Order. (1) Deliberations. During any hearing and after the case has been submitted to the board for final decision, the deliberations of the board shall [~~will~~] be governed by the following principles:

(a) Ex parte investigations. Members of the board [~~shall make findings of fact and conclusions of law in a contested case or who shall render a decision in a contested case,~~] shall not, once a hearing has commenced, consult with any person or party in connection with any issue of fact or law, except upon notice and opportunity for all parties to participate; provided, however, that any board member may consult with other members of the board, and may have the aid and advice of one (1) or more personal assistants, including the assistance of counsel.

(b) Separation of functions. No member, officer, or employee of the board who is engaged in the performance of investigative or prosecuting functions for the board in a contested area shall, in that or a factually related case, participate or advise in the decision, except as a witness or counsel in the public hearing.

(c) Examination of evidence. The board shall personally consider the whole record or such portions of the record [~~thereof~~] as may be cited by the parties, and the board's technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

(d) The board [~~at its discretion~~] may recess a hearing for the taking of additional discovery and evidence as required.

(2) Record. The record shall include all pleadings, motions, exhibits, documentary, and testimonial evidence received or considered, a statement of matters officially noticed, and questions and offers of proof and rulings by the board [~~thereon~~]. A recording [~~or transcript~~] of the oral proceedings shall be made by the board, but a written transcript shall not be required [~~need not be made by the board~~]. [~~Should~~] Any party requesting [~~desire~~] a written transcript of the oral proceedings shall [~~it will be necessary that they~~] pay for the transcription and the copy [~~said transcript~~].

(3) Final order. The final decision in any case in which a hearing is required or requested shall be in writing and shall be made a part of the [~~office~~] record. The final decision [~~It~~] shall include [~~a concise and explicit statement of the~~] findings of facts and conclusions of law[~~, separately stated,~~] and shall be signed by the president of the board. [~~presiding officer. The original thereof shall be filed as a part of the record of the case and shall be retained in the custody of the board unless an appeal is taken therefrom and one (1) copy of the order shall forthwith be served on each party to the proceeding.~~]

JOSEPH P. LEONE, President

APPROVED BY AGENCY: January 29, 1994
FILED WITH LRC: February 14, 1994 at 11 a.m.
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REGULATORY IMPACT ANALYSIS

Agency Contact: William B. Pettus
(1) Type and number of entities affected: Approximately 80-90 podiatrists licensed in Kentucky.
(a) Direct and indirect costs or savings to those affected: 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 continuing direct or indirect costs or savings.
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 continuing 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 the anticipated effect on state and local revenues: There is no effect anticipated on state and local revenues.
(4) Assessment of alternative methods: reasons why alternatives were rejected: This proposal amends an existing regulation. No other alternatives were deemed appropriate.
(5) Identify any state or federal statute or regulation that may conflict with, overlap, or duplicate the administrative regulation being promulgated: There is no such statute or regulation.
(6) Any additional information or comments: None
TIERING? Was tiering applied? No. Tiering was not applied because all podiatrists are treated uniformly under the law.

GENERAL GOVERNMENT CABINET
Kentucky State Board of Podiatry
(Proposed Amendment)

201 KAR 25:061. Reciprocity.

RELATES TO: KRS 311.475(2)
STATUTORY AUTHORITY: KRS 311.410(4)

NECESSITY AND FUNCTION: KRS 311.475(2) authorizes the board to issue licenses by reciprocity and to waive examination. This administrative regulation establishes [~~sets forth~~] the [~~proper~~] procedure and fee [~~standard which an applicant must meet~~] to obtain a license by reciprocity.

Section 1. An [~~Any person who has been issued a license by the appropriate authority of their state to practice podiatry may be licensed by the board, in its discretion, without examination; provided, however, that his qualifications for licensing in his state were at the time of the issuance of said license equal to or higher than these requirements for the issuance of a license in the state of Kentucky.~~

~~Section 2. The foreign~~] applicant seeking licensure by reciprocity shall file a completed application with the board, [~~on the form provided for licensing, such information as shall be required thereon,~~] together with a nonrefundable fee of $250 [~~150, no part of which shall be returned,~~] and [~~shall file with the board~~] three (3) affidavits attesting to the [~~good moral character of said~~] applicant's good moral character.

Section 2. [~~3.~~] The board [~~in its discretion~~] may require the personal attendance of the applicant before the board [~~it~~], or one (1) of its members designated for that purpose, to interview the [~~interrogate said~~] applicant [~~in such way or manner as is desired~~] to [~~finally~~] ascertain the applicant's [~~his~~] fitness for licensing in this state.

JOSEPH P. LEONE, President
APPROVED BY AGENCY: January 29, 1994
FILED WITH LRC: February 14, 1994 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held the 21st day of March, 1994, at 9 a.m. in Room 127, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by the 16th day of March, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William B. Pettus, Assistant Attorney General, Office of Attorney General, Box 2000, Frankfort, Kentucky 40602-2000, (502) 573-7600.

REGULATORY IMPACT ANALYSIS

Agency Contact: William B. Pettus
(1) Type and number of entities affected: There have not been any applicants for reciprocal licensure in recent years and hence no applicants are expected to be affected.
(a) Direct and indirect costs or savings to those affected: There will be an additional cost of $50 for applicants seeking licensure by reciprocity.
1. First year: There will be additional cost of $50 for applicants seeking licensure by reciprocity the first year.
2. Continuing costs or savings: There will be a continuing cost of $50 for applicants seeking licensure by reciprocity.
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 addition-

al direct or indirect costs or savings since there have been no applicants seeking licensure by reciprocity in recent years.

1. First year: There will be no additional direct or indirect costs or savings since there have been no applicants seeking licensure by reciprocity in recent years.

2. Continuing costs or savings: There will be no continuing direct or indirect costs or savings since there have been no applicants seeking licensure by reciprocity in recent years.

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 the anticipated effect on state and local revenues: There is no effect anticipated on state and local revenues since there have been no applicants seeking licensure by reciprocity in recent years.

(4) Assessment of alternative methods: reasons why alternatives were rejected: This proposal amends an existing regulation. No other alternatives were deemed appropriate.

(5) Identify any state or federal statute or regulation that may conflict with, overlap, or duplicate the administrative regulation being promulgated: There is no such statute or regulation.

(6) Any additional information or comments: None

TIERING? Was tiering applied? No. Tiering was not applied because all applicants for licensure by reciprocity are treated uniformly under the law.

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

401 KAR 42:060. Release response and corrective action for UST systems containing petroleum or hazardous substances.

RELATES TO: KRS 224.01, 224.10, 224.40, 224.43, 224.46, 224.60, 40 CFR Part 280 Subpart F, 40 CFR Part 281, 42 USC 6991 to 6991i [e]

STATUTORY AUTHORITY: KRS 224.10-100, 224.60-105, 224.60-137, 40 CFR Part 280 Subpart F[~~, 40 CFR Part 281, 42 USC 6991e~~]

NECESSITY AND FUNCTION: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to develop and conduct programs which provide for the prevention, abatement, and control of contaminants which may threaten the environment. KRS 224.60-105(2) requires the cabinet to regulate underground storage tanks by requiring notification, minimum construction and performance standards, leak detection, recordkeeping, reporting releases, corrective actions, closure, financial responsibility, and other requirements to protect public health and the environment. KRS 224.60-105(3) requires the cabinet to establish a regulatory program which implements federal requirements for underground storage tanks and to promulgate administrative regulations for underground storage tanks which shall be submitted for approval to the United States Environmental Protection Agency pursuant to federal regulations. This chapter identifies requirements for underground storage tanks. This administrative regulation establishes the requirements for release response, site characterization, corrective action, and public participation.

Section 1. Adoption of Federal Regulation. The requirements for release response, site characterization, corrective action and public participation for underground storage tanks are governed by 40 CFR Part 280 Subpart F (1990).

Section 2. Incorporation by Reference. (1) The following documents are hereby incorporated by reference:

(a) "Underground Storage Tank System Site Check Outline" (January 1994); and

(b) "Underground Storage Tank System Site Investigation Outline" (January 1994).

(2) The documents referenced in subsection (1) of this section are available for inspection and copying, subject to copyright law, at the Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601, (502)564-6716, from 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, excluding state holidays.

PHILLIP J. SHEPHERD, Secretary
E. DOUGLAS STEPHAN, Commissioner
APPROVED BY AGENCY: February 9, 1994
FILED WITH LRC: February 9, 1994 at 2 p.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed administrative regulation has been scheduled for Wednesday, March 23, 1994, at 10 a.m. eastern time in the auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing must notify James Hale in writing at the address noted below, by March 18, 1994, of their intent to attend the hearing. If no notification of intent to attend the hearing is received by that date, the hearing will be canceled. This hearing is open to the public. Any person wishing to be heard will be given an opportunity to comment on the proposed administrative regulation. Persons testifying at the hearing are requested to provide a written copy of their testimony, if available. A transcript of the hearing will not be made unless a written request for a transcript is filed with Mr. Hale by March 18, 1994. Written comments may also be submitted on the proposed administrative regulation. Written comments must be received by Mr. Hale no later than 4:30 p.m. on March 23, 1994. The Department for Environmental Protection does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of services and provides, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities. Requests for reasonable accommodation for this public hearing, such as a interpreter or alternate formats for printed materials, must be submitted to Mr. Hale at the address below by March 18, 1994.

CONTACT PERSON: James Hale, Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601, (502) 564-6716.

REGULATORY IMPACT ANALYSIS

Agency Contact: James Hale

(1) Type and number of entities affected: This proposed administrative regulation affects service stations and other facilities with underground storage tank systems (UST systems) as they close or perform corrective action. Currently, there are approximately 38,000 registered UST systems in Kentucky. Of these, approximately one-third are presently in closure or corrective action. Of this third, there are approximately 400 that have known groundwater contamination and approximately 1100 that have known soil contamination. This administrative regulation requires owners and operators of UST systems containing petroleum or hazardous substances to comply with federal release response and corrective action requirements at 40 CFR 280 Subpart F. The amendments proposed to this administrative regulation incorporate by reference a site check outline and a site investigation outline to be used in complying with the 40 CFR 280 Subpart F standards. These two documents establish corrective action procedures to be followed by owners and operators in responding to releases from UST systems into the environment. The procedures allow an owner or operator to classify a UST system and determine appropriate cleanup levels, in accordance with 401 KAR 42:080.

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

1. First year: The amendments proposed to this administrative regulation adopt two guidance documents used by the regulated community. These guidance documents have been developed with industry input and used by industry over a two and a half year period. Because of this process, codification of these documents into administrative regulation will not have a cost or savings impact on those affected.

2. Continuing costs or savings: There are no impacts other than those specified above.

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: Under existing administrative regulations, facilities with an underground storage tank system are required to submit plans when the UST system closes or corrective action is performed on the UST system. This administrative regulation will not alter these reporting and paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no additional costs or savings to the cabinet associated with this amendment.

2. Continuing costs or savings: There are no additional costs or savings to the cabinet associated with this amendment.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: The cabinet's reporting and paperwork requirements will not change as a result of this administrative regulation.

(3) Assessment of anticipated effect on state and local revenues: This administrative regulation does not distinguish between UST systems owned by private entities and those owned by the government. Therefore, all levels of government -state, county, and local - will be required to comply with this administrative regulation if they own UST systems. For a discussion of the impact on these entities, see item (1) of this Regulatory Impact Analysis.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Under the constraints of KRS Chapters 13A and 224, there were no alternatives to the promulgation of this amendment.

(5) Identify any statute, administrative regulation or government policy which may conflict, overlap or duplicate: There are no statutes, administrative regulations, or government policies that overlap, duplicate, or conflict with the requirements of this administrative regulation.

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was an effort made to harmonize the proposed regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: Current 401 KAR 42:060 establishes general standards for conducting site checks and site investigations. Shortly after the administrative regulation was first promulgated in late 1990, industry requested guidance on how to comply with the general standards. In response to these industry requests, the cabinet then began developing guidance documents on site checks and investigations. The first version of the guidance documents was a site check outline released in July 1991. While use of the outline was not mandatory, since the outline had not been promulgated as an administrative regulation, the cabinet felt it could be helpful to the regulated community. Over the years the cabinet has modified the guidance documents in response to experience in administering the program and to accommodate for feedback from industry. The current versions of these documents are being adopted in compliance with KRS 13A.100(1) so that they can be made effective as administrative regulations. The site check and investigation procedures are also part of the corrective action process concluded by compliance with the cleanup requirements of 401 KAR 42:080.

Tiering: Was tiering applied? Yes. In accordance with KRS 13A.210, this regulation was tiered to correlate the corrective action requirements imposed on owners and operators of underground storage tank systems with the degree to which the tank system is a threat to public health and the environment.

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

2. State what unit, part or division of local government this administrative regulation will affect. The amendments to this administrative regulation will affect any state, county, or local office of government that owns underground storage tank systems that require corrective action.

3. State the aspect or service of local government to which this administrative regulation relates. KRS 224.60-105 and 224.60-137 require the cabinet to establish standards for underground storage tanks. These statutes mandate that the standards be protective of human health and the environment. Because the health and environmental threats from underground storage tanks that are publicly owned are no different than the threats from tanks that are privately owned, the UST standards must apply equally to public and private entities. The amendments to this administrative regulation codify a procedure for performing site checks and site investigations for releases into the environment from underground storage tank systems. The agencies referenced in item 2 of this fiscal note will be subject to these requirements.

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 (+/-): The amendments to this administrative regulation will not affect state, county, or local revenues.

Expenditures (+/-): The procedures contained in the amendments to this administrative regulation have been widely used as guidance material. Because these procedures have served as an industry standard, this amendment will not impact expenditures.

Other Explanation: None

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate: There is no federal mandate for this administrative regulation. KRS 224.60-105(3) is a state mandate that requires the Natural Resources and Environmental Protection Cabinet to adopt a regulatory program that implements federal regulatory requirements for underground storage tanks. KRS 224.60-137(3) requires the cabinet to establish corrective action standards for a release into the environment from an underground storage tank. The statutes require that the regulatory program be adequate to protect human health and the environment, and that the corrective action standards be based upon a study performed for the Petroleum Storage Tank Environmental Assurance Fund Commission, unless the cabinet states in detail why recommendations in the study were not accepted. Pursuant to these statutory mandates, this administrative regulation establishes procedures for conducting site checks and site investigations in response to a release into the environment from an underground storage tank system. These are the first stages of corrective action. The requirements in this administrative regulation are protective of human health and the environment, and they are consistent with federal UST requirements at 40 CFR Part 280 Subpart F, 40 CFR Part 281, and 42 U.S.C. 6991 et. seq. The procedures are also consistent with the corrective action study conducted for the Petroleum Storage Tank Environmental Assurance Fund Commission, except as specified in the Regulatory Impact Analysis for 401 KAR 42:080, a proposed

regulation that is being promulgated in conjunction with this administrative regulation.

2. State compliance standards: This proposed amendment incorporates by reference two documents related to data collection for a corrective action study in response to a release from an underground storage tank system. The data collection procedures include protocol for site evaluation and standards for sample collection and analysis.

3. Minimum or uniform standards contained in the federal mandate: 40 CFR 280 Subpart F contains general site check and site investigation standards applicable to facilities across the United States. The federal requirements are general in nature, and they defer to the state regulatory agencies to establish detailed, state-specific standards. These standards are contained in this administrative regulation. The documents incorporated by reference are state-specific and the results of over 2.5 years of experience and review by the regulated community.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 40 CFR 280.66 defers to the state regulatory agencies to establish corrective action requirements using certain criteria established in the federal administrative regulation. The federal criteria are general and broad, and they rely on state regulatory agencies to establish state-specific standards. The state administrative regulation dovetails with the federal program in that it is more detailed and state-specific. The state standards also reflect recommendations from a corrective action study performed for the Petroleum Storage Tank Environmental Assurance Fund Commission, except as specified in the Regulatory Impact Analysis for 401 KAR 42:080, a proposed regulation that is being promulgated in conjunction with this administrative regulation. The state standards are more detailed, not more stringent, than the federal program.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements: KRS 224.60-105(2) requires the cabinet to establish minimum standards for underground storage tanks to protect the public health and the environment. KRS 224.60-137 requires that the cabinet establish standards based on a corrective action study conducted for the Petroleum Storage Tank Environmental Assurance Fund Commission, unless the cabinet justifies deviation from the standards recommended in the study. Additionally, the federal program, specifically 40 CFR 280.66, looks to the states to establish program details consistent with the state's needs and certain broad, federal criteria. It is these factors that cause the state program to differ from that established at the federal level.

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

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

RELATES TO: KRS 224.01, 224.10, 224.40, 224.43, 224.46, 224.60, 40 CFR Part 280 Subpart G, 40 CFR Part 281, 42 USC 6991 to 6991i [e]

STATUTORY AUTHORITY: KRS 224.10-100, 224.60-105, 224.60-137, 40 CFR Part 280 Subpart G[~~, 40 CFR Part 281, 42 USC 6991e~~]

NECESSITY AND FUNCTION: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to develop and conduct programs which provide for the prevention, abatement, and control of contaminants which may threaten the environment. KRS 224.60-105(2) requires the cabinet to regulate underground storage tanks by requiring notification, minimum construction and performance standards, leak detection, recordkeeping, reporting releases, corrective actions, closure, financial responsibility, and other requirements to protect public health and the environment. KRS 224.60-105(3) requires the cabinet to establish a regulatory program which implements federal requirements for underground storage tanks and to promulgate administrative regulations for underground storage tanks which shall be submitted for approval to the United States Environmental Protection Agency pursuant to federal regulations. This chapter identifies requirements for underground storage tanks. This administrative regulation establishes the requirements for release detection and recordkeeping for all UST systems.

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

Section 2. Incorporation by Reference. (1) The following documents are hereby incorporated by reference:

(a) "Underground Storage Tank System Closure Outline" (January 1994);

(b) "Notice of Intent to Permanently Close Underground Storage Tank(s) Form", DEP Form 5025 (January 1994); and

(c) "Closure Assessment Report Form", DEP Form 4058 (November 1990).

(2) The documents referenced in subsection (1) of this section are available for inspection and copying, subject to copyright law, at the Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601, (502)564-6716, from 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, excluding state holidays. [~~(2) The forms for the notice of intent to permanently close underground storage tanks and the closure assessment report are being incorporated by reference into this section. These forms became effective in November 1990, and are available for distribution and inspection from the Underground Storage Tank Program, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. The business hours of the division are from 8 a.m. to 4:30 p.m. Monday through Friday.~~]

PHILLIP J. SHEPHERD, Secretary
E. DOUGLAS STEPHAN, Commissioner
APPROVED BY AGENCY: February 9, 1994
FILED WITH LRC: February 9, 1994 at 2 p.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed administrative regulation has been scheduled for Wednesday, March 23, 1994, at 10 a.m. eastern time in the auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing must notify James Hale in writing at the address noted below, by March 18, 1994, of their intent to attend the hearing. If no notification of intent to attend the hearing is received by that date, the hearing will be canceled. This hearing is open to the public. Any person wishing to be heard will be given an opportunity to comment on the proposed administrative regulation. Persons testifying at the hearing are requested to provide a written copy of their testimony, if available. A transcript of the hearing will not be made unless a written request for a transcript is filed with Mr. Hale by March 18, 1994. Written comments may also be submitted on the proposed administrative regulation. Written comments must be received by Mr. Hale no later than 4:30 p.m. on March 23, 1994. The Department for Environmental Protection does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of services and provides, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities. Requests for reasonable accommodation for this public hearing, such as a interpreter or alternate formats for printed materials, must be submitted to Mr. Hale at the address below by March 18, 1994.

CONTACT PERSON: James Hale, Division of Waste Manage-

ment, 14 Reilly Road, Frankfort, Kentucky 40601, (502) 564-6716.

REGULATORY IMPACT ANALYSIS

Agency Contact: James Hale

(1) Type and number of entities affected: This proposed administrative regulation affects service stations and other facilities with underground storage tank systems (UST systems) as they close or perform corrective action. Currently, there are approximately 38,000 registered UST systems in Kentucky. Of these, approximately one-third are presently in closure or corrective action. Of this third, there are approximately 400 that have known groundwater contamination and approximately 1100 that have known soil contamination. This administrative regulation requires owners and operators of UST systems to comply with federal requirements at 40 CFR 280 Subpart G for temporary and permanent closure of their UST systems. The existing administrative regulation also incorporates by reference two forms related to closure. The amendments proposed to this administrative regulation incorporate by reference a closure outline to be used in complying with the 40 CFR 280 Subpart G standards. The amendments also incorporate by reference an updated version of the form to be used when notifying the cabinet of permanent closure.

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

1. First year: The amendments proposed to this administrative regulation adopt two documents used by the regulated community when closing UST systems. These documents have been developed with industry input and used by industry over a three year period. Because of this process, codification of these documents into administrative regulation will not have a cost or savings impact on those affected.

2. Continuing costs or savings: There are no impacts other than those specified above.

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: Under existing administrative regulations, facilities with an underground storage tank system are required to submit plans when the UST system closes or corrective action is performed on the UST system. This administrative regulation will not alter these reporting and paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no costs or savings to the cabinet associated with this amendment.

2. Continuing costs or savings: There are no cost or savings to the cabinet associated with this amendment.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: The cabinet's reporting and paperwork requirements will not change as a result of this administrative regulation.

(3) Assessment of anticipated effect on state and local revenues: This administrative regulation does not distinguish between UST systems owned by private entities and those owned by the government. Therefore, all levels of government -state, county, and local - will be required to comply with this administrative regulation if they own UST systems. For a discussion of the impact on these entities, see item (1) of this Regulatory Impact Analysis.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Under the constraints of KRS Chapters 13A and 224, there were no alternatives to the promulgation of this amendment.

(5) Identify any statute, administrative regulation or government policy which may conflict, overlap or duplicate: There are no statutes, administrative regulations, or government policies that overlap, duplicate, or conflict with the requirements of this administrative regulation.

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was an effort made to harmonize the proposed regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: Current 401 KAR 42:070 establishes general standards for closing a UST system. Shortly after the administrative regulation was first promulgated in late 1990, industry requested guidance on how to comply with the general standards. In response to these industry requests, the cabinet then began developing a guidance document on site closure. While use of the outline was not mandatory, since the outline had not been promulgated as an administrative regulation, the cabinet felt it could be helpful to the regulated community. Over the years the cabinet has modified the guidance document in response to experience in administering the program and to accommodate for feedback from industry. The current version of this document is being adopted in compliance with KRS 13A.100(1) so that they can be made effective as administrative regulations. The closure procedures are also consistent with the corrective action process addressed in 401 KAR 42:060 and 401 KAR 42:080.

TIERING: Was tiering applied? Yes. In accordance with KRS 13A.210, this regulation was tiered to correlate the closure requirements imposed on owners and operators of underground storage tank systems with the degree to which the tank system is a threat to public health and the environment.

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

2. State what unit, part or division of local government this administrative regulation will affect. The amendments to this administrative regulation will affect any state, county, or local office of government that owns underground storage tank systems that require site closure.

3. State the aspect or service of local government to which this administrative regulation relates. KRS 224.60-105 and 224.60-137 require the cabinet to establish standards for underground storage tanks. These statutes mandate that the standards be protective of human health and the environment. Because the health and environmental threats from underground storage tanks that are publicly owned are no different than the threats from tanks that are privately owned, the UST standards must apply equally to public and private entities. The amendments to this administrative regulation codify a procedure for performing temporary and permanent closure of underground storage tank systems. The agencies referenced in item 2 of this fiscal note will be subject to these requirements.

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 (+/-): The amendments to this administrative regulation will not affect state, county, or local revenues.

Expenditures (+/-): The procedures contained in the amendments to this administrative regulation have been widely used as guidance material. Because these procedures have served as an industry standard, this amendment will not impact expenditures.

Other Explanation: None

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate: There is no federal mandate for this administrative regulation. KRS 224.60-105(3) is a state mandate that requires the Natural Resources and Environmental Protection Cabinet to adopt a regulatory program that implements federal regulatory requirements for underground storage tanks. KRS 224.60-137(3) requires the cabinet to establish

corrective action standards for a release into the environment from an underground storage tank. The statutes require that the regulatory program be adequate to protect human health and the environment, and that the corrective action standards be based upon a study performed for the Petroleum Storage Tank Environmental Assurance Fund Commission, unless the cabinet states in detail why recommendations in the study were not accepted. Pursuant to these statutory mandates, this administrative regulation establishes procedures for permanently or temporarily closing an underground storage tank system. The requirements in this administrative regulation are protective of human health and the environment, and they are consistent with federal UST requirements at 40 CFR Part 280 Subpart G, 40 CFR Part 281, and 42 U.S.C. 6991 et. seq. The procedures are also consistent with the corrective action study conducted for the Petroleum Storage Tank Environmental Assurance Fund Commission, except as specified in the Regulatory Impact Analysis for 401 KAR 42:080, a proposed regulation that is being promulgated in conjunction with this administrative regulation.

2. State compliance standards: This proposed amendment incorporates by reference one document related to closure of an underground storage tank system. The amendment also incorporates by reference an updated version of the form used to notify the cabinet of permanent closure of an underground storage tank system.

3. Minimum or uniform standards contained in the federal mandate: 40 CFR 280 Subpart G contains general closure standards applicable to facilities across the United States. The federal requirements are general in nature, and they defer to the state regulatory agencies to establish detailed, state-specific standards. These standards are contained in this administrative regulation. The documents incorporated by reference are state-specific and the results of over three years of experience and review by the regulated community.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 40 CFR 280 Subpart G establishes general procedures for closing an underground storage tank system. The state administrative regulation dovetails with the federal program in that it is more detailed and state-specific. The state standards also are consistent with a corrective action study performed for the Petroleum Storage Tank Environmental Assurance Fund Commission, except as specified in the Regulatory Impact Analysis for 401 KAR 42:080, a proposed regulation that is being promulgated in conjunction with this administrative regulation. The state standards are more detailed, not more stringent, than the federal program. Such detail is required by KRS 13A.100.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements: KRS 224.60-105(2) requires the cabinet to establish minimum standards for underground storage tanks to protect the public health and the environment. KRS 224.60-137 requires that the cabinet establish standards based on a corrective action study conducted for the Petroleum Storage Tank Environmental Assurance Fund Commission, unless the cabinet justifies deviation from the standards recommended in the study. Additionally, the federal program looks to the states to establish program details consistent with the state's needs and certain broad, federal criteria. It is these factors that cause the state program to differ from that established at the federal level.

DEPARTMENT OF CORRECTIONS
(Proposed Amendment)

501 KAR 6:020. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to adopt, amend or rescind administrative 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 administrative regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Department of Corrections the following policies and procedures, revised February 15, 1994 [~~November 29, 1993~~], are incorporated by reference and shall be referred to as Corrections Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Kentucky Department of Corrections, 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
01-04-01	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 Department of Corrections Employees
2.1	Inmate Canteen
2.2	Warden's Fund
2.10	Surplus Property
3.12	Institutional Staff Housing
4.2	Staff Training and Development
4.3	Firearms and Chemical Agents Training
6.1	Open Records Law
7.2	Asbestos Abatement
8.1	Occupational Exposure to Bloodborne Pathogens
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
13.6	Sex Offender Treatment Program
13.9	Dental Services
14.2	Personal Hygiene Items
14.3	Marriage of Inmates
14-04-01	Legal Services Program
14.6	Inmate Grievance Procedures
15.1	Hair and Grooming Standards
15.2	Offenses and Penalties
15.3	Meritorious Good Time
15-05-01	Restoration of Forfeited Good Time

15.6 Adjustment Procedures and Programs
15.7 Inmate Account Restriction
16.1 Inmate Visits
16.2 Inmate Correspondence
16.3 Telephone Calls
16.4 Inmate Packages
17-01-01 Inmate Personal Property
17.2 Assessment Center Operations
17.3 Controlled Intake of Inmates
18.1 Classification of the Inmate [~~(Amended 11/29/93)~~]
18.5 Custody/Security Guidelines [~~(Amended 11/29/93)~~]
18.6 Classification Document
18.7 Transfers [~~(Amended 11/29/93)~~]
18.8 Guidelines for Transfers Between Institutions
18.9 Out-of-state Transfers [~~(Amended 11/29/93)~~]
18-10-01 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
19.3 Inmate Wage Program (Amended 2/15/94)
20.1 Educational Programs and Educational Good Time
21.1 Staffing Pattern for the First Incarceration Shock Treatment Program (FIST)
21.2 Phase I: Program Selection Assessment Criteria
21.3 Program Schedule - Phase II and Phase III
21.4 Platoon Size and Composition
21.5 Physical Conditions Program Component
21.6 Group and Individual Counseling
21.7 Drug and Alcohol Abuse Counseling and Treatment
21.8 Work Programs Component
21.9 Education and Life Management
21.10 Auxiliary Services
21.11 Offenses and Penalties
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 11/29/93)~~]
25.7 Expedient Release
25.8 Extended Furloughs
25.10 Administrative Release of Inmates
27-01-01 Probation and Parole Procedures
27-02-01 Duties of Probation and Parole Officers
27-03-01 Workload Formula Supervisor/Staff Ratio
27-05-01 Testimony, Court Demeanor and Availability of Legal Services
27-06-01 Availability of Supervision Services
27-06-02 Equal Access to Services
27-07-01 Cooperation with Law Enforcement Agencies
27-08-01 Use of Force
27-09-01 Kentucky Community Resources Directory
27-10-01 Advanced Supervision
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
27-13-01 Drug and Alcohol Testing of Offenders
27-13-02 Alcohol Detection
27-14-01 Interstate Compact Transfers
27-14-02 Interstate Compact Out-of-state Probation and Parole Violation
27-15-01 Supervision Report; Violations, Unusual Incidents
27-16-01 Search; Seizure; Chain of Custody; Disposal of Evidence
27-17-01 Absconder Procedures
27-18-01 Probation and Parole Issuance of Detainer/Warrant
27-19-01 Preliminary Revocation Hearing
27-20-01 Division of Probation and Parole Controlled Intake Program
27-20-02 Prisoner Intake Notification
27-20-03 Prisoner Status Change
27-21-01 Apprehension and Transportation of Probation and Parole Violators
27-22-01 Fugitive Unit - Apprehensions
27-22-02 Fugitive Unit - Transportation of Fugitives
27-23-01 In-state Transfer
27-24-01 Closing Supervision Report
27-24-02 Reinstatement of Clients to Active Supervision
27-25-01 Application for Final Discharge from Parole
27-26-01 Assistance to Former Clients and Dischargees
27-27-01 Restoration of Civil Rights
27-28-01 Firearms/Explosives: Application for Relief from Disability
27-29-01 Parole Review Dates Modification
28-01-01 Probation and Parole Investigation Reports (Introduction, Definitions, Confidentiality, Timing, and General Comments)
28-01-02 Probation and Parole Investigation Reports (Administrative Responsibilities)
28-01-03 Probation and Parole Investigation Reports (Presentence/Postsentence Investigation Interview Procedure)
28-01-04 Probation and Parole Investigation Reports (Presentence/Postsentence Verification, Composition, Case Material and Submission Schedules)
28-01-05 Probation and Parole Investigation Reports (Computation of Jail Custody Credit)
28-01-06 Probation and Parole Investigation Reports (Misdemeanant Presentence Investigation Reports for the Circuit and District Courts)
28-01-07 Probation and Parole Investigation Reports (Supplemental Postsentence Investigation Report, Case Material, and Submission Schedule)
28-01-08 Probation Parole Investigation Reports (Partial Investigation Reports and Submission Schedule)
28-01-09 Release of Information of Factual Content on Presentence/Postsentence Investigation Reports
28-02-01 Expedient Release Program
28-03-01 Parole Plans/Halfway Houses/Extended Furlough/Sponsorship/Gradual Release
28-04-01 Furlough Verifications
28-05-01 Out-of-state Investigations.

JACK C. LEWIS, Commissioner
APPROVED BY AGENCY: February 15, 1994
FILED WITH LRC: February 15, 1994 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been

scheduled for March, 22, 1994, at 9 a.m., in the Auditorium of the State Office Building. Those interested in attending this hearing shall notify in writing: Jack Damron, Kentucky Department of Corrections, Office of General Counsel, 2nd Floor, State Office Building, Frankfort, Kentucky 40601 or Louis Smith, Office of Adult Institutions, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack Damron

(1) Type and number of entities affected: 2,948 employees of the Department of Corrections, 8,729 inmates, 14,211 parolees and probationers, and all visitors to state correctional institutions.

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

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.

2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing costs: Same as 2(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. All policies are administered in a uniform manner and because the regulation applies equally to all employees, inmates, parolees and visitors. Disparate treatment of any of these classes may produce complaints by that class and could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be violated as well as Sections 2 and 3 of the Kentucky Constitution which prohibit unequal or arbitrary treatment of persons.

DEPARTMENT OF CORRECTIONS
(Proposed Amendment)

501 KAR 6:030. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the commissioner to adopt, amend or rescind administrative 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 administrative regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Department of Corrections the following policies and procedures, revised February 15 [~~January 14~~], 1994, are incorporated by reference and shall be referred to as Kentucky State Reformatory Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Department of Corrections, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

KSR 01-00-09	Public Information and News Media Relations
KSR 01-00-10	Entry Authorization for All Cameras and Tape Recorders Brought into the Institution
KSR 01-00-15	Cooperation and Coordination with Oldham County Court
KSR 01-00-19	Personal Service Contract Personnel
KSR 01-00-20	Consent Decree Notification to Inmates
KSR 02-00-01	Inmate Canteen
KSR 02-00-03	Screening Disbursements from Inmate Personal Accounts
KSR 02-00-11	Inmate Personal Accounts
KSR 02-00-12	Institutional Funds and Issuance of Checks
KSR 04-00-02	Staff Training and Development
KSR 05-00-01	Officers' Daily Housing Security and Safety Log
KSR 05-00-02	Research Activities
KSR 05-00-03	Management Information Systems
KSR 06-00-01	Inmate Master File
KSR 06-00-02	Records Audit
KSR 06-00-03	Kentucky Open Records Law and Release of Psychological/ Psychiatric Information
KSR 07-00-02	Institutional Tower Room Regulations
KSR 07-00-04	Handling of PCB Articles and Containers
KSR 07-00-05	Proper Removal of Transformers
KSR 07-00-06	Asbestos Abatement
KSR 07-00-07	Discharge Monitoring Report (DMR)
KSR 07-00-08	Control of Hazardous Energy (Lockout or Tagout)
KSR 07-00-09	Inventory Control of Underground Storage Tanks
KSR 08-00-07	Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family
KSR 08-00-08	Death of an Inmate/Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery or Death (Amended 2/15/94)
KSR 08-00-10	Hazardous Chemicals and Material Safety Data Sheet
KSR 09-00-04	Horizontal Gates/Box 1 Entry and Exit Procedure
KSR 09-00-05	Gate I Entrance and Exit Procedure Limited Issue
KSR 09-00-09	Contraband, Dangerous Contraband and Search Policy
KSR 09-00-21	Crime Scene Camera
KSR 09-00-22	Collection, Preservation, and Identification of Physical Evidence
KSR 09-00-23	Drug Abuse Testing
KSR 09-00-25	Inmate Motor Vehicle Operator's License
KSR 09-00-26	Contraband Outside Institutional Perimeter
KSR 09-00-27	Construction Crew Entry/Exit
KSR 09-00-28	Restricted Areas
KSR 09-00-29	Transportation of Inmates
KSR 09-00-30	Parole Board
KSR 09-00-31	Forced Cell Move in Medium or Maximum Area
KSR 10-00-10	Unit D - and Unit E - Special Management Inmate Legal Access
KSR 10-00-11	Unit D - Behavior Problem Control
KSR 10-00-13	Unit D - Property Room Access
KSR 10-01-01	Unit D - Staffing Pattern, Staff Allocation, Position Description, Staff Selection, Training and Evaluation, Time and Attendance, and Unit Personnel Records
KSR 10-01-02	Unit D - General Operational Procedures
KSR 10-01-03	Unit D - Inmate Tracking System and Records

	System
KSR 10-01-04	Unit D - Administrative Segregation
KSR 10-01-05	Unit D - Disciplinary Segregation
KSR 10-01-06	Unit D - Protective Custody
KSR 10-01-07	Unit D - Geriatrics
KSR 10-01-08	Unit D - Safekeepers and Pretrial Contract Hold Status Inmates
KSR 10-01-09	Unit D - Hold Ticket Residents
KSR 10-02-01	Mental Health Staffing Pattern
KSR 10-02-02	Unit E Designated Staff Visits
KSR 10-02-03	Unit E-1 Convalescent Care
KRS 10-02-04	Unit E-General Operating Procedures
KSR 11-00-01	Meal Planning for the General Population
KSR 11-00-02	Special Diets
KSR 11-00-03	Food Service Inspections
KSR 11-00-04	Dining Room Rules and Dress Code for Inmates
KSR 11-00-06	Health Standards/Regulations for Food Service Employees
KSR 11-00-07	Early Chow Line Passes for Medically Designated Inmates
KSR 12-00-01	Inmate Summer Dress Regulations
KSR 12-00-03	State Items Issued to Inmates
KSR 12-00-07	Regulations for Inmate Barbershop
KSR 12-00-09	Treatment of Inmates with Body Lice
KSR 13-00-02	Hospital Operations, Rules and Regulations
KSR 13-00-03	Medication for Inmates Leaving Institution Grounds
KSR 13-00-04	Medical and Dental Care
KSR 13-00-05	Medical Records
KSR 13-00-08	Institutional Laboratory Procedures
KSR 13-00-09	Institutional Pharmacy Procedures
KSR 13-00-10	Requirements for Medical Personnel
KSR 13-00-11	Health Evaluation
KSR 13-00-12	Vision Care/Optometry Services
KSR 13-00-14	Periodic Health Examinations for Inmates
KSR 13-00-15	Medical Alert System
KSR 13-00-16	Suicide Prevention and Intervention Program
KSR 13-00-17	Special Care
KSR 13-02-01	Mental Health Services
KSR 13-02-02	Mentally Retarded Inmates
KSR 13-02-03	Suicide Prevention and Intervention Program
KSR 13-02-04	Division of Mental Health's Residential Services
KSR 14-00-01	Inmate Rights
KSR 14-00-04	Inmate Grievance Procedure
KSR 15-00-02	Regulations Prohibiting Inmate Control or Authority Over Other Inmate(s)
KSR 15-00-05	Differential Status for SU (QUIT) Inmates
KSR 15-00-06	Inmate I.D. Cards
KSR 15-00-07	Inmate Rules and Discipline - Adjustment Committee Procedures
KSR 15-00-08	Firehouse Living Area
KSR 15-00-09	Smoking and No Smoking Areas for Inmates and Staff
KSR 15-00-10	Program Services for Special Housing Placement
KSR 15-01-01	Operational Procedures and Rules and Regulations for Unit A, B & C: Functions of Assigned Personnel
KSR 15-01-02	Operational Procedures and Rules and Regulations for Unit A, B, & C: Staff Operational Procedures
KSR 15-01-03	Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate Rules and Regulations
KSR 15-01-04	Institutional Medical and Fire Safety Service: Unit Application
KSR 15-01-05	Operational Procedures Rules and Regulations for Unit A, B, & C: Institutional Inmate Services
KSR 15-01-06	Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate Honor Housing Criteria and Regulations
KSR 16-00-02	Inmate Correspondence and Mailroom Operations
KSR 16-00-03	Inmate Access to Telephones
KSR 16-01-01	Visiting Regulations [~~(Amended 1/14/94)~~]
KSR 16-01-02	Lawn Visit Procedure and Regulations
KSR 16-01-03	Night Visit Regulations
KSR 17-00-05	Dormitory 10 Operations
KSR 17-00-06	Identification Department Admission and Discharge Procedures
KSR 17-00-07	Inmate Personal Property
KSR 17-00-08	Repair of Inmate Owned Appliances by Outside Dealers
KSR 18-00-04	Returns from Other Institutions
KSR 18-00-05	Transfer of Residents to Kentucky Correctional Psychiatric Center, and Referral Procedure for Residents Adjudicated Guilty but Mentally Ill
KSR 18-00-06	Classification and Special Notice Form
KSR 18-00-07	Kentucky State Reformatory Placement Committee (Amended 2/15/94)
KSR 19-00-01	Inmate Work Incentives
KSR 19-00-02	On-the-job Training Program
KSR 19-00-03	Safety Inspections of Inmate Work Assignment Locations
KSR 19-00-05	Food Service On-The-Job Training and Workers Rules
KSR 20-00-01	Technical and Adult Basic Level Learning Center Programs
KSR 20-00-04	Criteria for Participation in A College Program
KSR 21-00-01	Legal Aide Office and Inmate Law Library Services and Supervision
KSR 21-00-02	Inmate Library Services
KSR 21-00-03	Library Services for Unit D
KSR 22-00-03	Inmate Organizations
KSR 22-00-07	Inmate Magazine
KSR 22-00-08	Privilege Trips
KSR 23-00-02	Chaplain's Responsibility and Inmate Access to Religious Representatives
KSR 23-00-03	Religious Programming
KSR 25-00-01	Discharge of Inmates to Hospital or Nursing Home
KSR 25-00-02	Violations of Law or Code of Conduct by Inmates on Parole Furlough
KSR 25-00-03	Preparole Progress Report

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: February 15, 1994

FILED WITH LRC: February 15, 1994 at 10 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 22, 1994 at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack Damron and William Seabold, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack Damron

(1) Type and number of entities affected: 439 employees of the Kentucky State Reformatory, 1354 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. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

DEPARTMENT OF CORRECTIONS
(Proposed Amendment)

501 KAR 6:060. Northpoint Training Center.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the commissioner to adopt, amend or rescind administrative 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 administrative regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Department of Corrections the following policies and procedures, revised February 15, 1994 [~~November 15, 1993~~], are incorporated by reference and shall be referred to as Northpoint Training Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Department of Corrections, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

NTC 01-05-01 Extraordinary Occurrence Reports
NTC 01-10-01 Legal Assistance for Staff
NTC 01-11-01 Political Activities of Merit Employees
NTC 01-15-01 Establishment of the Warden as Chief Executive Officer
NTC 01-17-01 Relationships with Public, Media and Other Agencies
NTC 02-02-02 Warden's Participation in the Agency Budgeting Process (Amended 2/15/94)
NTC 02-03-01 Fiscal Management: Audits
NTC 02-04-01 Internal Control and Monitoring of Accounting Procedures (Amended 2/15/94)
NTC 02-07-02 Chapel Fund (Amended 2/15/94)
NTC 02-08-01 Inmate Canteen (Amended 2/15/94)
NTC 02-10-01 Insurance Coverage (Amended 2/15/94)
NTC 02-12-01 Inmate Accounts (Amended 2/15/94)
NTC 04-01-01 Training and Staff Development [~~(Amended 11/15/93)~~]
NTC 04-04-01 Firearms and Chemical Agents Training [~~(Amended 11/15/93)~~]
NTC 06-01-01 Offender Records
NTC 06-01-02 Records - Release of Information
NTC 06-01-03 Taking Offender Record Folders onto the Yard
NTC 08-05-01 The Fire and Safety Officer
NTC 08-05-02 Fire Procedures
NTC 08-05-03 Fire Prevention
NTC 08-05-04 Storage of Flammables and Dangerous Chemicals and Their Use
NTC 08-07-01 Safety Standards
NTC 10-01-01 Special Management Unit
NTC 10-02-01 Protective Custody Unit
NTC 10-03-01 Protective Custody (Amended 2/15/94)
NTC 11-03-01 Food Services: General Guidelines
NTC 11-04-01 Food Service: Meals
NTC 11-04-02 Menu, Nutrition and Special Diets
NTC 11-05-02 Health Standards and Regulations for Food Service Employees
NTC 11-06-01 Inspection and Sanitation
NTC 11-07-01 Purchasing and Storage of Food Products
NTC 12-01-01 Institutional Inspection
NTC 12-02-01 Personal Hygiene for Inmates; Clothing and Linens
NTC 12-02-02 Issuance of Personal Hygiene Products
NTC 13-01-01 Emergency Medical Care Plan
NTC 13-01-02 Emergency and Specialized Health Services
NTC 13-02-01 Administration and Authority for Health Services
NTC 13-03-01 Sick Call and Pill Call
NTC 13-04-01 Utilization of Pharmaceutical Products
NTC 13-05-01 Dental Services
NTC 13-05-03 Dental Radiation Levels
NTC 13-05-04 Attest Steam Incubator
NTC 13-06-01 Licensure and Training Standards
NTC 13-07-01 Provisions for Health Care Delivery
NTC 13-08-01 Medical and Dental Records
NTC 13-09-01 Special Diets
NTC 13-11-01 Inmate Health Screening and Evaluation
NTC 13-12-01 Special Health Care Programs
NTC 13-17-01 Inmates Assigned to Health Services
NTC 13-19-01 Mental Health Care Program
NTC 13-19-03 Suicide Prevention and Intervention Program
NTC 13-20-01 Infectious Disease
NTC 13-20-02 Infection Control
NTC 13-20-03 Disposal of Biohazard Waste
NTC 13-21-01 Vision Care and Optometry Services
NTC 13-22-01 Informed Consent
NTC 13-23-01 Special Needs Inmates
NTC 14-01-01 Legal Services Program
NTC 14-01-02 Receiving, Viewing, Handling and Storage of Video Tapes
NTC 14-02-01 Inmate Grievance Procedure
NTC 14-03-01 Inmate Rights and Responsibilities
NTC 14-03-02 Board of Claims
NTC 15-01-01 Restoration of Forfeited Good Time
NTC 15-02-01 Due Process/Disciplinary Procedures
NTC 15-02-02 Extra Duty Assignments
NTC 15-02-03 Hearing Officer
NTC 15-03-01 Rules for Inmates Assigned to Outside Detail
NTC 15-03-02 Rules and Regulations for General Population Dormitories
NTC 15-04-01 Inmate Identification
NTC 16-01-01 Mail Regulations
NTC 16-02-01 Visiting
NTC 16-02-02 Extended and Special Visits
NTC 16-02-03 Honor Dorm and Outside Detail Dorm Visiting (Amended 2/15/94)
NTC 16-02-04 Controlled Visitation (Amended 2/15/94)

NTC 16-03-01	Inmate Furloughs
NTC 16-05-01	Telephone Use and Control
NTC 17-01-01	Personal Property Control
NTC 17-01-02	Authorized Inmate Personal Property
NTC 17-01-03	Unauthorized Inmate Property
NTC 17-01-04	Disposition of Unauthorized Property
NTC 17-01-05	State Issue and Required Inmate Clothing
NTC 17-03-01	Assessment/Orientation
NTC 18-01-01	Preparole Progress Report
NTC 18-02-01	Classification
NTC 18-02-02	Classification - 48 Hour Notification
NTC 18-03-01	Special Notice Form
NTC 18-05-01	Transfers of Inmates
NTC 18-05-02	Transfer of Inmates to Kentucky Correctional Psychiatric Center
NTC 19-01-01	Inmate Work Program [~~(Amended 11/15/93)~~]
NTC 19-01-03	Temporary Leave from Job Assignment
NTC 19-02-01	Correctional Industries
NTC 19-02-02	Guidelines for Correctional Industries
NTC 20-01-01	Educational Programs
NTC 20-02-02	Live Work Projects in Vocational School Classes
NTC 21-01-01	Library Services
NTC 22-03-01	Conducting Inmate Organizational Meetings and Programs
NTC 23-01-01	Religious Services
NTC 23-03-01	Marriage of Inmates
NTC 24-04-01	Honor Status
NTC 24-05-01	Unit Management
NTC 25-01-01	Release Preparation Program
NTC 25-01-02	Temporary Release/Community Center Release
NTC 25-01-03	Graduated Release
NTC 25-02-01	Funeral Trips and Bedside Visits
NTC 25-03-01	Inmate Release Procedure
NTC 26-01-01	Citizen Involvement and Volunteer Services Program

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: February 15, 1994

FILED WITH LRC: February 15, 1994 at 10 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 22, 1994, at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack T. Damron and William Seabold, Department of Corrections, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack Damron

(1) Type and number of entities affected: 263 employees of the Northpoint Training Center, 933 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. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

TRANSPORTATION CABINET
(Proposed Amendment)

600 KAR 3:020. Grave relocation.

RELATES TO: KRS Chapters 176, 177, 381, 183.120

STATUTORY AUTHORITY: KRS 176.050,177.020, 183.024

NECESSITY AND FUNCTION: In the course of constructing or reconstructing transportation facilities, cemeteries or graves on occasion need to be relocated. This administrative regulation sets forth the provisions for relocation of cemeteries or graves from state-owned property.

Section 1. Notification of Next-of-kin. (1) The Transportation Cabinet shall make every effort to locate the next-of-kin of those interred in the cemetery to be relocated.

(2) If there are unidentified remains or if a next-of-kin cannot be located, the Transportation Cabinet shall publish its intention to relocate graves in the local newspapers. This public notice shall:

(a) Include the name and location of the cemetery to be relocated;

(b) [~~and shall~~] Request assistance from anyone having knowledge of persons buried in the cemetery of their next-of-kin; and

(c) [~~. This notice shall~~] Be published once each week for a period of sixty (60) days in all local newspapers that are published at least weekly.

(3) If the next-of-kin cannot be located after these efforts, the Transportation Cabinet shall request authorization from the court of competent jurisdiction [~~county fiscal court~~] to relocate the grave.

Section 2. Location of Reinterment. (1) Unless the next-of-kin prefers another location or it is economically unfeasible, the remains shall be relocated to the closest perpetually maintained public cemetery.

(2) If the next-of-kin[s] selects a cemetery located in another county or out-of-state for the reinterment, he shall pay any additional cost incurred by the Transportation Cabinet.

Section 3. Reserved Spaces in the Cemetery. (1) If a family has reserved space adjoining the deceased in the disinterment cemetery and requests a reserved space adjoining the deceased in the reinterment cemetery, this space shall be provided.

(2) The Transportation Cabinet shall attempt to honor other requests for reserved space in the reinterment cemetery from living persons with a reserved space in the disinterment cemetery.

Section 4. Disinterment-reinterment Permit. The Transportation Cabinet shall obtain the Disinterment-reinterment Permit required by

901 KAR 5:090.

Section 5. Contractor Eligibility. (1) Only a person licensed as a funeral director under the provisions of KRS 316.090 shall be eligible to bid as a contractor on a Transportation Cabinet grave relocation project.

(2) The Transportation Cabinet shall maintain a list of licensed funeral directors wishing to bid on grave relocation projects.

(3) Annually, the cabinet shall advertise statewide for funeral directors interested in providing this service.

(4) All qualified respondents, as well as funeral directors who have actually relocated graves for the Transportation Cabinet, shall be placed on the list of licensed funeral directors wishing to bid on grave relocation projects.

(5) All interested funeral directors shall be required to provide proof of current licensing.

Section 6. Contract Procedures. (1) The following funeral directors shall be notified of a specific grave relocation project:

(a) Those [~~All funeral directors~~] on the list of those interested in grave relocation [~~and~~] who are located in the county or a county contiguous to the county of the grave relocation project; and

(b) Those [~~shall be notified of the grave relocation project. In addition, those funeral directors~~] who have requested to be notified of a grave relocation project within certain parameters [~~shall be notified~~] if those parameters are met.

(2) Each notified funeral director shall be provided an opportunity to view the grave to be relocated and the reinterment site.

(3) If a funeral director expresses interest in the project, he shall be provided a bid proposal.

(4) [~~(2)~~] All properly completed bid forms received prior to the bidding deadline shall be considered.

(5) A [~~No~~] bid received or completed after the deadline shall not be considered.

(6) [~~(3)~~] The contract shall be awarded to the lowest acceptable bid.

(7) [~~(4)~~] If a funeral director contractor has a contract claim or requests relief from the Transportation Cabinet, the procedures set forth in 603 KAR 2:015 shall be followed.

Section 7. Memorial Service. If a brief memorial or religious service is requested by the deceased's next-of-kin, permission for the service shall be granted.

B.G. BODNER, Executive Director
J. M. YOWELL, State Highway Engineer
JERRY D. ANGLIN, Deputy Secretary and Commissioner
DON C. KELLY, Secretary

APPROVED BY AGENCY: January 25, 1994

FILED WITH LRC: February 14, 1994 at 11 a.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on March 23, 1994 at 10 a.m. local prevailing time in the Transportation Cabinet, Corner of High, Clinton and Holmes Streets, Room 1003, 10th Floor, 501 High Street, Frankfort, Kentucky 40622. Any person who intends to attend this meeting must in writing by March 18, 1994 so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by March 18, 1994. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is held, written comments will be accepted until the close of the hearing. If the hearing is cancelled, written comments will only be accepted until March 23, 1994. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra G. Pullen, Staff Assistant, Transportation Cabinet, 1003 State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502)564-4890.

REGULATORY IMPACT ANALYSIS

Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: This administrative regulation affects relatives of persons buried in graves needing to be relocated because of a Transportation Cabinet project and funeral directors.

(a) Direct and indirect costs or savings to those affected: None - The Transportation Cabinet pays the cost of relocating the graves and obtains the necessary permits.

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (Note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: The Transportation Cabinet as part of a construction project, on rare occasions, is required to bear the cost of relocating a grave. The cost each year averages less than $100,000.

(a) Direct and indirect costs or savings: None as a result of the changes to this administrative regulation.

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: The only substantive change to the administrative regulation is to require the cabinet, when unable to locate the next of kin, to petition the court of competent jurisdiction rather than the county fiscal court. (3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: This change was made to correspond with a change in 901 KAR 5:090 relating to the disinterment of dead bodies.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

Tiering: Was tiering applied? No. Tiering was not applied because the few disinterments each year must all follow the same federal and state requirements.

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

603 KAR 9:010. Railroad crossing alteration and closure procedure.

RELATES TO: KRS 177.120-177.130

STATUTORY AUTHORITY: KRS 177.120

NECESSITY AND FUNCTION: KRS 177.120 requires the Transportation Cabinet to promulgate administrative regulations that contain standards governing the establishment, vacation, relocation, and separation of grades at public railway/highway grade crossings. This administrative regulation sets forth procedures the Transportation Cabinet shall follow regarding the production of a list of railroad crossings which shall be considered for closure, the evaluation of the

candidate list with respect to possible closure, and the ultimate decision to recommend closure or other appropriate changes to highway facilities crossing railroad rights-of-way. KRS 177.120 considers that public safety will be enhanced by the closure of redundant and inherently dangerous crossings.

Section 1. Candidate Lists. (1) The Transportation Cabinet shall compose a list of candidate railroad crossings for possible closure or other appropriate action drawn from the following sources:

(a) Responses to a letter sent to each county or local government in the Commonwealth through which railroad rights-of-way pass requesting a list of railroad crossings suggested for closure;

(b) Responses to a letter sent to each railroad company operating in the Commonwealth requesting a list of railroad crossings suggested for closure;

(c) Recommendations from other public or private agencies or individuals; and

(d) Railroad crossings which the Transportation Cabinet considers candidates for closure.

(2) The Transportation Cabinet may consider any railroad crossing as a candidate for closure when:

(a) An alternate railroad crossing is available within one-quarter (1/4) track mile in urban areas and the railroad crossing has a current average daily traffic count of 500 vehicles or less;

(b) An alternate railroad crossing is available within one (1) track mile in rural areas and the railroad crossing has a current average daily traffic count of 150 vehicles or less; or

(c) The railroad crossing has sight distance obstructions or other layout characteristics which create unsafe conditions and closure of the railroad crossing is an economically preferable alternative to correcting the deficiencies at the site , and an alternate crossing is available as required in paragraphs (a) and (b) of this subsection.

(3) The Transportation Cabinet shall consider action other than closure when the conditions set forth in subsection (2)(c) of this section are not met at a particular crossing, but when there are unusual safety concerns about the crossing.

Section 2. Evaluation. (1) The Transportation Cabinet's recommendation regarding a candidate railroad crossing shall include one (1) or more of the following factors:

(a) Highway traffic flow through the railroad crossing;

(b) Highway operating speeds through the railroad crossing;

(c) Train traffic through the railroad crossing;

(d) Train speed through the railroad crossing;

(e) Character, function and type of highway traffic through the railroad crossing;

(f) The necessity of the crossing for provision of emergency services;

(g) Accident history at the railroad crossing for the past five (5) years;

(h) Railroad crossing geometry including sight distance, acute crossing angle, high profile, etc.;

(i) Type of warning device currently in place at the railroad crossing;

(j) Condition of alternate railroad crossing surface;

(k) Condition of alternate railroad crossing;

(l) Distance and time to alternate railroad crossing;

(m) Character of adjacent road network;

(n) Reasonable access to public and private lands;

(o) Use of the railroad crossing by pedestrians and bicycles;

(p) Frequency of roadway blockage by trains;

(q) Community impacts of train whistle;

(r) Economic importance of the railroad crossing;

(s) Development projections in the vicinity of the railroad crossing ; or

(t) Funding availability, or potential availability, for action other than closure.

(2)(a) The Transportation Cabinet may consider a number of railroad crossings as a group in evaluating the merits of closing a given railroad crossing. If many railroad crossings of a rail line exist close together, the cabinet may recommend that one (1) or more of the railroad crossings be closed, subject to other evaluation criteria.

(b) The Transportation Cabinet may perform or recommend the performance of a traffic study of the road network in the vicinity of a railroad crossing being considered for closure to analyze the effect of the closure on users of the railroad crossing and on local traffic flow.

(c) The Transportation Cabinet may evaluate a railroad crossing in terms of its economic costs and benefits, considering:

1. The railroad crossing's effects on highway and rail operations safety;

2. Changes in highway capital and maintenance costs due to closure;

3. Effects on local business operations and property values, either positive or negative;

4. Effects on rail and highway vehicle operating costs due to closure; or

5. Any other effect which may have economic impact.

Section 3. Data Verification. If the evaluation performed pursuant to Section 2 of this administrative regulation indicates that a railroad crossing is a candidate for closure, the Transportation Cabinet shall :

(1) Provide notification to the jurisdictional local government unit and appropriate railroad company of the potential for closure of the crossing;

(2) Verify elements of its information file which are critical to accurate evaluation of the particular railroad crossing. This verification shall, as available, consist of the following:

(a) Collection of updated information from local officials;

(b) Collection of updated information from officials of the affected railroad company; and

(c) Field data collection activities such as updated traffic counts at the railroad crossing.

Section 4. Public Input. (1) If based on the evaluation results of Sections 2 and 3 of this administrative regulation the Transportation Cabinet reaches a preliminary decision to recommend closure of a railroad crossing, the Transportation Cabinet may conduct public information meetings regarding the proposed railroad crossing closure in the region affected by the proposed closure.

(2) If a hearing is requested as specified in KRS 177.120(3), the Transportation Cabinet shall hold a contested case hearing in accordance with the hearing process specified in 601 KAR 1:030, except that the transcript shall be paid for by the Transportation Cabinet and the Report and Recommended Order shall be presented to the Transportation Secretary.

(3) The burden of proof for retention of the railroad crossing shall be the responsibility of the individuals, organizations, or agencies that contested the closure decision.

(4) The Transportation Cabinet Secretary's decision following the public hearing shall be based on the evaluation performed and information obtained in Sections 2 and 3 of this administrative regulation, subject to new information acquired through the public information and hearing process.

Section 5. Official Order. (1) If the Transportation Cabinet's final decision is to close the candidate railroad crossing, the secretary shall issue an official order to that effect.

(2) The official order shall have an effective date far enough in advance of its issuance to allow the local government unit having jurisdiction to comply with the requirements of KRS 178.050.

Section 6. Local Closures. The Transportation Cabinet's railroad crossing closure program, as mandated by KRS 177.120, shall not preclude local officials and railroad companies from pursuing railroad

crossing closure agreements independent of the cabinet's program.

Section 7. 1993 Proposed List of Crossings to be Closed. (1) The Transportation Cabinet has determined in accordance with the provisions of this administrative regulation that the following railroad crossings should be closed:

	County	Railroad	Location	ID Number
(a)	Carroll	CSX	Simmons St. @ Worthville	345645N
(b)	McCreary	Southern	Strunk - Pine Knot Loop	841898M
(c)	Mason	CSX	Walnut St. in Maysville	229280S
(d)	Oldham	CSX	Connector Rd/0.5 N Camden Rd	345546R
(e)	Oldham	CSX	Connector Rd/.3 SW Glenarm Rd	345547X

(2) The Transportation Cabinet hereby offers the opportunity for a hearing on any of these proposed closures. A hearing request shall be received at the Division of Planning, 419 Ann Street, Frankfort, Kentucky 40622, within thirty (30) days of the publication of this proposed amended administrative regulation in the Administrative Register.

J.M. YOWELL, P.E., State Highway Engineer
JERRY D. ANGLIN, Deputy Secretary and Commissioner
DON C. KELLY, P.E., Secretary

APPROVED BY AGENCY: January 27, 1994

FILED WITH LRC: February 14, 1994 at 11 a.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on March 23, 1994 at 2 p.m. local prevailing time in the Transportation Cabinet, Corner of High, Clinton and Holmes Streets, 501 High Street, Room 1003, Frankfort, Kentucky 40622. Any person who intends to attend this meeting must in writing by March 18, 1994 so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by March 18, 1994. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. Written comments will be accepted until the close of business on March 23, 1994. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra G. Pullen, Staff Assistant, Transportation Cabinet, 1003 State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-4890.

REGULATORY IMPACT ANALYSIS

AGENCY CONTACT PERSON: Sandra G. Pullen

(1) Type and number of entities affected: This proposed change to the amended administrative regulation affects four counties and the travelers within those counties and two separate railroad companies.

(a) Direct and indirect costs or savings to those affected: There would be direct costs to the railroad company from each of the 5 proposed closures as a result of the cost of removing the crossing and installing the street barricade. These costs would be offset by the elimination of future maintenance responsibility for the closed crossing (estimated at $900 - $1300/year). Indirect costs or savings must be determined on a case-by-case basis. A crossing closure will eliminate the potential for a train-vehicle accident, resulting in an inherent savings of accidents costs and potentially human life.

1. First year:

2. Continuing cost or savings:

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

(b) Reporting and paperwork requirements: Cities, counties and railroads are asked to respond to correspondence from the Transportation Cabinet requesting submission of a recommended list of rail-highway crossing candidates for potential closure.

(2) Effects on the promulgating administrative body: A study of each crossing closure candidate will require extensive time for cabinet personnel to conduct office and field review. Should a candidate crossing be chosen for closure, local coordination and local public review and responses must be addressed. The potential exists for extensive and lengthy legal appeals regarding decisions to close a rail crossing, which could result in extensive paperwork requirements.

(a) Direct and indirect costs or savings:

1. First year: $50,000 - $75,000 range as a result of personnel, equipment, travel, etc.

2. Continuing costs or savings: Same as first year

3. Additional factors increasing or decreasing costs: If we have lawsuits over the issue, costs will increase drastically.

(b) Reporting or paperwork requirements: Annually contacting all affected entities.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: An alternative method presently exists whereby the railroad companies and the local jurisdictional body can agree to close a rail-highway crossing independent of Transportation Cabinet involvement. This administrative regulation does not preclude the continuance of this process.

(5) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping or duplication: KRS 178.355 provides a process for the elimination of railroad crossings on county roads. This statute could be considered as potentially overlapping the provisions of this administrative regulation.

(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:

(6) Any additional information or comments:

Tiering: Was tiering applied? Yes. The administrative regulation takes into consideration the amount of traffic and other such factors when selecting crossings for possible closure.

LABOR CABINET
Deparatment of Workplace Standards
Kentucky Occupational Safety and Health
(Proposed Amendment)

803 KAR 2:016. Construction industry standards.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, administrative regulations, and contains those standards to be enforced by the Division of Occupational Safety and Health Compliance, Department of Workplace Standards. The Occupational Safety and Health Standards Board hereby adopts the following administrative regulations applicable to the construction industry.

Section 1. Safety and Testing of Supply Lines in Excess of 600 Volts. (1) Definitions.

(a) Disconnected means disconnected from any electrical source of supply.

(b) Guarded: protected by personnel, covered, fenced, or

enclosed by means of suitable castings, barrier, rails, screens, mats, platforms, or other suitable devices in accordance with standard barricading techniques designed to prevent dangerous approach or contact by persons or objects. (Note: wires, which are insulated but not otherwise protected, are not considered as guarded.)

(c) Hold cards: (also called "hold tags") a card or tag-type device, usually having a predominant color of white or red which warns against or which cautions against the operation of a particular switch, device, circuit, tool, machine, etc.

(d) Near: a distance no closer than that shown in the table in subsection (3)(c) of this section.

(e) Qualified person: a person who, because of experience and training is familiar with the construction and operation of the apparatus or equipment and the hazards involved in the performance of the job.

(2) Purpose.

(a) The intent and purpose of this administrative regulation is to provide and establish safety procedures for testing equipment to protect electrical workers from hazards resulting from exposure to high voltage.

(b) This administrative regulation shall apply to nonutility electrical workers who are engaged in electrical construction and/or maintenance of electrical conductors and equipment rated at 600 volts and above.

(3) Energized conductors and equipment.

(a) Only qualified employees shall work on or near high voltage conductors or equipment.

(b) Personal protective equipment shall be provided by the employer and used by the employee when working on or near energized, ungrounded high voltage conductors or equipment.

(c) No employee shall approach or take any conductive object, without an approved insulating handle, within the minimum distance specified in the table below, unless the energized part is insulated or guarded from the employee, or the employee is effectively insulated from the live parts. Rubber gloves (sleeves if necessary) rated for the voltage involved shall be considered effective insulation of the employee from the energized part.

Minimum Clear Distance From Live Parts

Voltage Phase to Phase (Kilovolts)	Distance Phase to Employee
0.6 to 34.5	2'
34.5 to 46	2 1/2'
46 to 69	3'
69 to 115	3' 4"
115 to 138	3' 6"
138 to 169	3' 8"

(4) Deenergized conductor or equipment.

(a) Existing conditions shall be determined before starting work on electrical conductor and/or equipment.

(b) Before any work is performed, all electrical switches, breakers and associated disconnecting devices shall be opened, made inoperable and hold tagged out by the person in charge. Employees shall be trained and thoroughly instructed in the tagging procedure. One (1) qualified person, for example: foreman, general foreman or first class electrician, of each crew shall be responsible for attaching hold tags and/or hold cards to the disconnecting means. When more than one (1) crew is involved in the work, multiple hold tags or hold cards shall be placed in the handle of the disconnecting equipment. The use of such tags must be respected. Equipment or items so tagged must not be activated or used without full and proper authority of a responsible person whose signature appears on the tag.

(c) Conductors shall be short-circuited and grounded wherever possible.

(d) Capacitors may be components of apparatus of the disconnected electrical system. Before employees are allowed to work, the capacitors shall be discharged, short-circuited and grounded.

(e) When deenergizing conductors and equipment and the means of disconnecting from the energy source is not visibly open, a voltage test shall be made before starting work. An operational check shall be made of the voltage tester prior to and following the voltage test to determine reliability of the testing device. The test device must be handled and used while wearing or using approved protective equipment during the test.

(f) All conductors and equipment shall be treated as energized until tested, short-circuited and effectively grounded except when the circuit involved is isolated from all possible sources of energizing voltage from another circuit, induced voltage or back feed.

(g) The voltage condition of deenergized conductors and/or equipment shall be determined with testing equipment designed for the applicable voltage.

(h) Upon completion of work on deenergized conductors and equipment, the person responsible shall ascertain that all employees under his jurisdiction are clear and that all protective short-circuit and grounding lines are removed. The qualified person(s) shall then remove his hold tag(s). Only at this time shall conductors and equipment be reenergized.

Section 2. Bloodborne Pathogens. (1) Definitions. For purposes of this section, the following shall apply:

(a) "Assistant secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, or designated representative.

(b) "Blood" means human blood, human blood components, and products made from human blood.

(c) "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

(d) "Clinical laboratory" means a workplace where diagnostic or other screening procedures are performed on blood or other potentially infectious materials.

(e) "Contaminated" means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.

(f) "Contaminated laundry" means laundry which has been soiled with blood or other potentially infectious materials or may contain sharps.

(g) "Contaminated sharps" means any contaminated object that can penetrate the skin including, but not limited to, needles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires.

(h) "Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

(i) "Director" means the Director of the National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designated representative.

(j) "Engineering controls" means controls (e.g., sharps disposal containers, self-sheathing needles) that isolate or remove the bloodborne pathogens hazard from the workplace.

(k) "Exposure incident" means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.

(l) "Handwashing facilities" means a facility providing an adequate supply of running potable water, soap and single-use towels or hot air drying machines.

(m) "Licensed health care professional" is a person whose legally permitted scope of practice allows him or her to independently

perform the activities required by paragraph (f) Hepatitis B vaccination and postexposure evaluation and follow-up.

(n) "HBV" means hepatitis B virus.

(o) "HIV" means human immunodeficiency virus.

(p) "Occupational exposure" means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

(q) "Other potentially infectious materials" means:

1. The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

2. Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and

3. HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

(r) "Parenteral" means piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions.

(s) "Personal protective" means specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts or blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.

(t) "Production facility" means a facility engaged in industrial-scale, large-volume or high-concentration production of HIV or HBV.

(u) "Regulated waste" means liquid or semiliquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semiliquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials.

(v) "Research laboratory" means a laboratory producing or using research-laboratory-scale amounts of HIV or HBV. Research laboratories may produce high concentrations of HIV or HBV but not in the volume found in production facilities.

(w) "Source individual" means any individual, living or dead, whose blood or other potentially infectious materials may be a source of occupational exposure to the employee. Examples include, but are not limited to, hospital and clinic patients; clients in institutions for the developmentally disabled; trauma victims; clients of drug and alcohol treatment facilities; residents of hospices and nursing homes; human remains; and individuals who donate or sell blood or blood components.

(x) "Sterilize" means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

(y) "Universal precautions" is an approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens.

(z) "Work practice controls" means controls that reduce the likelihood of exposure by altering the manner in which a task is performed (e.g., prohibiting recapping of needles by a two (2) handed technique).

(2) Scope and application. This section applies to all occupational exposure to blood or other potentially infectious materials as defined by paragraph (b) of this section.

(3) Exposure control.

(a) Exposure control plan.

1. Each employer having an employee(s) with occupational exposure as defined by paragraph (b) of this section shall establish a written exposure control plan designed to eliminate or minimize employee exposure.

2. The exposure control plan shall contain at least the following elements:

b. The exposure determination required by paragraph (b) of this subsection;

a. The schedule and method of implementation for paragraphs (4) Methods of compliance, (5) HIV and HBV research laboratories and production facilities, (6) Hepatitis B vaccination and postexposure evaluation and follow-up, (7) Communication of hazards to employees, and (8) Recordkeeping, of this section; and

b. The procedure for the evaluation of circumstances surrounding exposure incidents as required by subsection (6)(c)a of this section.

3. Each employer shall ensure that a copy of the exposure control plan is accessible to employees in accordance with 29 CFR 1910.20(e).

4. The exposure control plan shall be reviewed and updated at least annually and whenever necessary to reflect new or modified tasks and procedures which affect occupational exposure and to reflect new or revised employee positions with occupational exposure.

5. The exposure control plan shall be made available to the assistant secretary and the director upon request for examination and copying.

(b) Exposure determination.

1. Each employer who has an employee(s) with occupational exposure as defined by psubsection (1) of this section shall prepare an exposure determination. This exposure determination shall contain the following:

a. A list of all job classifications in which all employees in those job classifications have occupational exposure;

b. A list of job classifications in which some employees have occupational exposure; and

c. A list of all tasks and procedures or groups of closely related task and procedures in which occupational exposure occurs and that are performed by employees in job classifications listed in accordance with the provisions of clause b of this subparagraph.

2. This exposure determination shall be made without regard to the use of personal protective equipment.

(4) Methods of compliance.

(a) General. Universal precautions shall be observed to prevent contact with blood or other potentially infectious materials. Under circumstances in which differentiation between body fluid types is difficult or impossible, all body fluids shall be considered potentially infectious materials.

(b) Engineering and work practice controls.

1. Engineering and work practice controls shall be used to eliminate or minimize employee exposure. Where occupational exposure remains after institution of these controls, personal protective equipment shall also be used.

2. Engineering controls shall be examined and maintained or replaced on a regular schedule to ensure their effectiveness.

3. Employers shall provide handwashing facilities which are readily accessible to employees.

4. When provision of handwashing facilities is not feasible, the employer shall provide either an appropriate antiseptic hand cleanser in conjunction with clean cloth/paper towels or antiseptic towelettes. When antiseptic hand cleansers or towelettes are used, hands shall be washed with soap and running water as soon as feasible.

5. Employers shall ensure that employees wash their hands immediately or as soon as feasible after removal of gloves or other personal protective equipment.

6. Employers shall ensure that employees wash hands and any other skin with soap and water, or flush mucous membranes with water immediately or as soon as feasible following contact of such body areas with blood or other potentially infectious materials.

7. Contaminated needles and other contaminated sharps shall not be bent, recapped, or removed except as noted in clauses a and b of this subparagraph. Shearing or breaking of contaminated needles is prohibited.

a. Contaminated needles and other contaminated sharps shall not be recapped or removed unless the employer can demonstrate that no alternative is feasible or that such action as required by a specific medical procedure.

b. Such recapping or needle removal must be accomplished through the use of a mechanical device or a one (1) handed technique.

8. Immediately or as soon as possible after use, contaminated reusable sharps shall be placed in appropriate containers until properly reprocessed. These containers shall be:

a. Puncture resistant;

b. Labeled or color-coded in accordance with this administrative regulation;

c. Leak-proof on the sides and bottom; and

d. In accordance with the requirements set forth in paragraph (d)2e of this subsection for reusable sharps.

9. Eating, drinking, smoking, applying cosmetics or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.

10. Food and drink shall not be kept in refrigerators, freezers, shelves, cabinets or on countertops or benchtops where blood or other potentially infectious materials are present.

11. All procedures involving blood or other potentially infectious materials shall be performed in such a manner as to minimize splashing, spraying, spattering, and generation of droplets of these substances.

12. Mouth pipetting/suctioning of blood or other potentially infectious materials is prohibited.

13. Specimens of blood or other potentially infectious materials shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport, or shipping.

a. The container for storage, transport, or shipping shall be labeled or color-coded according to subsection (7)(a)1 of this section and closed prior to being stored, transported, or shipped. When a facility utilizes universal precautions in the handling of all specimens, the labeling/color-coding of specimens is not necessary provided containers are recognizable as containing specimens. This exemption only applies while such specimens/containers remain within the facility. Labeling or color-coding in accordance with subsection (7)(a)1 of this section is required when such specimens/containers leave the facility.

b. If outside contamination of the primary container occurs, the primary container shall be placed within a second container which prevents leakage during handling, processing, storage, transport, or shipping and is labeled or color-coded according to the requirements of this standard.

c. If the specimen could puncture the primary container, the primary container shall be placed within a secondary container which is puncture-resistant in addition to the above characteristics.

14. Equipment which may become contaminated with blood or other potentially infectious materials shall be examined prior to servicing or shipping and shall be decontaminated as necessary, unless the employer can demonstrate that decontamination of such equipment or portions of such equipment is not feasible.

a. A readily observable label in accordance with subsection (7)(a)1h of this section shall be attached to the equipment stating which portions remain contaminated.

b. The employer shall ensure that this information is conveyed to all affected employees, the servicing representative, and/or the manufacturer, as appropriate, prior to handling, servicing, or shipping so that appropriate precautions will be taken.

(c) Personal protective equipment.

1. Provision. When there is occupational exposure, the employer shall provide, at no cost to the employee, appropriate personal protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye protection, and mouthpieces, resuscitation bags, pocket masks, or other ventilation devices. Personal protective equipment will be considered "appropriate" only if it does not permit blood or other potentially infectious materials to pass through to or reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time which the protective equipment will be used.

2. Use. The employer shall ensure that the employee uses appropriate personal protective equipment unless the employer shows that the employee temporarily and briefly declined to use personal protective equipment when, under rare and extraordinary circumstances, it was the employee's professional judgment that in the specific instance its use would have prevented the delivery of health care or public safety services or would have posed an increased hazard to the safety of the worker or coworker. When the employee makes this judgement, the circumstances shall be investigated and documented in order to determine whether changes can be instituted to prevent such occurrences in the future.

3. Accessibility. The employer shall ensure that appropriate personal protective equipment in the appropriate sizes is readily accessible at the worksite or is issued to employees. Hypoallergenic gloves, glove liners, powderless gloves, or other similar alternatives shall be readily accessible to those employees who are allergic to the gloves normally provided.

4. Cleaning, laundering, and disposal. The employer shall clean, launder, and dispose of personal protective equipment required by this subsection and subsection (5) of this section, at no cost to the employee.

5. Repair and replacement. The employer shall repair or replace personal protective equipment as needed to maintain its effectiveness, at no cost to the employee.

6. If a garment(s) is penetrated by blood or other potentially infectious materials, the garment(s) shall be removed immediately or as soon as feasible.

7. All personal protective equipment shall be removed prior to leaving the work area.

8. When personal protective equipment is removed it shall be placed in an appropriately designated area or container for storage, washing, decontamination or disposal.

9. Gloves. Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials, mucous membranes, and nonintact skin when performing vascular access procedures and when handling or touching contaminated items or surfaces.

a. Disposable (single-use) gloves such as surgical or examination gloves, shall be replaced as soon as practical when contaminated or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised.

b. Disposable (single-use) gloves shall not be washed or decontaminated for reuse.

c. Utility gloves may be decontaminated for reuse if the integrity of the glove is not compromised. However, they must be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

d. Removed.

10. Masks, eye protection, and face shields. Masks in combination with eye protection devices, such as goggles or glasses with solid side shields, or chin-length face shields, shall be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose, or mouth contamination can be reasonably anticipated.

11. Gowns, aprons, and other protective body clothing. Appropriate protective clothing such as, but not limited to, gowns, aprons, lab

coats, clinic jackets, or similar outer garments shall be worn in occupational exposure situations. The type and characteristics will depend upon the task and degree of exposure anticipated.

12. Surgical caps or hoods and/or shoe covers or boots shall be worn in instances when gross contamination can reasonably be anticipated (e.g., autopsies, orthopaedic surgery).

(d) Housekeeping.

1. General. Employers shall ensure that the worksite is maintained in a clean and sanitary condition. The employer shall determine and implement an appropriate written schedule for cleaning and method of decontamination based upon the location within the facility, type of surface to be cleaned, type of soil present, and tasks or procedures being performed in the area.

2. All equipment and environmental and working surfaces shall be cleaned and decontaminated after contact with blood or other potentially infectious materials.

a. Contaminated work surfaces shall be decontaminated with an appropriate disinfectant after completion of procedures; immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or other potentially infectious materials; and at the end of the work shift if the surface may have become contaminated since the last cleaning.

b. Protective coverings, such as plastic wrap, aluminum foil, or imperviously-backed absorbent paper used to cover equipment and environmental surfaces, shall be removed and replaced as soon as feasible when they become overtly contaminated or at the end of the workshift if they may have become contaminated during the shift.

c. All bins, pails, cans, and similar receptacles intended for reuse which have a reasonable likelihood for becoming contaminated with blood or other potentially infectious materials shall be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination.

d. Broken glassware which may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means, such as a brush and dust pan, tongs, or forceps.

e. Reusable sharps that are contaminated with blood or other potentially infectious materials shall not be stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.

3. Regulated waste.

a. Contaminated sharps discarding and containment.

(i) Contaminated sharps shall be discarded immediately or as soon as feasible in containers that are:

i. Closable;

ii. Puncture resistant;

iii. Leak-proof on sides and bottom;

iv. Labeled or color-coded in accordance with subsection (7)(a)1a of this section.

(ii) During use, containers for contaminated sharps shall be:

i. Easily accessible to personnel and located as close as is feasible to the immediate area where sharps are used or can be reasonably anticipated to be found (e.g., laundries);

ii. Maintained upright throughout use; and

iii. Replaced routinely and not be allowed to overfill.

(iii) When moving containers of contaminated sharps from the area of use, the containers shall be:

i. Closed immediately prior to removal or replacement to prevent spillage or protrusion of contents during handling, storage, transport, or shipping;

ii. Placed in a secondary container if leakage is possible. The second container shall be:

(A) Closable;

(B) Constructed to contain all contents and prevent leakage during handling, storage, transport, or shipping; and

(C) Labeled or color-coded according to subsection (7)(a)1 of this section.

(iv) Reusable containers shall not be opened, emptied, or cleaned manually or in any other manner which would expose employees to the risk of percutaneous injury.

b. Other regulated waste containment.

(i) Regulated waste shall be placed in containers which are:

i. Closable;

ii. Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport or shipping;

iii. Labeled or color-coded in accordance with subsection (7)(a)1 of this section; and

iv. Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

(ii) If outside contamination of the regulated waste container occurs, it shall be placed in a second container. The second container shall be:

i. Closable;

ii. Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport or shipping;

iii. Labeled or color-coded in accordance with subsection (7)(a)1 of this section; and

iv. Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

(iii) Disposal of all regulated waste shall be in accordance with applicable regulations of the United States, states and territories, and political subdivisions of states and territories.

4. Laundry.

a. Contaminated laundry shall be handled as little as possible with a minimum of agitation.

(i) Contaminated laundry shall be bagged or containerized at the location where it was used and shall not be sorted or rinsed in the location of use.

(ii) Contaminated laundry shall be placed and transported in bags or containers labeled or color-coded in accordance with subsection (7)(a)1 of this section. When a facility utilizes universal precautions in the handling of all soiled laundry, alternative labeling or color-coding is sufficient if it permits all employees to recognize the containers as requiring compliance with universal precautions.

(iii) Whenever contaminated laundry is wet and presents a reasonable likelihood of soak-through of or leakage from the bag or container, the laundry shall be placed and transported in bags or containers which prevent soak-through and/or leakage of fluids to the exterior.

(b) The employer shall ensure that employees who have contact with contaminated laundry wear protective gloves and other appropriate personal protective equipment.

(c) When a facility ships contaminated laundry off site to a second facility which does not utilize universal precautions in the handling of all laundry, the facility generating the contaminated laundry must place such laundry in bags or containers which are labeled or color-coded in accordance with subsection (7)(a)1 of this section.

(5) HIV and HBV research laboratories and production facilities.

(a) This paragraph applies to research laboratories and production facilities engaged in the culture, production, concentration, experimentation, and manipulation of HIV and HBV. It does not apply to clinical or diagnostic laboratories engaged solely in the analysis of blood, tissues, or organs. These requirements apply in addition to the other requirements of this administrative regulation.

(b) Research laboratories and production facilities shall meet the following criteria:

1. Standard microbiological practices. All regulated waste shall either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens.

2. Special practices.

a. Laboratory doors shall be kept closed when work involving HIV or HBV is in progress.

b. Contaminated materials that are to be decontaminated at a site away from the work area shall be placed in a durable, leakproof,

labeled or color-coded container that is closed before being removed from the work area.

c. Access to the work area shall be limited to authorized persons. Written policies and procedures shall be established whereby only persons who have been advised of the potential biohazard, who meet any specific entry requirements, and who comply with all entry and exit procedures shall be allowed to enter the work areas and animal rooms.

d. When other potentially infectious materials or infected animals are present in the work area or containment module, a hazard warning sign incorporating the universal biohazard symbol shall be posted on all access doors. The hazard warning sign shall comply with subsection (7)(a)2 of this section.

e. All activities involving other potentially infectious materials shall be conducted in biological safety cabinets or other physical-containment devices within the containment module. No work with these other potentially infectious materials shall be conducted on the open bench.

f. Laboratory coats, gowns, smocks, uniforms, or other appropriate protective clothing shall be used in the work area and animal rooms. Protective clothing shall not be worn outside of the work area and shall be decontaminated before being laundered.

g. Special care shall be taken to avoid skin contact with other potentially infectious materials. Gloves shall be worn when handling infected animals and when making hand contact with other potentially infectious materials is unavoidable.

h. Before disposal all waste from work areas and from animal rooms shall either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens.

i. Vacuum lines shall be protected with liquid disinfectant traps and high-efficiency particulate air (HEPA) filters or filters of equivalent or superior efficiency and which are checked routinely and maintained or replaced as necessary.

j. Hypodermic needles and syringes shall be used only for parenteral injection and aspiration of fluids from laboratory animals and diaphragm bottles. Only needle-locking syringes or disposable syringe-needle units (i.e., the needle is integral to the syringe) shall be used for the injection or aspiration of other potentially infectious materials. Extreme caution shall be used when handling needles and syringes. A needle shall not be bent, sheared, replaced in the sheath or guard, or removed from the syringe following use. The needle and syringe shall be promptly placed in a puncture-resistant container and autoclaved or decontaminated before reuse or disposal.

k. All spills shall be immediately contained and cleaned up by appropriate professional staff or others properly trained and equipped to work with potentially concentrated infectious materials.

l. A spill or accident that results in an exposure incident shall be immediately reported to the laboratory director or other responsible person.

m. A biosafety manual shall be prepared or adopted and periodically reviewed and updated at least annually or more often if necessary. Personnel shall be advised of potential hazards, shall be required to read instructions on practices and procedures, and shall be required to follow them.

3. Containment equipment.

a. Certified biological safety cabinets (Class I, II, or III) or other appropriate combinations of personal protection or physical containment devices, such as special protective clothing, respirators, centrifuge safety cups, sealed centrifuge rotors, and containment caging for animals, shall be used for all activities with other potentially infectious materials that pose a threat of exposure to droplets, splashes, spills, or aerosols.

b. Biological safety cabinets shall be certified when installed, whenever they are moved and at least annually.

(c) HIV and HBV research laboratories shall meet the following criteria:

1. Each laboratory shall contain a facility for handwashing and an eye wash facility which is readily available within the work area.

2. An autoclave for decontamination of regulated waste shall be available.

(d) HIV and HBV production facilities shall meet the following criteria:

1. The work areas shall be separated from areas that are open to unrestricted traffic flow within the building. Passage through two (2) sets of doors shall be the basic requirement for entry into the work area from access corridors or other contiguous areas. Physical separation of the high-containment work area from access corridors or other areas or activities may also be provided by a double-doored clothes-change room (showers may be included), airlock, or other access facility that requires passing through two (2) sets of doors before entering the work area.

2. The surfaces of doors, walls, floors and ceilings in the work area shall be water resistant so that they can be easily cleaned. Penetrations in these surfaces shall be sealed or capable of being sealed to facilitate decontamination.

3. Each work area shall contain a sink for washing hands and a readily available eye wash facility. The sink shall be foot, elbow, or automatically operated and shall be located near the exit door of the work area.

4. Access doors to the work area or containment module shall be self-closing.

5. An autoclave for decontamination of regulated waste shall be available within or as near as possible to the work area.

6. A ducted exhaust-air ventilation system shall be provided. This system shall create directional airflow that draws air into the work area through the entry area. The exhaust air shall not be recirculated to any other area of the building, shall be discharged to the outside, and shall be dispersed away from occupied areas and air intakes. The proper direction of the airflow shall be verified (i.e., into the work area).

(e) Training requirements. Additional training requirements for employees in HIV and HBV research laboratories and HIV and HBV production facilities are specified in paragraph (g)(2)(ix).

(6) Hepatitis B vaccination and postexposure evaluation and follow-up.

(a) General.

1. The employer shall make available the hepatitis B vaccine and vaccination series to all employees who have occupational exposure, and postexposure evaluation and follow-up to all employees who have had an exposure incident.

2. The employer shall ensure that all medical evaluations and procedures including the hepatitis B vaccine and vaccination series and postexposure evaluation and follow-up, including prophylaxis, are:

a. Made available at no cost to the employee;

b. Made available to the employee at a reasonable time and place;

c. Performed by or under the supervision of a licensed physician or by or under the supervision of another licensed health care professional; and

d. Provided according to recommendations of the U.S. Public Health Service current at the time these evaluations and procedures take place, except as specified by this subsection.

3. The employer shall ensure that all laboratory tests are conducted by an accredited laboratory at no cost to the employee.

(b) Hepatitis B vaccination.

1. Hepatitis B vaccination shall be made available after the employee has received the training required in subsection (7)(b)7i of this section and within ten (10) working days of initial assignment to all employees who have occupational exposure unless the employee has previously received the complete hepatitis B vaccination series, antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.

2. The employer shall not make participation in a prescreening

program a prerequisite for receiving hepatitis B vaccination.

3. If the employee initially declines hepatitis B vaccination but at a later date while still covered under the standard decides to accept the vaccination, the employer shall make available hepatitis B vaccination at that time.

4. The employer shall assure that employees who decline to accept hepatitis B vaccination offered by the employer sign the statement in Appendix A.

5. If a routine booster dose(s) of hepatitis B vaccine is recommended by the U.S. Public Health Service at a future date, such booster dose(s) shall be made available in accordance with subsection (7)(a)2 of this section.

(c) Postexposure evaluation and follow-up following a report of an exposure incident, the employer shall make immediately available to the exposed employee a confidential medical evaluation and follow-up, including at least the following elements:

1. Documentation of the route(s) of exposure, and the circumstances under which the exposure incident occurred;

2. Identification and documentation of the source individual, unless the employer can establish that identification is infeasible or prohibited by state or local law;

a. The source individual's blood shall be tested as soon as feasible and after consent is obtained in order to determine HBV and HIV infectivity. If consent is not obtained, the employer shall establish that legally required consent cannot be obtained. When the source individual's consent is not required by law, the source individual's blood, if available, shall be tested and the results documented.

b. When the source individual is already known to be infected with HBV or HIV, testing for the source individual's known HBV or HIV status need not be repeated.

c. Results of the source individual's testing shall be made available to the exposed employee, and the employee shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.

3. Collection and testing of blood for HBV and HIV serological status;

a. The exposed employee's blood shall be collected as soon as feasible and tested after consent is obtained.

b. If the employee consents to baseline blood collection, but does not give consent at that time for HIV serologic testing, the sample shall be preserved for at least ninety (90) days. If, within ninety (90) days of the exposure incident, the employee elects to have the baseline sample tested, such testing shall be done as soon as feasible.

4. Postexposure prophylaxis, when medically indicated, as recommended by the U.S. Public Health Service;

5. Counseling; and

6. Evaluation of reported illnesses.

(d) Information provided to the health care professional.

1. The employer shall ensure that the health care professional responsible for the employee's hepatitis B vaccination is provided a copy of this administrative regulation.

2. The employer shall ensure that the health care professional evaluating an employee after an exposure incident is provided the following information:

a. A copy of this administrative regulation;

b. A description of the exposed employee's duties as they relate to the exposure incident;

c. Documentation of the route(s) of exposure and circumstances under which exposure occurred;

d. Results of the source individual's blood testing, if available; and

e. All medical records relevant to the appropriate treatment of the employee including vaccination status which are the employer's responsibility to maintain.

(e) Health care professional's written opinion. The employer shall obtain and provide the employee with a copy of the evaluating health care professional's written opinion within fifteen (15) days of the completion of the evaluation.

1. The health care professional's written opinion for hepatitis B vaccination shall be limited to whether hepatitis B vaccination is indicated for an employee, and if the employee has received such vaccination.

2. The health care professional's written opinion for post-exposure evaluation and follow-up shall be limited to the following information:

a. That the employee has been informed of the results of the evaluation; and

b. That the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

3. All other findings or diagnoses shall remain confidential and shall not be included in the written report.

(f) Medical recordkeeping. Medical records required by this standard shall be maintained in accordance with subsection (8)(a) of this section.

(7) Communication of hazards to employees.

(a) Labels and signs.

1. Labels.

a. Warning labels shall be affixed to containers of regulated waste, refrigerators and freezers containing blood or other potentially infectious material; and other containers used to store, transport or ship blood or other potentially infectious materials, except as provided in clauses e, f and g of this subparagraph.

b. Labels required by this section shall include the following legend:

biohazard symbol here

BIOHAZARD

c. These labels shall be fluorescent orange or orange-red or predominantly so, with lettering or symbols in a contrasting color.

d. Labels required by this subparagraph shall either be an integral part of the container or shall be affixed as close as feasible to the container by string, wire, adhesive, or other method that prevents their loss or unintentional removal.

e. Red bags or red containers may be substituted for labels.

f. Containers of blood, blood components, or blood products that are labeled as to their contents and have been released for transfusion or other clinical use are exempted from the labeling requirements of this subsection.

g. Individual containers of blood or other potentially infectious materials that are placed in a labeled container during storage, transport, shipment or disposal are exempted from the labeling requirement.

h. Labels required for contaminated equipment shall be in accordance with this paragraph and shall also state which portions of the equipment remain contaminated.

i. Regulated waste that has been decontaminated need not be labeled or color-coded.

2. Signs.

a. The employer shall post signs at the entrance to work areas specified in subsection (5) of this section, HIV and HBV research laboratory and production facilities, which shall bear the following legend:

biohazard symbol here

BIOHAZARD

(Name of the Infectious Agent)
(Special requirements for entering the area)
(Name, telephone number of the laboratory director or other responsible person.)

b. These signs shall be fluorescent orange-red or predominantly so, with lettering or symbols in a contrasting color.

(b) Information and training.

1. Employers shall ensure that all employees with occupational exposure participate in a training program which must be provided at no cost to the employee and during working hours.

2. Training shall be provided as follows:

a. At the time of initial assignment to tasks where occupational exposure may take place;

b. Within ninety (90) days after the effective date of the standard; and

c. At least annually thereafter.

3. For employees who have received training on bloodborne pathogens in the year preceding the effective date of the standard, only training with respect to the provisions of the standard which were not included need be provided.

4. Annual training for all employees shall be provided within one (1) year of their previous training.

5. Employers shall provide additional training when changes such as modification of tasks or procedures or institution of new tasks or procedures affect the employee's occupational exposure. The additional training may be limited to addressing the new exposures created.

6. Material appropriate in content and vocabulary to educational level, literacy, and language of employees shall be used.

7. The training program shall contain at a minimum the following elements:

a. An accessible copy of the regulatory text of this administrative regulation and an explanation of its contents;

b. A general explanation of the epidemiology and symptoms of bloodborne diseases;

c. An explanation of the modes of transmission of bloodborne pathogens;

d. An explanation of the employer's exposure control plan and the means by which the employee can obtain a copy of the written plan;

e. An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials;

f. An explanation of the use and limitations of methods that will prevent or reduce exposure including appropriate engineering controls, work practices, and personal protective equipment;

g. Information on the types, proper use, location, removal, handling, decontamination and disposal of personal protective equipment;

h. An explanation of the basis for selection of personal protective equipment;

i. Information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge;

j. Information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials;

k. An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available;

l. Information on the postexposure evaluation and follow-up that the employer is required to provide for the employee following an exposure incident;

m. An explanation of the signs and labels and/or color coding required by paragraph (g)1 of this subsection; and

n. An opportunity for interactive questions and answers with the person conducting the training session.

8. The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace that the training will address.

9. Additional initial training for employees in HIV and HBV laboratories and production facilities. Employees in HIV or HBV research laboratories and HIV or HBV production facilities shall receive the following initial training in addition to the above training requirements.

a. The employer shall assure that employees demonstrate proficiency in standard microbiological practices and techniques and in the practices and operations specific to the facility before being allowed to work with HIV or HBV.

b. The employer shall assure that employees have prior experience in the handling of human pathogens or tissue cultures before working with HIV or HBV.

c. The employer shall provide a training program to employees who have no prior experience in handling human pathogens. Initial work activities shall not include the handling of infectious agents. A progression of work activities shall be assigned as techniques are learned and proficiency is developed. The employer shall assure that employees participate in work activities involving infectious agents only after proficiency has been demonstrated.

(8) Recordkeeping.

(a) Medical records.

1. The employer shall establish and maintain an accurate record for each employee with occupational exposure, in accordance with 29 CFR 1926.33.

2. This record shall include:

a. The name and Social Security number of the employee;

b. A copy of the employee's hepatitis B vaccination status including the dates of all the hepatitis B vaccinations and any medical records relative to the employee's ability to receive vaccination as required by subsection (6)(b) of this section;

c. A copy of all results of examinations, medical testing, and follow-up procedures as required by subsection (6)(c) of this section;

d. The employer's copy of the health care professional's written opinion as required by subsection (6)(e) of this section; and

e. A copy of the information provided to the health care professional as required by subsection (6)(d)2b, c and d of this section.

3. Confidentiality. The employer shall ensure that employee medical records required by this paragraph are:

a. Kept confidential; and

b. Are not disclosed or reported without the employee's express written consent to any person within or outside the workplace except as required by this section or as may be required by law.

4. The employer shall maintain the records required by this subsection for at least the duration of employment plus thirty (30) years in accordance with 29 CFR 1926.33.

(b) Training records.

1. Training records shall include the following information:

a. The dates of the training sessions;

b. The contents or a summary of the training sessions;

c. The names and qualifications of persons conducting the training; and

d. The names and job titles of all persons attending the training sessions.

2. Training records shall be maintained for three (3) years from the date on which the training occurred.

(c) Availability.

1. The employer shall ensure that all records required to be maintained by this section shall be made available upon request to the assistant secretary and the director for examination and copying.

2. Employee training records required by this paragraph shall be provided upon request for examination and copying to employees, to employee representatives, to the director, and to the assistant secretary in accordance with 29 CFR 1926.33.

3. Employee medical records required by this paragraph shall be provided upon request for examination and copying to the subject employee, to anyone having written consent of the subject employee, to the director, and to the assistant secretary in accordance with 29 CFR 1926.33.

(d) Transfer of records.

1. The employer shall comply with the requirements involving

transfer of records set forth in 29 CFR 1926.33(h).

2. If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the director, at least three (3) months prior to their disposal and transmit them to the director, if required by the director to do so, within that three (3) month period.

(9) Dates.

(a) Effective date. The standard shall become effective on March 6, 1992.

(b) The exposure control plan required by subsection (3)(b) of this section shall be completed on May 5, 1992.

(c) Subsections (7)(b) Information and training and (8) Record-keeping, of this section shall take effect on June 4, 1992.

(d) Subsections (4)(b) Engineering and work practice controls, (4)(c) Personal protective equipment, (4)(d) Housekeeping, (5) HIV and HBV research laboratories and production facilities, (6) Hepatitis B vaccination and postexposure evaluation and follow-up, and (7)(a) Labels and signs, of this section, shall take effect on July 6, 1992.

(e) Appendix.

APPENDIX A
MANDATORY

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me.

CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendment to this administrative regulation affect all employers covered by this agency.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by this amendment, it is simply a numbering change.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding this amendment which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: This amendment will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of this amendment.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this amendment.

(3) Assessment of anticipated effect on state and local revenues: This amendment will have no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as this amendment simply corrects the numbering.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of this amendment.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. This amendment adopts administrative regulations clarifying, for the employer in the construction industry, the minimum requirements to protect those employees who are expected to come into contact with bloodborne pathogens.

3. Minimum or uniform standards contained in the federal mandate. Regarding bloodborne pathogens, the federal authority, by policy, is regulating employers in the construction industry by using section (5)(a)(1) of the Williams- Steiger Occupational Safety and Health Act which requires each employer to supply to each of his employees employment and a place of employment free of recognized hazards, and other more general regulations to protect designated first-aid providers in the construction industry.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation requires the same of the employer in the construction industry as federal policy.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, additional or different responsibilities than federal policy.

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

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment affects all local government entities that do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to correct the numbering of a previously adopted regulation relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. This amendment will not affect the number of local government employees.

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

803 KAR 2:300. Adoption of 29 CFR Part 1910.1-.6.

RELATES TO: KRS Chapter 338, 29 CFR 1910
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1910.1-.6 of the Code of Federal Regulations revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions.

(1) 29 CFR Part 1910.1 shall read as follows:

"The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR 1910 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR 1910.2 shall read as follows: As used in this part, unless the context clearly requires otherwise:

(a) "Act" means KRS Chapter 338.

(b) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(c) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(d) "Employee" means any person employed except those employees excluded in KRS 338.021.

(e) "Standard" means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

(f) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(g) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(h) An employer, required under these standards to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601.

(3) The revision to 29 CFR 1910.5, "Applicability of standards," as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman
APPROVED BY AGENCY: February 14, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, William Ralston

(1) Type and number of entities affected: The amendment to this regulation affect all employers covered by this agency.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by this amendment, it is simply a minor technical change, correcting an incorrectly referenced standard.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding this amendment which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: This amendment will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of this amendment.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this amendment.

(3) Assessment of anticipated effect on state and local revenues: This amendment will have no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternative

were rejected: Alternative methods were not considered as this amendment simply corrects the numbering of a previously incorrectly numbered referenced standard.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of this amendment.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. This amendment adopts a change in federal regulations.

3. Minimum or uniform standards contained in the federal mandate. This amendment, as published in the Federal Register, Volume 58, Number 124, June 30, 1993, adopts a correction to a previously adopted regulation in 29 CFR Part 1910.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amendment is identical to the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment affects all local government entities that are under the jurisdiction of this agency.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to correct the numbering of an incorrectly referenced federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. This amendment will not affect the number of local government employees.

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

803 KAR 2:301. Adoption of 29 CFR Part 1910.7-.19.

RELATES TO: KRS Chapter 338, 29 CFR 1910

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1910.7-.19 of the Code of Federal Regulations revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions.

(1) 29 CFR 1910.7, "Definition and Requirements for a Nationally Recognized Testing Laboratory," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is incorporated by reference.

(2) The removal of 29 CFR 1910.13, "Ship repairing", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(3) The removal of 29 CFR 1910.14, "Shipbuilding", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(4) The revision of 29 CFR 1910.15, "Shipyard employment", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(5) 29 CFR 1910.16(b)(2)(ix), "Longshoring and Marine Terminals," as published in the Federal Register, Volume 52, Number 186, September 25, 1987 is incorporated by reference.

(6) [~~(3)~~] 29 CFR 1910.19(f) "Special Provisions for Air Contaminants," is removed as published in the Federal Register, Volume 50, Number 240, December 13, 1985, is incorporated by reference.

(a) 29 CFR 1910.19(i), "Special Provisions for Air Contaminants," as published in the Federal Register, Volume 52, Number 176, September 11, 1987 is incorporated by reference.

(b) A new paragraph (i) to 29 CFR 1910.19, "Special Provisions for Air Contaminants," as published in the Federal Register, Volume 57, Number 154, August 10, 1992, is incorporated by reference.

(c) 29 CFR 1910.19(j), "Special Provisions for Air Contaminants," as published in the Federal Register, Volume Number 52, December 4, 1987, is incorporated by reference.

(d) A new paragraph (k) to 29 CFR 1910.19, "Special Provisions for Air Contaminants," as published in the Federal Register, Volume 57, Number 178, September 14, 1992, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman
APPROVED BY AGENCY: February 14, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: These amendments to this regulation affect all employers covered by this agency in the maritime industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments, they are simply minor technical changes, correcting reference to a previously consolidated standard.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of these amendments.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments simply correct the referencing of a previously consolidated standard.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt changes in federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt corrections to references to a previously consolidated regulation in 29 CFR Part 1910, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These proposed amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect only local government entities that are involved in maritime operations.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revisions affect safety and health of employees of local government involved in maritime operations.

4. How does this administrative regulation affect the local government or any service it provides? These amendments correct the reference to a previously consolidated standard. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:304. Adoption of 29 CFR Part 1910.35-.40.

RELATES TO: KRS Chapter 338, 29 CFR 1910

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1910.35-.40 of the Code of Federal Regulations revised as of July 1, 1986, published by the Office of the

Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) The amendments to 29 CFR 1910.35(h), "Definitions," as published in Federal Register, Volume 53, Number 70, April 12, 1988, are incorporated by reference.

(2) The amendment to 29 CFR 1910.40, "(Amended)", as published in Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendment to this regulation affect all employers covered by this agency.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by this amendment, it is simply a minor technical change, correcting an address.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding this amendment which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: This amendment will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of this amendment.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this amendment.

(3) Assessment of anticipated effect on state and local revenues: This amendment will have no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as this amendment simply corrects an address.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of this amendment.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. This amendment adopts a change in federal regulations.

3. Minimum or uniform standards contained in the federal mandate. This amendment, as published in the Federal Register, Volume 58, Number 124, June 30, 1993, adopts a correction to a previously adopted regulation in 29 CFR Part 1910.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amendment is identical to the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment affects all local government entities that are under the jurisdiction of this agency.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to correct an address. There will be no increase or decrease in local government revenues or expenditures. This amendment will not affect the number of local government employees.

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

803 KAR 2:306. Adoption of 29 CFR Part 1910.94-.100.

RELATES TO: KRS Chapter 338, 29 CFR 1910
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 338.051 and 338.061

authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1910.94-.100 revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions: 29 CFR 1910.95, "Hearing Conservation Program," is amended as follows:

(1) Revision to 29 CFR 1910.94, as published in the Federal Register, Volume 55, No. 151, August 6, 1990, is incorporated by reference.

(2) The amendment to 29 CFR 1910.94, "(Amended)", as published in the Federal Register, Volume 58, No. 124, June 30, 1993, is incorporated by reference.

(3) 29 CFR 1910.95, "Hearing Conservation Program," is amended as follows:

(a) 29 CFR 1910.95(h)(1) shall read: Audiometric tests shall be pure tone, air conduction, hearing threshold examinations with test frequencies including as a minimum 500, 1,000, 2,000, 3,000, 4,000, and 6,000 Hz. Testing at 8,000 Hz must be included in the audiometric tests for employers using audiometers with that capacity and all audiometric tests must include 8,000 Hz after January 15, 1985.

(b) 29 CFR 1910.95(h)(4) shall read: Audiometric examinations shall be administered in a room meeting the requirements listed in Appendix D: Audiometric Test Rooms. When an audiometric test room is located in a mobile test van, background sound pressure level measurements shall be taken at each testing location.

(c) 29 CFR 1910.95(h)(5)(ii) shall read: Audiometer calibration shall be checked acoustically at least annually in accordance with Appendix E: Acoustic Calibration of Audiometers. Test frequencies below 500 Hz and above 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) may be omitted from this check. Deviations of fifteen (15) decibels or greater require an exhaustive calibration.

(d) 29 CFR 1910.95(h)(5)(iii) shall read: An exhaustive calibration shall be performed at least every two (2) years in accordance with sections 4.1.2; 4.1.3; 4.1.4.3; 4.2; 4.4.1; 4.4.2; 4.4.3; and 4.5 of the American National Standard Specification for Audiometers, S3.6-1969. Test frequencies below 500 Hz and above 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) may be omitted from this calibration.

(e) 29 CFR 1910.95(L)(1) shall read: The employer shall make available to affected employees or their representatives copies of this standard and shall also post a notice of the availability of this standard in the workplace.

(f) 29 CFR 1910.95(o) shall read: Paragraphs (c) through (n) of this section shall not apply to employers engaged in oil and gas well drilling and servicing operations, agriculture, or construction.

(g) 29 CFR 1910.95 Appendix E shall read: Acoustic Calibration of Audiometers.

This Appendix is Mandatory.

Audiometer calibration shall be checked acoustically, at least annually, according to the procedures described in this Appendix. The equipment necessary to perform these measurements is a sound level meter, octave-band filter set, and a National Bureau of Standards 9A coupler. In making these measurements, the accuracy of the calibrating equipment shall be sufficient to determine that the audiometer is within the tolerances permitted by American Standard Specification for Audiometers, S3.6-1969.

(a) Sound Pressure Output Check.

1. Place the earphone coupler over the microphone of the sound level meter and place the earphone on the coupler.

2. Set the audiometer's hearing threshold level (HTL) dial to seventy (70) dB.

3. Measure the sound pressure level of the tones that each test frequency from 500 Hz through 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) for each earphone.

4. At each frequency the readout on the sound level meter should correspond to the levels in Table E-1 or Table E-2, as appropriate, for the type of earphone, in the column entitled "sound level meter reading."

(b) Linearity check.

1. With the earphone in place, set the frequency to 1,000 Hz and the HTL dial on the audiometer to seventy (70) dB.

2. Measure the sound levels in the coupler at each ten (10) dB decrement from seventy (70) dB to ten (10) dB, noting the sound level meter reading at each setting.

3. For each ten (10) dB decrement on the audiometer the sound level meter should indicate a corresponding ten (10) dB decrease.

4. This measurement may be made electrically with a voltmeter connected to the earphone terminals.

(c) Tolerances.

When any of the measured sound levels deviate from the levels in Table E-1 or Table E-2 plus or minus three (3) dB at any test frequency between 500 and 3,000 Hz, four (4) dB at 4,000 Hz, or five (5) dB at 6,000 Hz and 8,000 Hz, an exhaustive calibration is advised. An exhaustive calibration is required if the deviations are greater than ten (10) dB at any test frequency.

TABLE E-1 - REFERENCE THRESHOLD LEVELS FOR TELEPHONICS-TDH-39 EARPHONES

Frequency, Hz	Reference threshold level for TDH-39 earphones, dB	Sound level meter level meter reading dB
500	11.5	81.5
1000	7.0	77.0
2000	9.0	79.0
3000	10.0	80.0
4000	9.5	79.5
6000	15.5	85.5
8000	13.0	83.0

TABLE E-2 - REFERENCE THRESHOLD LEVELS FOR TELEPHONICS-TDH-49 EARPHONES

Frequency, Hz	Reference threshold level for TDH-49 earphones, dB	Sound level meter level meter reading dB
500	13.5	83.5
1000	7.5	77.5
2000	11.0	81.0
3000	9.5	79.5
4000	10.5	80.5
6000	13.5	83.5
8000	13.0	83.0

(4) The amendments to 29 CFR 1910.96, "(Amended)", as published in the Federal Register, Volume 58, No. 124, June 30, 1993, are incorporated by reference.

(5) The amendment to 29 CFR 1910.100, "(Amended)", as published in the Federal Register, Volume 58, No. 124, June 30,

1993, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply editorial corrections.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply editorial changes.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments, as published in the Federal Register, Volume 58, Number 124, June 30, 1993, adopt the corrections to the previously adopted regulations in 29 CFR Part 1910.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government.

4. How does this administrative regulation affect the local government or any service it provides? These amendments are editorial changes reflecting transfers of authority, name changes of federal agencies, etc. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:307. Adoption of 29 CFR Part 1910.101-.120.

RELATES TO: KRS Chapter 338, 29 CFR 1910

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards

are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1910.101-.120 revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) 29 CFR 1910.101(b), "Compressed Gases," shall be amended by revocation of referenced pamphlets P-1-1965 and the adoption of P-1-1974, herein filed by reference.

(2) 29 CFR 1910.103, "Hydrogen", is amended, as follows:

(a) The amendment to 29 CFR 1910.103(a)(1) (ii), "Hydrogen," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is incorporated by reference.

(b) [~~(3)~~] The amendment to 29 CFR 1910.103, "Hydrogen," as published in the Federal Register, Volume 55, No. 151, August 6, 1990, is incorporated by reference.

(c) The amendments to 29 CFR 1910.103, "Hydrogen", as published in the Federal Register, Volume 58, No. 124, June 30, 1993, are incorporated by reference.

(3) [~~(4)~~] 29 CFR 1910.106, "Flammable and Combustible Liquids" is amended as follows:

(a) 29 CFR 1910.106(a)(3) shall read: "The term automotive service station, or service stations, shall mean that portion of property where flammable or combustible liquids used as motor fuel are stored and dispensed from fixed equipment and into the fuel tanks of motor vehicles and shall include any facilities available for the sale and servicing of tires, batteries, accessories and for minor automotive maintenance work and shall also include private stations not accessible or open to the public such as those used by commercial, industrial or governmental establishments. This section shall not apply to agriculture."

(b) The amendment to 29 CFR 1910.106(a)(35), "Flammable and Combustible Liquids," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is incorporated by reference.

(c) 29 CFR 1910.106(g)(1)(i)(g), "Flammable and Combustible Liquids," as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is removed.

(d) Amendment to 29 CFR 1910.106, "Flammable and Combustible Liquids," as published in the Federal Register, Volume 55, No. 151, August 6, 1990, is incorporated by reference.

(4) [~~(5)~~] The amendment to 29 CFR 1910.107(a)(8), "Spray Finishing Using Flammable and Combustible Materials," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is incorporated by reference.

(5) [~~(6)~~] The amendment to 29 CFR 1910.108(a)(3), "Dip Tanks Containing Flammable or Combustible Liquids," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is incorporated by reference.

(6) [~~(7)~~] The amendment to 29 CFR 1910.109(d)(2) (iii)(a), "Explosives and Blasting Agents," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is incorporated by reference.

(7) The amendment to 29 CFR 1910.109, "(Amended)", as published in the Federal Register, Volume 58, No. 124, June 30, 1993, is incorporated by reference.

(8) The amendment to 29 CFR 1910-109, as published in the Federal Register, Volume 57, Number 36, February 24, 1991, is incorporated by reference.

(9) 29 CFR 1910.110 is amended, as follows:

(a) [~~(9)~~] The amendment to 29 CFR 1910.109, "Explosive and Blasting Agents", as published in the Federal Register, Volume 58, Number 58, March 29, 1993, is incorporated by reference.

(b) [~~(10)~~] The amendment to 29 CFR 1910.110, as published in the Federal Register, Volume 55, Number 151, is incorporated by reference.

(c) [~~(11)~~] The amendments to 29 CFR 1910.110(a)(14), (b)(2)(iii), (c)(5)(i)(g)(I) and (f)(5)(iv), "Storage and Handling of Liquefied Petroleum Gases," as published in Federal Register, Volume 53, Number 70, April 12, 1988, are incorporated by reference.

(d) [~~(12)~~] The amendment to 29 CFR 1910.110, as published in the Federal Register, Volume 55, Number 119, June 20, 1990, is incorporated by reference.

(e) [~~(13)~~] The amendment to 29 CFR 1910.110(d)(11), "Storage and Handling of Liquefied Petroleum Gases", as published in the Federal Register, Volume 58, Number 52, March 19, 1993, is incorporated by reference.

(f) The amendment to 29 CFR 1910.110, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(10) [~~(14)~~] The amendments to 29 CFR 1910.111(b)(1) (ii) and the new paragraph 1910.111(b)(1)(vi), "Storage and Handling of Anhydrous Ammonia," as published in Federal Register, Volume 53, Number 70, April 12, 1988, are incorporated by reference.

(11) [~~(15)~~] 29 CFR 1910-119, as published in the Federal Register, Volume 57, Number 36, February 24, 1991, is incorporated by reference, with the following additions, exceptions, or deletions: The corrections to 1910.119, as published in the Federal Register, Volume 57, Number 43, March 4, 1992, are incorporated by reference.

(12) The amendment to 29 CFR 1910.116, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(13) [~~(16)~~] 29 CFR 1910.120, "Hazardous Waste Operations and Emergency Response," as published in the Federal Register, December 19, 1986, Volume 51, No. 244, is incorporated by reference.

(a) Corrections to amendments to 29 CFR 1910.120, "Hazardous Waste Operations and Emergency Response," as published in Federal Register, Volume 52, Number 85, May 4, 1987, are incorporated by reference.

(b) 29 CFR 1910.120, "Hazardous Waste Operations and Emergency Response," as published in the Federal Register, Volume 54, Number 42, March 6, 1989, is incorporated by reference.

(c) The amendment to 29 CFR 1910.120, as published in the Federal Register, Volume 55, Number 72, April 13, 1990, is incorporated by reference.

(d) Amendments, revisions and additions to 29 CFR 1910.120, as published in the Federal Register, Volume 56, Number 75, April 18, 1991, are incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply minor editorial changes and address changes.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply minor editorial changes and address changes.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments, as published in the Federal Register, Volume 58, Number 124, June 30, 1993, adopt minor editorial changes and address changes. in 29 CFR Part 1926.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to update the regulations as to address changes and make minor editorial changes. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:308. Adoption of 29 CFR Part 1910.132-.140.

RELATES TO: KRS Chapter 338, 29 CFR 1910

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1910.132-.140 of the Code of Federal Regulations revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions: 29 CFR 1910.134 is amended as follows:

(1) The amendment to 29 CFR 1910.134(b), "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(2) 29 CFR 1910.134(c) shall read: "Proper selection of respirators shall be made according to the guidance of American National Standard Practices for Respiratory Protection Z88.2 - 1980."

(3) [~~(2)~~] 29 CFR 1910.134(d) the third sentence shall read: "Breathing air shall meet at least the requirements of the specification for Grade D breathing air as described in Compressed Gas Association Commodity Specification G-7.1 - 1973."

(4) [~~(3)~~] 29 CFR 1910.134(g) shall read: Identification of Air-puri-

fying Respirator Canisters and Cartridges.

(a) The primary means of identifying an air-purifying respirator canister or cartridge shall be by means of properly worded labels. The secondary means of identifying an air-purifying respirator canister or cartridge shall be by an identifying color or colors.

(b) All who issue or use air-purifying respirators falling within the scope of this standard shall ensure that all canisters and cartridges purchased or used by them are properly labeled and colored in accordance with this standard before they are placed in service and that the labels and colors are properly maintained at all times thereafter until the canisters and cartridges have completely served their purpose. The user shall refer to the label wording to determine the type and degree of protection the canister or cartridge will afford.

(c) On each air-purifying respirator canister and cartridge, the following shall appear in bold letters:

CANISTER FOR _____
(Name of atmospheric contaminant)

or

CARTRIDGE FOR _____
(Name of atmospheric contaminant)

In addition, either or both of subparagraphs 1 and 2 of this paragraph, and subparagraph 3 of this paragraph, shall appear beneath the appropriate phrase on the canister or cartridge label.

1. For respiratory protection in atmospheres containing not more than _____ by volume of
(Concentration)

_____
(Name of atmospheric contaminant)

2. For respiratory protection in atmospheres containing

_____
(Type of particulate contaminant)

3. Do not use in atmospheres containing less than nineteen and five-tenths (19.5) percent oxygen by volume at sea level.

(d) Each respirator canister or cartridge, or canister or cartridge label, shall be a distinctive color as indicated in Table I-1. The color coating used shall offer a high degree of resistance to changes such as chipping, scaling, peeling, blistering, and fading, and to the effects of ordinary atmospheres to which they may be exposed under normal conditions of storage and use.

(4) 29 CFR 1910.134 Table I-1 shall read:

TABLE I-1
Color Assigned to Canister or Cartridge

Atmospheric Contaminant(s) to Be Protected Against	Color Assigned	ISCC-NBS Centroid Color Number	ISCC-NBS Centroid Color Name
Acid gases	White	263	White
Organic vapors	Black	267	Black
Ammonia gas	Green	139	Vivid green
Carbon monoxide gas	Blue	178	Strong blue
Acid gases and organic vapors	Yellow	82	Vivid yellow
Acid gases, ammonia, and organic vapors	Brown	75	Deep yellow brown
Acid gases, ammonia, carbon monoxide, and organic vapors	Red	11	Vivid red
Other vapors and gases not listed above	Olive	106	Light olive
Radioactive materials (except tritium and noble gases)	Purple	218	Strong purple
Dusts, fumes, and mists (other than radioactive materials)	Orange	48	Vivid orange

NOTES:

(1) A purple (ISCC-NBS Centroid Number 218) stripe shall be used to identify radioactive materials in combination with any vapor or gas.

(2) An orange (ISCC-NBS Centroid Number 48) stripe shall be used to identify dusts, fumes, and mists in combination with any vapor or gas.

(3) Where labels only are colored to conform with this table, the canister or cartridge body shall be gray (ISCC-NBS Centroid Number 265), or a metal canister or cartridge body may be left in its natural metallic color.

(4) The user shall refer to the wording of the label to determine the type and degree of protection the canister or cartridge will afford.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendment to this regulation affect all employers covered by this agency.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by this amendment, it is simply a minor technical change, correcting a reference.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding this amendment which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: This amendment will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of this amendment.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this amendment.

(3) Assessment of anticipated effect on state and local revenues: This amendment will have no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as this amendment simply corrects a reference.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of this amendment.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. This amendment adopts a change in federal regulations.

3. Minimum or uniform standards contained in the federal mandate. This amendment, as published in the Federal Register, Volume 58, Number 124, June 30, 1993, adopts a correction to a previously adopted regulation in 29 CFR Part 1910.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amendment is identical to the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment affects all local government entities that are under the jurisdiction of this agency.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to correct a reference. There will be no increase or decrease in local government revenues or expenditures. This amendment will not affect the number of local government employees.

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

803 KAR 2:309. Adoption of 29 CFR Part 1910.141-.149.

RELATES TO: KRS Chapter 338, 29 CFR 1910

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR, Part 1910.141-.149 revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference, as amended January 15, 1993 [~~1990~~], with the following additions, exceptions, and deletions:

(1) 29 CFR 1910.141(c)(2)(i) shall read as follows: "Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy."

(2) Amendment to 29 CFR 1910.145(f), "Accident Prevention Tags," as published in Federal Register, Volume 51, Number 182, September 19, 1986, is incorporated by reference.

(3) 29 CFR 1910.146, "Permit-required Confined Spaces", as published in the Federal Register, Volume 58, Number 9, January 14, 1993, is incorporated by reference.

(4) The corrections to 29 CFR 1910.146, "Permit-required Confined Spaces", as published in the Federal Register, Volume 58, Number 123, June 29, 1993, are adopted by reference.

(5) Revision to 29 CFR 1910.147, as published in the Federal Register, Volume 54, Number 169, September 1, 1989, is incorporated by reference with the following additions, exceptions, and deletions:

(a) 29 CFR 1910.147(c)(2)(ii) is amended to read: "If an energy isolating device is capable of being locked out, the employer's energy control program under paragraph (c)(1) of this section shall utilize lockout."

(b) 29 CFR 1910.147(c)(3) is amended to read: "Full employee protection. (i) When a tagout device is used on an energy isolating device which is incapable of being locked out, the tagout device shall be attached at the same location that the lockout device would have been attached, and the employer shall demonstrate that the tagout program will provide a level of safety equivalent to that obtained by using a lockout program."

(c) "Where tagout devices are used with energy isolating devices designed with the incapability of being locked, the tag attachment will be fastened at the same point at which the lock would have been attached."

(d) Revision to 29 CFR 1910.147, as published in the Federal Register, Volume 55, Number 183, September 20, 1990, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through

Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in general industry (as opposed to those in the construction, agriculture and maritime industries) falling within the jurisdiction of this agency which have "confined spaces" as defined in this regulation.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments, as the amendment to Section 1 (3) is a technical change to further identify the referenced regulation, and the amendment to Section 1 (4) adopts minor corrections to the rule, as published in the Federal Register.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competitors.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are minor technical changes which will clarify for those affected the referenced regulation.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of this adoption of amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the OSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. Section 1(3) and 1(4) require Kentucky employers classified to be in general industry whose employees enter confined spaces, as defined in the regulation, to comply with federal regulations.

3. Minimum or uniform standards contained in the federal mandate. The amendment to Section 1 (3) clarifies the identity of the adopted regulation, and the amendment to Section 1 (4) adopt the corrections to the previously adopted, "Permit-Required Confined Spaces" regulation, These corrections were published in the Federal Register, Volume 58, Number 123, June 29, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees enter confined spaces as defined in the regulation.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects local government employees who enter confined spaces.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to make corrections and clarify the original standard regulating confined space entry. There will be no increase or decrease in local government revenues or expenditures. This amendment will have no effect on the number of local government employees.

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

803 KAR 2:311. Adoption of 29 CFR Part 1910.155-.165.b.

RELATES TO: KRS Chapter 338, 29 CFR 1910

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules

and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1910.155-.165.b of the Code of Federal Regulations revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) The amendments to 29 CFR 1910.155(c)(3)(i) and the new paragraph 1910.155(c)(3)(iv)(E), "Scope, Application and Definitions Applicable to this Subpart," as published in Federal Register, Volume 53, Number 70, April 12, 1988, are incorporated by reference.

(2) 29 CFR 1910.156(a)(2), "Application," is amended to read: "The requirements of this section apply to fire brigades; industrial fire departments; private fire departments; and municipal public fire departments and fire protection districts. Personal protective equipment requirements apply to members of fire brigades and fire departments performing interior structural fire fighting. The requirements of this section do not apply to airport crash rescue, forest fire fighting operations, or volunteer fire fighters."

(3) Revision to 29 CFR 1910.157(f)(16), "Portable Fire Extinguishers," as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is incorporated by reference.

(4) The corrections to the appendices as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments, as these are simply noting changes in addresses of referenced agencies.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply changing addresses of referenced agencies

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1910, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local

government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government agencies.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to correct addresses of referenced agencies. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:312. Adoption of 29 CFR Part 1910.166-.171.

RELATES TO: KRS Chapter 338, 29 CFR 1910

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1910.166-.171 of the Code of Federal Regulations revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, deletions, and revisions: the revision to 29 CFR 1910.171, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendment to this regulation affect all employers covered by this agency.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by this amendment, it is simply a minor technical change, correcting an address of a referenced agency.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding this amendment which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: This amendment will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of this amendment.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

(3) Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this amendment.

(3) Assessment of anticipated effect on state and local revenues: This amendment will have no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as this amendment simply corrects the address of a referenced agency.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of this amendment.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. This amendment adopts a change in federal regulations.

3. Minimum or uniform standards contained in the federal mandate. This amendment, as published in the Federal Register, Volume 58, Number 124, June 30, 1993, adopts a correction to a previously adopted regulation in 29 CFR Part 1910.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those

required by the federal mandate? This proposed amendment is identical to the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment affects all local government entities that are under the jurisdiction of this agency.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to correct the address of a referenced agency. There will be no increase or decrease in local government revenues or expenditures. This amendment will not affect the number of local government employees.

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

803 KAR 2:313. Adoption of 29 CFR Part 1910.176-.190.

RELATES TO: KRS Chapter 338, 29 CFR 1910

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1910.176-.190 revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) 29 CFR 1910.177(a)(2), "Servicing Multipiece and Single Piece Rim Wheels," shall be amended as follows:

(a) Amendments as published in the Federal Register, Volume 52, Number 186, September 25, 1987 are incorporated by reference.

(b) Amendments to 29 CFR 1910.177(b), "Servicing Multipiece and Single Piece Rim Wheels," as published in Federal Register, Volume 53, Number 174, September 8, 1988, are incorporated by reference.

(2) The amendment to 29 CFR 1910.178(a)(7), "Powered Industrial Trucks," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is incorporated by reference.

(3) The amendment to 29 CFR 1910.178, "Powered Industrial Trucks," as published in the Federal Register, Volume 55, Number 151, August 6, 1990, is incorporated by reference.

(4) Revisions to 29 CFR 1910.179(j)(2)(iii) and (iv), "Overhead and Gantry Cranes," as published in the Federal Register, Volume 51, Number 188, September 29, 1986, are incorporated by reference.

(a) Revision to 29 CFR 1910.179(m)(l), "Overhead and Gantry Cranes," as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is incorporated by reference.

(b) Revision to 29 CFR 1910.179, "Overhead and Gantry Cranes," as published in the Federal Register, Volume 55, Number 151, August 6, 1990, is incorporated by reference.

(5) Revision to 29 CFR 1910.180(d)(6), "Crawler Locomotive and Truck Cranes," as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is incorporated by reference.

(a) Revisions to 29 CFR 1910.180(g)(l) and (2)(ii), "Crawler and Locomotive Truck Cranes," as published in the Federal Register, Volume 51, Number 188, September 29, 1986, are incorporated by reference.

(b) The amendment to 29 CFR 1910.180(i)(4)(i), "Crawler, Locomotive and Truck Cranes," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is incorporated by reference.

(c) Amendment to 29 CFR 1910.180, "Crawler, Locomotive, and Truck Cranes," as published in the Federal Register, Volume 55, Number 151, August 6, 1990, is incorporated by reference.

(6) Revisions to 29 CFR 1910.181(g)(1) and (3), "Derricks," as published in the Federal Register, Volume 51, Number 188, September 29, 1986, are incorporated by reference.

(a) The amendment to 29 CFR 1910.181(j)(4)(i), "Derricks," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is incorporated by reference.

(b) Amendment to 29 CFR 1910.181, "Derricks," as published in the Federal Register, Volume 55, Number 151, August 6, 1990, is incorporated by reference.

(7) Amendment to 29 CFR 1910.184, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(8) Amendment to 29 CFR 1910.190, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendment to this regulation affect all employers covered by this agency.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments, as they reflect simply minor technical changes in referenced tables and a correction of an address of a referenced agency.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: This amendment will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of these amendments.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments simply reflect minor changes in referenced tables and a change of address for a referenced agency.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt changes in federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments, as published in the Federal Register, Volume 58, Number 124, June 30, 1993, adopt corrections to previously adopted regulations in 29 CFR Part 1910.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These proposed amendments are identical to the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that are under the jurisdiction of this agency.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revisions affect safety and health of employees of local government.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to make minor changes in referenced tables and correct an address of a referenced agency. There will be no increase or decrease in local government revenues or expenditures. This amendment will not affect the number of local government employees.

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

803 KAR 2:317. Adoption of 29 CFR Part 1910.261-.275.

RELATES TO: KRS Chapter 338, 29 CFR 1910

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1910.261-.275 revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) The amendment to 29 CFR 1910.261, "Pulp, Paper, and Paperboard Mills," as published in the Federal Register, Volume 55, Number 151, August 6, 1990, is incorporated by reference.

(2) The amendment to 29 CFR 1910.265(d)(2) (iv)(c), "Sawmills," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is incorporated by reference.

(3) The amendment to 29 CFR 1910.265, as published in the Federal Register, Volume 55, Number 151, August 6, 1990, is incorporated by reference.

(4) The amendments to 29 CFR 1910.266(c)(4) (iii) and (iv), "Pulpwood Logging," as published in Federal Register, Volume 53, Number 70, April 12, 1988, are incorporated by reference.

(5) The amendment to 29 CFR 1910.266, as published in the Federal Register, Volume 55, Number 151, August 6, 1990, is incorporated by reference.

(6) 29 CFR 1910.268(c), "Telecommunications," shall be revised

as follows: Revisions as published in the Federal Register, Volume 52, Number 187, September 28, 1987, are incorporated by reference.

(7) 29 CFR 1910.272, "Grain Handling Facilities," as published in the Federal Register, Volume 52, Number 251, December 31, 1987, is incorporated by reference.

(a) The amendments to 29 CFR 1910.272, "Grain Handling Facilities," as published in the Federal Register, Volume 53, Number 96, May 18, 1988, are incorporated by reference.

(b) The amendment to 29 CFR 1910.272, as published in the Federal Register, Volume 55, Number 119, June 20, 1990, is incorporated by reference.

(8) The amendment to 29 CFR 1910.275, as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendment to this regulation affect all employers covered by this agency.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by this amendment, it is simply a minor technical change, correcting the address of a referenced agency.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding this amendment which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: This amendment will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of this amendment.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this amendment.

(3) Assessment of anticipated effect on state and local revenues: This amendment will have no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as this amendment simply corrects the address of a referenced agency.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of this amendment.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. This amendment adopts a change in federal regulations.

3. Minimum or uniform standards contained in the federal mandate. This amendment, as published in the Federal Register, Volume 58, Number 124, June 30, 1993, adopts a correction to a previously adopted regulation in 29 CFR Part 1910.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amendment is identical to the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment affects all local government entities that are under the jurisdiction of this agency.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to correct the address of a referenced agency. There will be no increase or decrease in local government revenues or expenditures. This amendment will not affect the number of local government employees.

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

803 KAR 2:319. Adoption of 29 CFR Part 1910.401-.441.

RELATES TO: KRS Chapter 338, 29 CFR 1910
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1910.401-.441 of the Code of Federal Regulations revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) Amendment to 29 CFR 1910.401, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(2) Amendment to 29 CFR 1910.430(e)(1), "Commercial Diving Equipment," as published in the Federal Register, Volume 51, Number 181, September 18, 1986, is incorporated by reference.

(3) [~~(2)~~] 29 CFR 1910.440(a)(1), "Commercial Diving Record-keeping Requirements," as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is removed.

(4) [~~(3)~~] 29 CFR 1910 Subpart T Appendix B, "Commercial Diving Operations" as published in the Federal Register, Volume 50, Number 6, January 9 1985, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman
APPROVED BY AGENCY: February 14, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston
(1) Type and number of entities affected: The amendment to this regulation affect all employers covered by this agency.
(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by this amendment, it is simply a minor technical change, correcting the name of a referenced agency.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding this amendment which will increase or decrease costs. There will be no affect on competition.
(b) Reporting and paperwork requirements: This amendment will not entail any reporting or paperwork requirements.
(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of this amendment.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this amendment.
(3) Assessment of anticipated effect on state and local revenues: This amendment will have no anticipated effect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as this amendment simply corrects the name of a referenced agency.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of this amendment.
(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).
2. State compliance standards. This amendment adopts a change in federal regulations.
3. Minimum or uniform standards contained in the federal mandate. This amendment, as published in the Federal Register, Volume 58, Number 124, June 30, 1993, adopts a correction to a previously adopted regulation in 29 CFR Part 1910.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amendment is identical to the federal regulation.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment affects all local government entities that are under the jurisdiction of this agency.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to correct the name of a referenced agency. There will be no increase or decrease in local government revenues or expenditures. This amendment will not affect the number of local government employees.

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

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

RELATES TO: KRS Chapter 338, 29 CFR 1910
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1910 revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference, as amended February 15, 1990 and May 15, 1990, with the following additions, exceptions, and deletions:

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

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

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

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

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

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

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

(g) Amendments to 29 CFR 1910.1000, "Air Contaminants", as published in the Federal Register, Volume 57, Number 112, June 10, 1992, are incorporated by reference.

(h) Amendments to 29 CFR 1910.1000, "Air Contaminants", as published in the Federal Register, Volume 57, Number 127, July 1, 1992, are incorporated by reference.

(i) Amendments to 29 CFR 1910.1000, "Air Contaminants", as published in the Federal Register, Volume 57, Number 178, September 14, 1992, are incorporated by reference.

(j) Amendments to 29 CFR 1910.1000, "Air Contaminants", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(k) Amendments to 29 CFR 1910.1000, "Air Contaminants", as published in the Federal Register, Volume 58, Number 142, July 27, 1993, are incorporated by reference.

(2) 29 CFR 1910.1001, "Asbestos", is amended as follows:

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

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

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

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

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

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

(g) 29 CFR 1910.1001, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite", as published in Federal Register, May 12, 1987, Volume 52, No. 91, is incorporated by reference.

(h) Amendments, revisions and additions to 29 CFR 1910.1001, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite", as published in Federal Register, Volume 53, Number 178, September 14, 1988, are incorporated by reference.

(i) Amendments, revisions and additions to 29 CFR 1910.1001, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite", as published in Federal Register, Volume 54, Number 243, December 20, 1989, are incorporated by reference.

(j) Amendments, revisions, and additions to 29 CFR 1910.1001, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite", as published in Federal Register, Volume 55, Number 24, February 5, 1990, are incorporated by reference.

(k) Amendments, revisions and additions to 29 CFR 1910.1001, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite", as published in the Federal Register, Volume 55, Number 237, December 10, 1990, are incorporated by reference.

(l) Amendments, revisions and additions to 29 CFR 1910.1001, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and

Actinolite", as published in the Federal Register, Volume 56, Number 171, September 4, 1991, are incorporated by reference.

(m) Amendments to 29 CFR 1910.1001, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite", as published in the Federal Register, Volume 57, Number 110, June 8, 1992, are incorporated by reference.

(n) Amendments to 29 CFR 1910.1001, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite", as published in the Federal Register, Volume 57, Number 126, June 30, 1992, are incorporated by reference.

(3) The amendment to 29 CFR 1910.1003, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(4) The amendment to 29 CFR 1910.1004, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

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

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

(6) The amendment to 29 CFR 1910.1006, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(7) The amendment to 29 CFR 1910.1007, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(8) The amendment to 29 CFR 1910.1008, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(9) The amendment to 29 CFR 1910.1009, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(10) The amendment to 29 CFR 1910.1010, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(11) The amendment to 29 CFR 1910.1011, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(12) The amendment to 29 CFR 1910.1012, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(13) The amendment to 29 CFR 1910.1013, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(14) The amendment to 29 CFR 1910.1014, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(15) The amendment to 29 CFR 1910.1015, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(16) The amendment to 29 CFR 1910.1016, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(17) The amendment to 29 CFR 1910.1017, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(18) The amendment to 29 CFR 1910.1018, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(19) [~~(4)~~] 29 CFR 1910.1025, "Occupational Exposure to Lead" shall be amended as follows:

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

TABLE 1 - Implementation Schedule

INDUSTRY[1]	COMPLIANCE DATES 200 ug/m³	100 ug/m³	50
Primary Lead Production	(2)	June 29, 1984	June 29, 1991
Secondary Lead Production	(2)	June 29, 1984	June 29, 1986
Lead Acid Battery Manufacture	(2)	June 29, 1983	June 29, 1986
Automobile/Manufacture/Solder Grinding	(2)	N/A	June 29, 1988
Electronics, Gray Iron Foundries, Ink Manufacture, Paints and Coatings Manufacture, Wall Paper Manufacture, Can Manufactures, and Printing	(2)	N/A	June 29, 1982
Lead Pigment Manufacture, Nonferrous Foundries, Leaded Steel Manufacture, Lead Chemical Manufacture, Ship Building and Ship Repair, Battery Breaking in the Collection and Processing of Scrap (excluding collection and processing of scrap which is part of a secondary smelting operation), Secondary Smelting of Copper, and Lead Casting	(2)	N/A	N/A
All Other Industries	(2)	N/A	June 11,1984

[1]Includes ancillary activities located on the same worksite.

[2] On effective date. This continues an obligation from Table Z-2 of 29 CFR 1910.1000 which had been in effect since 1971 but which was deleted upon effectiveness of this section.

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

(c) Amendments, revisions, and additions to 29 CFR 1910.1025, "Occupational Exposure to Lead", as published in Federal Register, Volume 55, Number 30, February 13, 1990, are incorporated by reference.

(d) Amendments, revisions, and additions to 29 CFR 1910.1025, "Occupational Exposure to Lead", as published in Federal Register, Volume 56, Number 105, May 31, 1991, are incorporated by reference.

(20) [~~(5)~~] Amendments to 29 CFR 1910.1027, "Cadmium", as published in the Federal Register, Volume 57, Number 178, September 14, 1992, are incorporated by reference.

(21) [~~(6)~~] Amendments to 29 CFR 1910.1027, "Cadmium", as published in the Federal Register, Volume 55, Number 77, April 23, 1993, are incorporated by reference.

(22) [~~(7)~~] 29 CFR 1910.1028, "Benzene", as published in the Federal Register, Volume 52, Number 176, September 11, 1987 is incorporated by reference.

(23) [~~(8)~~] 29 CFR 1910.1029, "Coke Oven Emissions", shall be amended as follows: Revision as published in the Federal Register, Volume 50, Number 178, September 13, 1985 are incorporated by reference.

(24) [~~(9)~~] 29 CFR 1910.1030, "Bloodborne Pathogens", as published in the Federal Register, Volume 56, No. 235, is incorporat-

ed by reference with the following revisions, additions, or deletions:

(a) 29 CFR 1910.1030(d)(3)(ix) is amended to read: Gloves. Gloves shall be worn when it can be reasonably anticipated that the employees may have hand contact with blood, other potentially infectious materials, mucous membranes, and nonintact skin when performing vascular access procedures and when handling or touching contaminated items or surfaces.

(b) 29 CFR 1910.1030(d)(3)(ix)(D) is removed.

(25) [~~(10)~~] Amendments to 29 CFR 1910.1030, "Bloodborne Pathogens", as published in the Federal Register, Volume 57, Number 127, are incorporated by reference.

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

(27) The amendment to 29 CFR 1910.1044, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(28) The amendment to 29 CFR 1910.1045, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

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

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

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

(30) [~~(13)~~] 29 CFR 1910.1048, "Formaldehyde", as published in the Federal Register, Volume Number 52, December 4, 1987, is incorporated by reference.

(a) Amendments to 29 CFR 1910.1048, "Occupational Exposure to Formaldehyde", as published in Federal Register, Volume 53, Number 170, September 1, 1988, are incorporated by reference.

(b) Amendments to 29 CFR 1910.1048, "Occupational Exposure to Formaldehyde", as published in the Federal Register, Volume 54, Number 133, July 13, 1989, is incorporated by reference.

(c) Amendments to 29 CFR 1910.1048, "Occupational Exposure to Formaldehyde", as published in the Federal Register, Volume 57, Number 102, May 27, 1992, are incorporated by reference.

(d) Amendments to 29 CFR 1910.1048, "Occupational Exposure to Formaldehyde", as published in the Federal Register, Volume 57, Number 112, June 10, 1992, are incorporated by reference.

(e) Amendments to 29 CFR 1910.1048, "Occupational Exposure to Formaldehyde", as published in the Federal Register, Volume 57, Number 118, June 18, 1992, are incorporated by reference.

(31) [~~(14)~~] Amendments, revisions, and additions to 29 CFR 1910.1101, "Asbestos", as published in Federal Register, Volume 56, Number 171, September 4, 1991, are incorporated by reference.

(32) [~~(15)~~] Amendments to 29 CFR 1910.1050, "Methylenedianiline", as published in the Federal Register, Volume 57, Number 154, August 10, 1992, are incorporated by reference.

(33) [~~(16)~~] Amendments to 29 CFR 1910.1101, "Asbestos", as published in the Federal Register, Volume 57, Number 110, June 8, 1992, are incorporated by reference.

(34) [~~(17)~~] 29 CFR 1910.1200, "Hazard Communication", shall be amended as follows:

(a) Amendments as published in the Federal Register, Volume 52, Number 163, August 24, 1987 are incorporated by reference.

(b) Revision of 29 CFR 1910.1200(i)(3), "Hazard Communication", and an amendment removing the last paragraph in 1910.1200 Appendix D, as published in the Federal Register, Volume 51, Number 189, September 30, 1986, are incorporated by reference.

(35) [~~(18)~~] 29 CFR 1910.1450, "Occupational Exposure to Hazardous Chemicals in Laboratories", as published in Federal Register, Volume 55, Number 21, January 31, 1990, are incorporated by reference.

(36) [~~(19)~~] Amendments to 29 CFR 1910.1450, "Occupational Exposure to Hazardous Chemicals in Laboratories", as published in the Federal Register, Volume 57, Number 127, July 1, 1992, are incorporated by reference.

(37) [~~(20)~~] Amendments to 29 CFR 1910.1500, "Standards Organizations", as published in the Federal Register, Volume 57, Number 127, July 1, 1992, are incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, Erin Foley

(1) Type and number of entities affected: Section 1(1)(j) and Section 1(1)(k) will affect all general industry employers in the Commonwealth with operations involving exposure to air contaminants. Section 1(30)(e) will affect all general industry employers in the Commonwealth with operations involving exposure to formaldehyde.

(a) Direct and indirect costs or savings to those affected: Section 1(1)(j) and Section 1(1)(k) will be less expensive to comply with than the vacated portions of the regulation. Section 1(30)(e) will have no costs or savings. The purpose of the amendments are to correct typographical errors and omissions.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding this section which will increase or decrease costs. There will be no effect on competition.

(b) Reporting and paperwork requirements: This section will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: These amendments will not affect the promulgating administrative body.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: No alternative methods were considered because the federal regulations contain specific methods for compliance.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of the adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at those industries or firms that pose higher risks to worker safety and health, from which the Program has received worker complaints (or referrals), or where an accident occurred resulting in an occupational fatality or hospitalization of five or more employees.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. Section 1(1)(j) and 1(1)(k) regulation requires Kentucky general industry employers to comply with federal standards governing exposure to air contaminants. Section 1(30)(e) regulation requires Kentucky general industry employers to comply with federal standards governing exposure to formaldehyde. Other amendments are corrections to previously adopted regulations.

3. Minimum or uniform standards contained in the federal mandate. All amendments are identical to federal regulations.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? There are no changes in the amendments to the Federal Register identified in item three above.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal OSHA standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These changes affect all local government entities that are within the scope of the air contaminants standard.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revisions affect local government employees' occupational safety and health in regard to their exposure to air contaminants.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These amendments will have no effect on the number of local government employees.

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

803 KAR 2:402. Adoption of 29 CFR Part 1926.20-.32.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926.20-.35 [~~32~~] of the Code of Federal Regulations revised as of January 15, 1993 [~~July 1, 1986~~], published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following revisions, additions, and deletions:

(1) The addition to 29 CFR 1926.20, "General Safety and Health Provisions and Applicability of Standards", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(2) The correction to 29 CFR 1926.32, "Definitions", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(3) 29 CFR 1926.33, "Access to Employee Exposure and Medical Records", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(4) 29 CFR 1926.34, "Means of Egress", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky

40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply the renumbering of regulations which were previously enforced under different standard numbers.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competitors.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply the renumbering of regulations that have been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of this adoption of amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. This amendment will not affect the number of local government employees.

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

803 KAR 2:403. Adoption of 29 CFR Part 1926.50-.63.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1926.50-.66 [~~63~~], revised as of June 30, 1993 [~~July 1, 1986~~], published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference, as amended April 13, 1990, with the following additions, exceptions, and deletions:

(1) The addition to 29 CFR 1926.50, "Medical Services and First Aid", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(2) The additions to 29 CFR 1926.51, "Sanitation", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(3) The additions and corrections to 29 CFR 1926.53, "Ionizing Radiation", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(4) The additions to 29 CFR 1926.55, "Gases, Vapors, Fumes Dusts, and Mists", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(5) The additions to 29 CFR 1926.57, "Ventilation", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are

incorporated by reference.

(6) [(1)] 29 CFR 1926.58, "Asbestos, Tremolite, Anthophylite, and Actinolite," as published in the Federal Register, Volume 51, Number 119, June 20, 1986 is adopted by reference with the following amendments:

(a) 29 CFR 1926.58(e)(6)(iii) is amended to read: "The employer shall ensure that contractors provide in writing that they have a competent person meeting the requirements of paragraph (b) "competent person" and paragraphs (e)(6)(ii) and (III) before work commences."

(b) 29 CFR 1926.58(f)(3) is amended to read: "The respirators required by this exception are to be Type "C" supplied - air respirators; continuous flow or pressure - demand class."

(c) 29 CFR 1926.58(f)(5)(ii) is amended to read: "The employer shall ensure that all sampling is conducted in accordance with the ORM in Appendix A before sampling commences."

(d) 29 CFR 1926.58(f)(5)(iii) is amended to read: "The employer shall ensure that all analyses are performed in accordance with the elements outlined in Appendix A, and that all asbestos counters meet the qualifications listed in Appendix A. This notice shall be given prior to the start of the analyses."

(e) 29 CFR 1926.58(h)(3)(i) is amended to read: "Where respiratory protection is used, the employer shall institute a respirator program in accordance with American National Standards Practices for Respiratory Protection, ANSI Z88.2 - 1980, with the exception of Appendix A5, Suggested Procedures for Carrying Out Qualitative Respirator - Fitting Tests, and Appendix A6, Suggested Procedures for Carrying Out Quantitative Respirator - Fitting Tests."

(f) 29 CFR 1926.58(j)(2)(I) is amended to read: "The decontamination area shall be separated from the regulated area by an air lock. Air locks shall be used to separate the clean room, shower area and equipment room. An "air lock" is an open area used to separate the clean room, shower room and equipment room from each other; and to separate the decontamination area from the work area. It is accessible through doorways protected by two overlapping polyethylene sheets."

(g) 29 CFR 1926.58(k)(I)(ii) is amended to read: "Sign specifications. The warning signs required by paragraph (k)(I)(i) of this section shall be of a vertical format measuring twenty (20) inches in length and fourteen (14) inches in width, and shall be printed in letters of sufficient size and contrast as to be readily visible and legible, and shall bear the following information:"

(h) 29 CFR 1926.58, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite," as published in Federal Register, May 12, 1987, Volume 52, No. 91, is incorporated by reference.

(i) Revisions to 29 CFR 1926.58, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite," as published in Federal Register, Volume 53, Number 178, September 14, 1988, are incorporated by reference.

(j) Revisions to 29 CFR 1926.58, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite," as published in the Federal Register, Volume 55, Number 237, December 10, 1990, are incorporated by reference.

(k) Revisions to 29 CFR 1926.58, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite," as published in Federal Register, Volume 54, Number 243, December 20, 1989, is incorporated by reference.

(l) Revisions to 29 CFR 1926.58, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite," as published in Federal Register, Volume 55, Number 24, February 5, 1990, is incorporated by reference.

(m) Amendments, revisions and additions to 29 CFR 1926.58, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite," as published in the Federal Register, Volume 56, Number 171, September 4, 1991, are incorporated by reference.

(n) Amendments to 29 CFR 1926.58, "Asbestos, Tremolite, Anthophyllite, and Actinolite," as published in the Federal Register, Volume 57, Number 110, June 8, 1992, are incorporated by reference.

(7) [(2)] 29 CFR 1926.59, "Hazard Communication," as published in Federal Register, August 24, 1987, Volume 52, Number 163, is incorporated by reference.

(8) [(3)] Amendments to 29 CFR 1926.60, "Methylenedianiline," as published in the Federal Register, Volume 57, Number 154, August 10, 1992, are incorporated by reference.

(9) [(4)] Amendments to 29 CFR 1926.62, "Lead in Construction; Interim Final Rule", as published in the Federal Register, Volume 58, Number 84, May 4, 1993, are incorporated by reference.

(10) [(5)] Amendments to 29 CFR 1926.63, "Cadmium," as published in the Federal Register, Volume 57, Number 178, September 14, 1992, are incorporated by reference.

(11) [(6)] Amendments to 29 CFR 1926.63, "Cadmium," as published in the Federal Register, Volume 58, Number 77, April 23, 1993, are incorporated by reference.

(12) 29 CFR 1926.64, "Process Safety Management for Highly Hazardous Chemicals", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(13) 29 CFR 1926.65, "Hazardous Waste Operations and Emergency Response", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(14) 29 CFR 1926.66, "Criteria for Design and Construction of Spray Booths", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply the renumbering of regulations and corrections which have been previously enforced under different standard numbers.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competitors.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply the renumbering of regulations that have been previously enforced and corrections.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of this adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt references to the federal regulations which have been previously incorporated.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:404 Adoption of 29 CFR Part 1926.100-.107.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to incorporate by reference established federal standards and national concensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926.95 [~~100~~]-.107 of the Code of Federal Regulations, revised as of June 30, 1993 [~~July 1, 1986~~], published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) 29 CFR 1926.95, "Criteria for Personal Protective Equipment", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(2) 29 CFR 1926.96, "Occupational Foot Protection", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(3) 29 CFR 1926.97, "Protective Clothing for Fire Brigades", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(4) 29 CFR 1926.98, "Respiratory Protection for Fire Brigades", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(5) 29 CFR 1926.99, "(Reserved)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(6) The additions to 29 CFR 1926.102, "Eye and Face Protection", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(7) 29 CFR 1926.103, "Respiratory Protection," Table E-4 is amended as follows:

Table E-4
Respirator Protection Factors[a]

Type of Respirator	Permitted for Use in Oxygen-deficient Atmosphere	Permitted for Use in Immediately-dangerous-to-life-or-health Atmosphere[f]	Respirator Protection Factor	
			Qualitative Test	Quantitative Test
Particulate-filter, or half-mask face-piece[b,c]	No	No	10	As measured on each quarter-mask person with maximum of 100.
Vapor- or gas-removing, quarter-mask or half-mask facepiece[c]	No	No	10, or maximum use limit of cartridge or canister for vapor or gas, whichever is less.	As measured on each person with maximum of 100, or maximum use limit of cartridge or canister for vapor or gas,[i,j] whichever is less.
Combination particulate-filter and vapor- or gas-removing, quarter-mask or half-mask facepiece[b,c]	No	No	10, or maximum use limit or cartridge or canister for vapor or gas, whichever is less.	As measured on each person with maximum of 100, or maximum use limit of cartridge or canister for vapor or gas,[i,j], whichever is less.
Particulate-filter, full facepiece[b]	No	No	100	As measured on each person with maximum of 100 if dust, fume or mist filter is used, or maximum of 1000 if high-efficiency filter is used.
Vapor- or gas-removing, full facepiece	No	No	100, or maximum use limit of cartridge or canister for vapor or gas, whichever is less.	As measured on each person with maximum of 1000, or maximum use limit of cartridge or canister for vapor or gas[i,j], whichever is less.
Combination particulate-filter and vapor- or gas-removing, full facepiece[b]	No	No	100, or maximum use limit of cartridge or canister for vapor or gas, whichever is less.	As measured on each person with maximum of 100 if dust, fume or mist filter is used and maximum of 1000 if high-efficiency filter is used, or maximum use limit of cartridge or canister for vapor or gas, whichever is less.
Powered particulate-filter, any respiratory-inlet covering[b,c,d]	No	No (yes, if escape provisions are provided[d])	N/A	N/A No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 100 if dust, fume, or mist filter is used and 3000 if high-efficiency filter is used.
Powered vapor- or gas-removing, any respiratory-inlet covering[c,d]	No	No (yes, if escape provisions are provided[d])	N/A	N/A No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 3000, or maximum use limit of cartridge or canister for vapor or gas[i,j] whichever is less.
Powered combina-	No	No	N/A	N/A

tion particulate-filter and vapor or gas-removing, any respiratory-inlet covering[b,c,d]		(yes, if escape provisions are provided[d])	No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 100 if dust, fume, or mist fileter is used and 3000 if high-efficiency filter is used, or maximum use limit of cartridge or canister for vapor or gas,[i,j], whichever is less.	
Airline, demand, quarter-mask or half-mask facepiece, with or without escape provisions[c,e]	Yes[f]	No	10	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous to-life-or-health (IDLH) values.
Airline, demand, full facepiece, with or without escape provisions[e]	Yes[f]	No	100	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous to-life-or-health (IDLH) values
Airline, continuous flow or pressure demand type, any facepiece, without escape provisions[c]	Yes[f]	No	N/A	N/A No tests are required due to positive-pressure operation of respirator. The protection factor provided by the respirator is limited to use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.
Airline, continuous flow or pressure demand type, any facepiece, with escape provisions[c,e]	Yes[g]	Yes	N/A	N/A No tests are required due to positive-pressure operation of respirator. The maximum protection factors is 10000 plus[h].
Airline, continuous flow, helmet, hood, suit without escape provisions	Yes[f]	No	N/A	N/A No tests are required due to positive-pressure operation of respirator. The protection factor provided by the respirator is limited to the use of the respirator in concentrations of contam-taminants below the immediately-dangerous-to-life-or-health (IDLH) values.
Airline, continuous flow, helmet, hood, or suit, with escape provisions[e]	Yes[g]	Yes	N/A	N/A No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 10000 plus[h].
Hose mask, with or without blower, full facepiece	Yes[f]	No	10	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.
Self-contained breathing apparatus, demand-type open-circuit or negative-pressure-type	Yes[f]	No	10	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the

closed-circuit, quarter-mask or half-mask face-piece[e]				immediately-dangerous-to-life-or-health (IDLH) values.
Self-contained breathing apparatus, demand-type open-circuit or negative-pressure-type closed-circuit, full face-piece or mouth-piece/nose clamp[e]	Yes[f] (Yes, if respirator is used for mine rescue and mine recovery operations.)	No (yes, if respirator is used for mine rescue and mine recovery operations.)	100	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or health (IDHL) values except when the respirator is used for mine rescue and mine recovery operations.
Self-contained breathing apparatus, pressure-demand-type open-circuit or positive-pressure-type closed-circuit, quarter-mask or half-mask facepiece, full facepiece, or mouth-piece/nose clamp[e]	Yes[g]	Yes	N/A	N/A
			No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 10000 plus.	
Combination respirators not listed.	The type and mode of operation having the lowest respirator protection factor shall be applied to the combination respirator.			

N/A means not applicable since a respirator-fitting test is not carried out.

[a] A respirator protection factor is a measure of the degree of protection provided by a respirator to a respirator wearer. Multiplying the permissible time-weighted average concentration or the permissible ceiling concentration, whichever is applicable, for a toxic substance, or the maximum permissible airborne concentration for a radionuclide, by a protection factor assigned to a respirator gives the maximum concentration of the hazardous substance for which the respirator can be used. Limitations of filters, cartridges, and canisters used in air-purifying respirators shall be considered in determining protection factors.

[b] When the respirator is used for protection against airborne particulate matter having a permissible time-weighted average concentration less than 0.05 milligram particulate matter per cubic meter of air or less than 2 million particles per cubic foot of air, or for protection against airborne radionuclide particulate matter, the respirator shall be equipped with a high-efficiency filter(s).

[c] If the air contaminant causes eye irritation, the wearer of a respirator equipped with a quarter-mask or half-mask facepiece or mouthpiece and nose clamp shall be permitted to use a protective goggle or to use a respirator equipped with a full facepiece.

[d] If the powered air-purifying respirator is equipped with a facepiece, the escape provision means that the wearer is able to breathe through the filter, cartridge, or canister and through the pump. If the powered air-purifying respirator is equipped with a helmet, hood, or suit, the escape provision shall be an auxiliary self-contained supply of respirable air.

[e] The escape provision shall be an auxiliary self-contained supply of respirable air.

[f] "Oxygen deficiency - not immediately dangerous to life or health" - an atmosphere having an oxygen concentration below the minimum legal requirement but above that which is immediately dangerous to life or health.

[g] "Oxygen deficiency - immediately dangerous to life or health" - an atmosphere which causes an oxygen partial pressure of 100 millimeters of mercury column or less in the freshly inspired air in the upper portion of the lungs which is saturated with water vapor.

[h] The protection factor measurement exceeds the limit of sensitivity of the test apparatus. Therefore, the respirator has been classified for use in atmospheres having unknown concentrations of contaminants.

[i] The service life of a vapor- or gas-removing cartridge or canister depends on the specific vapor or gas, the concentration of the vapor or gas in air, the temperature and humidity of the air, the type and quantity of the sorbent in the cartridge or canister, and the activity of the respirator wearer. Cartridges and canisters may provide only very short service lives for certain vapors and gases. Vapor/gas service life testing is recommended to ensure that cartridges and canisters provide adequate service lives. Reference should be made to published reports which give vapor/gas life data for cartridges and canisters.

[j] Vapor- and gas-removing respirators are not approved for contaminants that lack adequate warning properties of odor, irritation, or taste at concentrations in air at or above the permissible exposure limits.

NOTE: Respirator protection factors for air-purifying-type respirators equipped with a mouthpiece/nose clamp form of respiratory-inlet covering are not given, since such respirators are approved only for escape purposes.

Section 2. Public Notice. (1) In accordance with KRS

13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply the renumbering of regulations which have been previously enforced under different standard numbers.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply the renumbering of regulations that have been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of this adoption of amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:405. Adoption of 29 CFR Part 1926.150-.155.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety

and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926.150-.159 [~~155~~] of the Code of Federal Regulations, revised as of June 30, 1993 [~~July 1, 1986~~], published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) The additions to 29 CFR 1926.150, "Fire Protection", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(2) Amendment to 29 CFR 1926.151(a)(l), as published in the Federal Register, Volume 51, Number 133, July 11, 1986 is incorporated by reference.

(3) [~~(2)~~] Revision to 29 CFR 1926.152(b)(4)(v) as published in the Federal Register, Volume 51, Number 133, July 11, 1986 is incorporated by reference.

(4) The additions to 29 CFR 1926.152, "Flammable and Combustible Liquids", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(5) The additions to 29 CFR 1926.153, "Liquified Petroleum Gases", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(6) 29 CFR 1926.156, "Fixed Extinguishing Systems, General", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(7) 29 CFR 1926.157, "Fixed Extinguishing Systems, Gaseous Agent", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(8) 29 CFR 1926.158, "Fire Detection Systems", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(9) 29 CFR 1926.159, "Employee Alarm Systems", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply the renumbering of regulations which have been previously enforced under different standard numbers.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply the renumbering of regulations that have been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of this adoption of amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These

amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:406. Adoption of 29 CFR Part 1926.200-.203.

RELATES TO: KRS Chapter 338
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926.200-.203 of the Code of Federal Regulations, revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) 29 CFR 1926.200(g)(2), .201(a)(2) and .202 shall be amended to require signs, signaling and barricades to conform to specifications as set forth in ANSI D6.1, "Manual of Uniform Traffic Control Devices for Streets and Highways," (1978 Edition). Revisions, Numbers 1 through 4, as adopted by ANSI D6.1 (1978 edition), "Manual on Uniform Traffic Control Devices," are incorporated by reference.

(2) The addition to 29 CFR 1926.200, "Accident Prevention Signs and Tags", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by this amendment, as it is simply the renumbering of regulation which has been previously enforced under a different standard number.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding this amendment which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: This amendment will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of this amendment.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

(3) Assessment of anticipated effect on state and local revenues: This amendment will have no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as this amendment is simply the renumbering of a regulation that has been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of this amendment.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality

(or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. This amendment adopts a federal regulation.

3. Minimum or uniform standards contained in the federal mandate. This amendment adopts the amendment to the previously adopted regulation in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This adopted amendment is identical to the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment affects all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. This amendment will not affect the number of local government employees.

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

803 KAR 2:407. Adoption of 29 CFR Part 1926.250-.252.

RELATES TO: KRS Chapter 338
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926.250-.252 of the Code of Federal Regulations revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, revisions, and deletions:

(1) The additions to 29 CFR 1926.250, "General Requirements for Storage", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(2) The additions to 29 CFR 1926.251, "Rigging Equipment for Material Handling", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman
APPROVED BY AGENCY: February 14, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply the renumbering of regulations which have been previously enforced under different standard numbers.

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply the renumbering of regulations that have been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:408. Adoption of 29 CFR Part 1926.300-1926.305.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1926.300-.307 [~~305~~] revised as of June 30, 1993 [~~July 1, 1986~~], published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference.

(1) The additions to 29 CFR 1926.300, "General Requirements", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(2) The additions to 29 CFR 1926.302, "Power-operated Hand Tools", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(3) The additions to 29 CFR 1926.303, "Abrasive Wheel and Tools", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(4) The additions to 29 CFR 1926.304, "Woodworking Tools", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(5) Revisions to 29 CFR 1926.305, as published in the Federal Register, Volume 55, Number 202, October 18, 1990, are incorporated by reference.

(6) The addition to 29 CFR 1926.305, "Jacks-lever and Ratchet, Screw, and Hydraulic", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(7) 29 CFR 1926.306, "Air Receivers", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(8) 29 CFR 1926.307, "Mechanical Power-transmission Apparatus", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W.L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply the renumbering of regulations which have been previously enforced under different standard numbers.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3, Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply the renumbering of regulations that have been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:409. Adoption of 29 CFR Part 1926.350-.354.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926.350-.354 of the Code of Federal Regulations, revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) Revisions to 29 CFR 1926.350, "Gas Welding and Cutting", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(2) Revision to 29 CFR 1926.351(d)(5), as published in the Federal Register, Volume 51, Number 133, July 11, 1986 is incorpo-

rated by reference.

(3) Revisions to 29 CFR 1926.353, "Ventilation and Protection in Welding and Cutting", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply the renumbering of regulations which have been previously enforced under different standard numbers.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply the renumbering of regulations that have been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:410. Adoption of 29 CFR Part 1926.400-.449.

RELATES TO: KRS Chapter 338
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 338.051 and 338.061

authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926.400-.449 of the Code of Federal Regulations, revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) Revision of 29 CFR 1926, Subpart K, "Electrical," 1926.400, .401, .402, .403, .405, .406, .407, .408, .409, .416, .417, .418, .431, .432, .433, .441, .442 and .449, as published in Federal Register, Volume 51, Number 133, July 11, 1986 is incorporated by reference.

(2) The addition to 29 CFR 1926.416, "General Requirements", as published in Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(3) The addition to 29 CFR 1926.417, "Lockout and Tagging of Circuits", as published in Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply the renumbering of regulations which have been previously enforced under different standard numbers.

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply the renumbering of regulations that have been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:411. Adoption of 29 CFR Part 1926.450-.452.

RELATES TO: KRS Chapter 338
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1926.450-.453 [~~452~~], revised as of June 30, 1993 [~~July 1, 1986~~], published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) Revision to 29 CFR 1926.450, as published in the Federal Register, Volume 55, Number 220, November 14, 1990, is incorporated by reference.

(2) 29 CFR 1926.451(a)(4) shall read as follows: Guardrails and toeboards shall be installed on all open sides and ends of platforms more than ten (10) feet above the ground or floor, except needle beam scaffolds and floats (see paragraphs (p) and (w) of this section). Toeboards shall not be required on the loading side of platforms which are loaded by means of a high lift tractor or fork truck provided that employees are prohibited from entering the area beneath the scaffolding where they could be exposed to objects which might fall from the scaffolding. Scaffolds four (4) to ten (10) feet in height, having a minimum horizontal dimension in either direction of less than forty-five (45) inches, shall have standard guardrails installed on all open sides and ends of the platform.

(3) Revisions to 29 CFR 1926.451, "Scaffolding", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(4) Revision to 29 CFR 1926.452, as published in the Federal Register, Volume 55, Number 220, November 14, 1990, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman
APPROVED BY AGENCY: February 14, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply the renumbering of regulations which have been previously enforced under different standard numbers and a minor correction.

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply the renumbering of regulations that have been previously enforced and a minor correction.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher

risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:413. Adoption of 29 CFR Part 1926.550-.556.

RELATES TO: KRS Chapter 338
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1926.550-.556 revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) 29 CFR 1926.550(b)(2), "Cranes and Derricks," shall be revised as follows: revisions as published in the Federal Register, Volume 52, Number 187, September 28, 1987 are incorporated by reference.

(a) Additions to 29 CFR 1926.550 (Section g), "Cranes and Derricks," as published in Federal Register, Volume 53, Number 148, August 2, 1988, are incorporated by reference.

(b) Additions to 29 CFR 1926.550, as published in the Federal Register, Volume 54, Number 73, April 18, 1989, is incorporated by reference.

(c) The addition to 29 CFR 1926.550, "Cranes and Derricks", as published in Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(2) 29 CFR 1926.552(b)(8) of the paragraph on "Material Hoists," shall read as follows: All material hoists shall conform to the requirements of ANSI A10.5-1969, Safety Requirements for Material Hoists, with the exception that material hoists manufactured prior to January 1, 1970 may be used with a drum pitch diameter at least eighteen (18) times the normal rope diameter provided the hoisting wire rope is at least equal in flexibility to 6 x 37 classification wire rope.

(3) 29 CFR 1926.552(c)(15), "Material Hoists, Personnel Hoists and Elevators," shall be revised as follows: revisions as published in the Federal Register, Volume 52, Number 187, September 28, 1987 are incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman
APPROVED BY AGENCY: February 14, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by this amendment, as this is simply the renumbering of a regulation which has been previously enforced under a different standard number.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding this amendment which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: This amendment will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of this amendment.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

(3) Assessment of anticipated effect on state and local revenues: This amendment will have no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as this amendment is simply the renumbering of a regulation that has been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of this amendment.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. This amendment adopts federal regulations.

3. Minimum or uniform standards contained in the federal mandate. This amendment adopts the to the previously adopted regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This adopted amendment is identical to the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2.State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment affects all local government entities that have employees do construction work.

3.State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4.How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. This amendments will not affect the number of local government employees.

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

803 KAR 2:414. Adoption of 29 CFR Part 1926.600-.606.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926.600-.606 of the Code of Federal Regulations, revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) The revision to 29 CFR 1926.600, "Equipment", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(2) Revoke paragraph "514 - Warning Device" of ANSI B56.1 - 1969 - Safety Standards for Powered Industrial Trucks and adopt paragraph "512 - Warning Device" of ANSI B56.1 - 1975 - Low Lift and High Lift Trucks for standard reference as specified in 29 CFR 1926.602(c)(1)(vi): effective July 1, 1979.

(3) The revision to 29 CFR 1926.602, "Material Handling Equipment", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply the renumbering of regulations which have been previously enforced under different standard numbers.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply the renumbering of regulations that have been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:418. Adoption of 29 CFR Part 1926.800-.804.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926.800-.804 of the Code of Federal Regulations, revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference, as amended January 15, 1990, with the following additions, exceptions, and deletions:

(1) Revision of 29 CFR 1926.800, as published in the Federal Register, Volume 54, Number 105, June 2, 1989, is incorporated by reference.

(2) Revision of 29 CFR 1926.800, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(3) Revision of 29 CFR 1926.803(j)(3), as published in the Federal Register, Volume 51, Number 133, July 11, 1986 is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendment to this regulation affect all employers covered by this agency.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by this amendment, it is simply a minor technical change, correcting an incorrectly referenced standard.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding this amendment which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: This amendment will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of this amendment.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this amendment.

(3) Assessment of anticipated effect on state and local revenues: This amendment will have no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as this amendment simply corrects the numbering of a previously incorrectly numbered referenced standard.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of this amendment.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. This amendment adopts a change in federal regulations.

3. Minimum or uniform standards contained in the federal mandate. This amendment, as published in the Federal Register, Volume 58, Number 124, June 30, 1993, adopts a correction to a previously adopted regulation in 29 CFR Part 1926.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amendment is identical to the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment affects all local government entities that are under the jurisdiction of this agency.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to correct the numbering of an incorrectly referenced federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. This amendment will not affect the number of local government employees.

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

803 KAR 2:420. Adoption of 29 CFR Part 1926.900-.914.

RELATES TO: KRS Chapter 338
STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926.900-.914 of the Code of Federal Regulations, revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) The following paragraphs of 29 CFR 1926, Subpart U, "Blasting and the Use of Explosives," which were previously incorporated by reference, are hereby revised and shall read as follows:

(a) 1926.900(k)(3)(i), 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 this 1,000 foot distance would create an operational handicap, a competent person shall be consulted to evaluate the particular situation, and alternative provisions may be made which are adequately designed to prevent premature firing of electric blasting caps. The competent person may be a blaster certified by the Kentucky Department of Mines and Minerals with a working knowledge of mobile radio transmission and receiving hazards as related to use of electric blasting cap firing systems and designated by the employer. A description of any alternative shall be in writing describing the unusual conditions at the site and the alternative measure used. The description shall be maintained at the construction site during the duration of the work and shall be available for inspection by representatives of the Commissioner, Kentucky Department of Labor.

(b) 1926.900(k)(4), Ensuring that mobile radio transmitters which are less than 100 feet away from electric blasting caps, in other than original containers, shall be deenergized, and have the radio transmission circuit or vehicle effectively locked against transmitter usage.

(c) 1926.900(p), 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.

(d) 1926.900(r), All electric blasts shall be fired with an electric blasting machine or properly designed electric power source, and in accordance with the provisions of subsection .906(a) and (r).

(e) The additions to 29 CFR 1926.900, "General Provisions", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.

(2) The revision to 29 CFR 1926.902, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(3) [~~(2)~~] 1926.902(d), Explosives or blasting agents shall be transported in separate vehicles unless the detonators are packaged in specified containers and transported all in compliance with DOT Regulation 49 CFR 177.835(g).

(4) [~~(3)~~] 29 CFR 1926.903(e), Underground Transportation of Explosives, shall be revised as follows: Revisions as published in the Federal Register, Volume 52, Number 187, September 28, 1987 are incorporated by reference. 1926.903(o) deleted.

(5) The revision to 29 CFR 1926.904, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(6) [~~(4)~~] 1926.905(h), Machines and all tools not used for loading explosives into the boreholes shall be removed from the immediate location of holes before explosives are delivered. Equipment shall not be operated within fifty (50) feet of a loaded hole except that which is required when the containment of the blast is necessary to prevent flyrock. When equipment or machinery is used to place mats, overburden, or protective material on the shot area, a competent person (who may be a blaster certified by the Kentucky Department of Mines and Minerals) shall implement adequate precautions to protect the lead wires or initiating systems such as protecting the components from direct contact with materials which sever, damage, impact, or conduct stray currents to the explosives system. This would include preventing the dragging of blasting mats or running over the holes and systems with the equipment used.

(a) 1926.905(i), No activity of any nature other than that which is required for loading holes with explosives and preparation required for initiating the blast and containment of flyrock from the blast shall be permitted in a blast area.

(b) 1926.905(k), Holes shall be inspected prior to loading to determine depth and conditions. When necessary to drill a hole in proximity to a charged or misfired hole, the distance between these two holes must be greater than the depth being drilled and precautions taken to ensure the integrity of any adjacent-charged hole or misfired hole. This distance must be determined by a competent person (who may be a blaster certified by the Kentucky Department of Mines and Minerals) in order to insure that there is no danger of intersecting the charged or misfired hole.

(c) 1926.905(n), In blasting, explosives in Fume Class I, as set forth by the Institute of the Makers of Explosives, shall be used; however, Fume Class I explosives are not required when adequate ventilation is provided and the workings are abandoned for a period of time sufficient to allow dissipation of all fumes.

(d) The addition to 29 CFR 1926.905, "Loading of Explosives and Blasting Agents", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(7) [~~(5)~~] 1926.906(p), 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 immediate physical and visual supervision of the blaster.

(a) 1926.906(q), Blasters, when testing circuits to charged holes, shall use only blasting galvanometers equipped with a silver chloride cell especially designed for this purpose or an instrument designed solely for use in blasting, which incorporates a current-limiting device into its circuitry. No instrument capable of producing over fifty (50) milliamps on direct short circuit shall be used.

(b) 1926.906(s), 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.

(8) [~~(6)~~] 1926.907(a), The use of a fuse that has been hammered or injured in any way shall be forbidden.

(9) [~~(7)~~] 1926.910(b), Sufficient time shall be allowed, not less than fifteen (15) minutes in tunnels, for the smoke and fumes to leave the blasted area before returning to the shot. An inspection of the area and the surrounding rubble shall be made by the blaster to determine if all charges have been exploded before employees are allowed to return to the operation.

(10) The additions to 29 CFR 1926.914, "Loading of Explosives and Blasting Agents", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman
APPROVED BY AGENCY: February 14, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply the renumbering of regulations which have been previously enforced under different standard numbers and minor corrections.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply the renumbering of regulations that have been previously enforced and minor corrections.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:423. Adoption of 29 CFR Part 1926.1050-.1060.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR, Part 1926.1050-.1060 revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

These standards are hereby incorporated by reference.

(1) Revisions to 29 CFR 1926.1050-.1060, as published in the Federal Register, Volume 55, Number 220, November 14, 1990, are incorporated by reference.

(2) The revision to 29 CFR 1926.1050, "Scope, Application, and Definitions Applicable to this Subpart", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(3) [~~(2)~~] Amendments, revisions and additions to 29 CFR 1926.1052, "Stairways and Ladders," as published in the Federal Register, Volume 56, Number 164, August 23, 1991, are incorporated by reference.

(4) [~~(3)~~] Amendments, revisions and additions to 29 CFR 1926.1053, "Stairways and Ladders," as published in the Federal Register, Volume 56, Number 164, August 23, 1991, are incorporated by reference.

(5) [~~(4)~~] Revisions to 29 CFR 1926.1060, as published in the Federal Register, Volume 56, Number 15, January 23, 1991, are incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply the renumbering of regulations which have been previously enforced under different standard numbers.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply the renumbering of regulations that have been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to comply with federal regulations relating to

occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

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

803 KAR 2:500. Adoption of 29 CFR Part 1915, 1917, 1918 and 1919, Maritime employment.

RELATES TO: KRS Chapter 338
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of Maritime employment.

Section 1. The Occupational Safety and Health Standards Board hereby incorporates Chapter 29, Part 1915 as published in the April 20, 1983, Federal Register, Part 1917 as published in July 5, 1983, Federal Register, and Parts 1918 and 1919 of the Code of Federal Regulations, revised as of July 1, 1981, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) 29 CFR 1915.1, 1918.1, and 1919.1 shall read as follows: "The provisions of this regulation adopt and extend the applicability of established Federal Maritime Standards contained in 29 CFR 1915, 1916, 1917, 1918, and 1919 to all Maritime employers, Maritime employees, and places of Maritime employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) The amendments to 29 CFR 1915, "Occupational Safety and Health Standards for Shipyard Employment", as published in the Federal Register, Volume 58, Number 125, July 1, 1993, are incorporated by reference.

(3) [~~(2)~~] 29 CFR 1915.4(b) and 1918.3(b), "Secretary," means Secretary of Labor, Kentucky Labor Cabinet, Commonwealth of Kentucky, or his authorized representatives.

(4) [~~(3)~~] 29 CFR 1919.2(D), "Assistant Secretary" is changed to read: "Secretary" means the Secretary of Labor, Kentucky Labor Cabinet, Commonwealth of Kentucky, or his authorized representative.

(5) [~~(4)~~] 29 CFR 1915.97, "Health and Sanitation," is revised to read as follows: Revisions as published in the Federal Register, Volume 52, Number 163, August 24, 1987.

(6) [~~(5)~~] 29 CFR 1915.99, "Hazard Communication," as published in the Federal Register, Volume 52, Number 163, August 24, 1987 is incorporated by reference.

(7) [~~(6)~~] Revision to 29 CFR 1915.113(b)(1), "Shackles and Hooks," as published in the Federal Register, Volume 51, Number 188, September 29, 1986 is incorporated by reference.

(8) [~~(7)~~] Revision to 29 CFR 1915.172(d), "Portable Air Receivers and Other Unfired Pressure Vessels," as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is incorporated by reference.

(9) [~~(8)~~] Amendments to 29 CFR 1915.1027, "Cadmium", as published in the Federal Register, Volume 57, Number 178, September 14, 1992, are incorporated by reference.

(10) [~~(9)~~] Amendments to 29 CFR 1915.1027, "Cadmium", as published in the Federal Register, Volume 58, Number 77, April 23, 1993, are incorporated by reference.

(11) [~~(10)~~] 29 CFR 1917.1(a)(2)(x), "Marine Terminals," as published in the Federal Register, Volume Number 52, December 31, 1987, is incorporated by reference.

(12) [~~(11)~~] 29 CFR 1917.1(a)(2)(ix), "Scope and Applicability," as published in the Federal Register, Volume 52, Number 186, September 25, 1987 is incorporated by reference.

(13) [~~(12)~~] 29 CFR 1917.28, "Hazard Communication," as published in the Federal Register, Volume 52, Number 163, August 24, 1987 is incorporated by reference.

(14) [~~(13)~~] 29 CFR 1917.44(o), "General Rules Applicable to Vehicles," shall be amended as follows: Amendments as published in the Federal Register, Volume 52, Number 186, September 25, 1987 are incorporated by reference.

(15) [~~(14)~~] 29 CFR 1917.72, "Grain Elevators," (reserved) as published in the Federal Register, Volume Number 52, December 31, 1987, is removed.

(16) [~~(15)~~] 29 CFR 1918.90, "Hazard Communication," as published in the Federal Register, Volume 52, Number 163, August 24, 1987 is incorporated by reference.

(16) 29 CFR 1919.2(e) "Administration" is changed to read: "Program" means the Kentucky Occupational Safety and Health Program, Frankfort, Kentucky.

(17) An employer, required under 29 CFR 1915, 1918 or 1919 to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman
APPROVED BY AGENCY: February 14, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston
(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry.
(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these amendments and additions, as these are simply the renumbering of regulations which have been previously enforced under different standard numbers.
1. First year:
2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These amendments will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these amendments.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these amendments are simply the renumbering of regulations that have been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these amendments.

(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. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These amendments adopt the corrections and additions to the previously adopted regulations in 29 CFR Part 1915, as published in the Federal Register, Volume 58, Number 125, July 1, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These adopted amendments are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect all local government entities that have employees involved in shipyard employment.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed revision affects safety and health of employees of local government who are involved in shipyard employment.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These amendments will not affect the number of local government employees.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Fire Prevention
(Proposed Amendment)

815 KAR 15:010. Definitions.

RELATES TO: KRS Chapter 236 [~~236.030~~]

STATUTORY AUTHORITY: KRS 236.030, 236.040 [~~Chapter 13A~~]

NECESSITY AND FUNCTION: KRS 236.030 authorizes [~~requires~~] the commissioner, through [~~upon advisement of~~] the Board of Boiler and Pressure Vessel Rules, to fix reasonable standards for the safe construction, installation, inspection and repair of boilers, pressure vessels and pressure piping. This administrative regulation sets forth the definitions used in the boiler and pressure vessel safety rules. This amendment is necessary to meet KRS Chapter 13A as determined by quadrennial review, as well as to clarify how newer codes are utilized. [~~boiler safety regulations. This amendment alphabetizes these definitions and no substantive changes were made.~~]

Section 1. Definitions[~~, as used in the Boiler and Pressure Vessel Safety Rules~~]. (1) "Act" [~~shall~~] means the Kentucky Boiler and Pressure Vessel Safety Act, KRS Chapter 236.

(2) "ANSI" means the American National Standards Institute.

(3) "Approved" [~~shall~~] means approved by the Board of Boiler and Pressure Vessel Rules and the commissioner of the department or the chief boiler inspector.

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

(5) "ASME Boiler and Pressure Vessel Code or ASME Code" [~~shall~~] means the American Society of Mechanical Engineers Boiler and Pressure Vessel Codes as follows, including all cited code cases, appendices and addenda:

(a) Section I, rules for construction of power boilers;

(b) Section II, material specifications;

1. Part A for ferrous materials;

2. Part B for nonferrous materials; and

3. Part C for welding rods, electrodes and filler metals;

(c) Section III, Nuclear Vessel Code;

(d) Section IV, Rules for construction of heating boilers;

(e) Section V, nondestructive examination;

(f) Section VIII, rules for construction of pressure vessels, Division 1 and Division 2; and

(g) Section IX, welding and brazing qualifications. [~~1980 edition of the: Power Boiler Code Section I; the Nuclear Vessel Code, Section III; Heating Boiler Code, Section IV; Pressure Vessel Code, Section VIII, Division I; plus referencing Codes Section II, Material Specifications; Section IX, Welding and Brazing; and Section V, Nondestructive Examination; including all code cases and addenda of the American Society of Mechanical Engineers United Engineering Center. Said copies shall be on file for review at the department's offices, U.S. 127 South Building, Frankfort, Kentucky, Monday through Friday from 8 a.m. to 4:30 p.m.~~]

(6) [~~(5)~~] "Board of Boiler and Pressure Vessel Rules" as defined

by KRS 236.010(6).

(7) [(6)] "Boiler" as defined by KRS 236.010(1).

(8) [(7)] "Boiler Inspection Section" [shall] means the agency, within the Division of Fire Prevention (Office of State Fire Marshal), Department of Housing, Buildings and Construction which supervises the implementation of KRS Chapter 236.

(9) [(8)] "Boiler inspector" [shall] means any person employed by the Commonwealth of Kentucky for the purpose of inspecting boilers and pressure vessels in accordance with provisions of KRS 236.070. [the Act. Qualifying requirements are set forth in KRS 236.070 and 236.090. These requirements shall determine the applicant's ability to pass the National Board of Boiler and Pressure Vessel Inspectors examination. Successful completion of this written examination and granting of a National Board Commission is a requisite for permanent appointment as boiler inspector employed by the Commonwealth of Kentucky.]

(10) [(9)] "Boiler safety regulations" [or "boiler safety rules" shall] means 815 KAR 15:010 to 815 KAR 15:080 [085].

(11) [(10)] "Certificate of inspection" as defined by KRS 236.010(7).

(12) [(11)] "Chief boiler inspector" [shall] means the person employed by the Commonwealth of Kentucky who shall supervise the work of the boiler inspectors and office staff under the general supervision of the State Fire Marshal and perform [such] other duties as may be prescribed.

(13) [(12)] "Code boiler or pressure vessel (or standard boiler or pressure vessel)" [shall] means a boiler or pressure vessel which bears the ASME Code Symbol stamp or the National Board stamp. (See also "state special".)

(14) [(13)] "Commission" [shall] means the written credential issued by the department to an inspector or special inspector under the provisions of KRS 236.070 or 236.080.

(15) [(14)] "Commissioner" as defined by KRS 236.010(3).

(16) [(15)] "Condemned boiler or pressure vessel" [shall] means a boiler or pressure vessel that has been inspected and declared unsafe or disqualified by legal requirements by a qualified inspector [an inspector, qualified to take such action,] who has applied a stamping or marking designating its rejection.

(17) [(16)] "Department" as defined by KRS 236.010(4).

(18) [(17)] "Electric boiler" means a power boiler, heating boiler, high or low-temperature water boiler in which the source of heat is electricity.

(19) [(18)] "Existing installations" [shall] means and includes any boiler or pressure vessels constructed, installed, placed in operation, or contracted for before the effective date of this administrative regulation [June 1, 1962 and July 15, 1980, respectively].

(20) [(19)] "Expansion tank" [shall] means a pressure vessel, unfired but directly connected to a hot water heating boiler, to absorb or cushion expansion therein and subject to comparable pressure with the boiler itself.

(21) [(20)] "External inspection" [shall] means an inspection made when a boiler or pressure vessel is in operation and under pressure.

(22) [(21)] "Fired jacketed steam kettles" [shall] means vessels in which steam pressure is generated and shall be classed as a boiler.

(23) [(22)] "Heat recovery boiler" (see "process steam generator").

(24) "Heating boiler" as defined by KRS 236.010(1)(c).

(25) [(23)] "High pressure, high temperature water boiler" as defined by KRS 236.010(1)(b).

(26) [(24)] "Hot water heating boiler" means a nonsteam generating boiler [in which no steam is generated,] from which hot water is circulated for heating purposes and [then] returned to the boiler, and which operates at a pressure not exceeding 160 psig or a temperature of 250 degrees Fahrenheit at or near the boiler outlet.

(27) [(25)] "Hot water storage tank" [shall] means a pressure vessel, unfired but directly connected to and subject to the same pressures as a companion hot water supply boiler, the combination being used to heat and store hot water for use externally to itself.

(28) [(26)] "Hot water supply boiler" [shall] means a boiler completely filled with water that furnishes hot water to be used externally to itself at pressures not exceeding 160 psig or at temperatures not exceeding 210 [250] degrees Fahrenheit at or near the boiler outlet.

(29) "Hydrostatic test" means the activity of filling a boiler and associated piping with water and raising the pressure within the system to check for tightness or safety.

(30) [(27)] "Inspector" [shall] means either "boiler inspector" or "special boiler inspector."

(31) [(28)] "Internal inspection" [shall] means an inspection made under circumstances that the [when a] boiler or pressure vessel is not operating, [shut down] and handholes or manways are open for inspection of internal portions of the boiler or pressure vessel [insofar] as construction permits.

(32) [(29)] "Lined potable water heater" means a water heater with a corrosion resistant lining used to supply potable hot water.

(33) [(30)] "Major repair" [shall] means [such] repairs that [as would] affect the strength of a boiler or pressure vessel by cutting and welding on any pressure part.

(34) [(31)] "Miniature boiler" [shall] means a power boiler or high temperature water boiler [which does] not exceeding any of the following:

(a) Sixteen (16) inches inside diameter of shell (not applicable to electric boilers); or

(b) Twenty (20) square feet heating surface; or

(c) Five (5) cubic feet gross exclusive of casing and insulation; or

(d) 100 pounds PSI maximum allowable working pressure.

(35) [(32)] "National Board (NB)" [shall] means the National Board of Boiler and Pressure Vessel Inspectors, [whose headquarters are at] 1055 Crupper Avenue, Columbus, Ohio 43229, which group has [and who have] also issued a National Board Inspection Code.

(36) "Nationally recognized testing agency (NRTL)" means one (1) of the following laboratories or any other nationally recognized testing laboratory approved by the board whose label shall be used for all electric boilers and other electrical equipment after testing according to an established standard and by the prescribed procedure.

(a) Nationwide Consumer Testing Institute, Inc.;

(b) Underwriters Laboratories, Inc. (UL);

(c) Factory Mutual Research Corp. (FM);

(d) Met Electrical Testing Co., Inc.;

(e) Dash, Straus and Goodhue, Inc. of Boxborough, MA;

(f) ETL Testing Laboratories, Inc. of Cortland, NY;

(g) Communication Certification Laboratory of Salt Lake City;

(h) Canadian Standards Association's Toronto facility;

(i) The American Gas Associations Laboratories, Inc. of Cleveland; and

(j) California Air Resources Board.

(37) [(33)] "Noncode boiler or pressure vessel (or nonstandard boiler or pressure vessel)" [shall] means a boiler or pressure vessel that does not bear the ASME, or the National Board stamp. (See also "state special").

(38) [(34)] "Nuclear energy system" [shall] means that portion of a power plant that serves the purpose of producing and controlling output of thermal energy from nuclear fuel.

(39) [(35)] "Nuclear power plant" means a nuclear power plant consisting of one (1) or more nuclear power systems and containment systems.

(40) [(36)] "Nuclear power systems" means a system which serves the purpose of producing and controlling an output of thermal energy from nuclear fuel and those associated systems essential to the functions of the power system. The components of the system include such items as pressure vessels, piping system, pumps, valves and storage tanks.

(41) [(37)] "Nuclear vessel" [shall] means a pressure vessel designed and constructed in accordance with Section III of ASME

Boiler and Pressure Vessel Code.

(42) [(38)] "Owner or user" [shall] means any person, firm, or corporation owning or operating a [any] boiler or pressure vessel within this Commonwealth.

(43) [(39)] "Power boiler" [shall] means as defined by KRS 236.010(1)(a).

(44) [(40)] "Pressure piping" [shall] means the boiler and pressure vessel external and connecting (steam, vapor or water) [any] piping[, (steam, vapor or water) carrying pressures] emanating from the associated [a power or heating] boiler or pressure vessel and [of substantially the same pressures and temperatures as encountered in the boiler or pressure vessel. It] includes code piping as covered under the ASME Boiler and Pressure Vessel Code, Sections I and IV; Unfired Pressure Vessel Code, Section VIII, Division I, [and] the Power Piping Code ANSI B-31.1.

(45) [(41)] "Pressure vessel" as defined by KRS 236.010(2).

(46) [(42)] "Process steam generator" means a vessel or system of vessels comprised of one (1) or more drums and one (1) or more heat exchange surfaces as used in waste heat or heat recovery type steam boilers.

(47) [(43)] "PSI (psi)" means pounds per square inch.

(48) [(44)] "PSIG (psig)" means pounds per square inch gauge.

(49) [(45)] "Reinstalled boiler or pressure vessel" [shall] means a boiler or pressure vessel removed from its original setting and reerected at the same location or erected at a new location without change of ownership.

(50) [(46)] "Secondhand boiler or pressure vessel" [shall] means a boiler or pressure vessel in [of] which both the location and ownership have been changed after initial [primary] use.

(51) [(47)] "Special boiler inspector" [shall] means any person employed by an insurance company authorized to insure boilers and pressure vessels in this Commonwealth and who holds a commission as provided for in KRS 236.080.

[(48) "State" or "Commonwealth" as used herein shall be synonymous.]

(52) [(49)] "State special" [shall] means a boiler or pressure vessel [of any type or size defined under this section or under these regulations and] which carries neither the ASME Boiler and Pressure Vessel Code symbol nor National Board stamping but has been accepted by the Department of Housing, Buildings and Construction upon advice of the board as meeting standards [may be acceptable to the boiler inspection section provided the manufacturer, installer, or owner can prove conclusively to the satisfaction of the chief boiler inspector that the standard to which the boiler or pressure vessel is built is at least] equivalent to the applicable ASME Boiler and Pressure Vessel Code, pursuant to [. Acceptable methods of proof will be as set forth in] 815 KAR 15:025 [020], Section 5(1) [1(2)].

[(50) "Underwriters laboratory label" shall mean the label of the Underwriters Laboratories, Inc., or other electrical testing laboratories, approved by the Board of Boiler Rules which must be affixed to all electric fired boilers. Other electrical testing laboratories labeling may be affixed to an electrical boiler provided they are approved by the department.]

(53) [(51)] "Unfired steam boiler" means a vessel or system of vessels intended for operation at a pressure in excess of fifteen (15) psig for the purpose of producing and controlling an output of thermal energy.

(54) "V-R stamp holder" means the holder of a certificate issued by the National Board to repair pressure relief valves.

(55) [(52)] "Water heater" means a closed vessel in which water is heated by the combustion of fuels, electricity or any other source and withdrawn for use external to the system at pressures not exceeding 160 psig and shall include all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit.

(56) [(53)] "Waste heat boiler" (see "unfired steam boiler").

CHARLES A. COTTON, Commissioner
EDWARD J. HOLMES, Secretary
APPROVED BY AGENCY: February 3, 1994
FILED WITH LRC: February 8, 1994 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 22, 1994 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 March 17, 1994, (five days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is received. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: 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: All high pressure boiler and pressure vessel owners.

(a) Direct and indirect costs or savings to those affected: No change in costs or savings for those companies operating under established practices of the industry and previous requirements of the Boiler Code.

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 paperwork or reporting requirements will be changed with this amendment.

(2) Effects on the promulgating administrative body: This regulation clarifies and refines existing requirements, updates standards and complies with KRS Chapter 13A.

(a) Direct and indirect costs or savings: None involved with the implementation of this amendment.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: This amendment represents no change in existing methods used in the department.

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No known conflicting statutes.

(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. All boiler and pressure vessel contractors and standards for boilers and pressure vessels need to be uniform in treatment and protection.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Office of State Fire Marshal
(Proposed Amendment)

815 KAR 15:040. Power boiler and pressure vessel supplemental requirements.

RELATES TO: KRS 236.030
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 236.030 authorizes [requires] the commissioner, through [upon advisement of] the Board of Boiler Rules, to fix reasonable standards for the safe construction, installation, inspection and repair of boilers and pressure piping. This administrative regulation sets forth the specific [basic] requirements for power boilers which are within the scope of Section I of the ASME Boiler and Pressure Vessel Code. This amendment is necessary to comply with KRS Chapter 13A and to set forth additional specific requirements for new and existing power boilers which do not apply to other vessels. [This amendment is necessary to comply with KRS 236.030 by specifying requirements of pressure vessels as well as boilers in appropriate sections; it cites the specific edition of ASME Code for Power Boilers which has been in effect for years and provides for alternative safety relief valve for gas boilers.]

Section 1. [Definitions. "ASME" means the American Society of Mechanical Engineers.

Section 2.] New Installations[, Power Boilers, Requirements]. (1) Power boilers. All power boilers shall be constructed in accordance with applicable provisions of the ASME Boiler and Pressure Vessel Code and Title 815 Chapter 15 of the Kentucky administrative regulations. Pressure piping beyond the first (or second) stop valve shall comply with the ASME Code for Pressure Piping adopted by reference in 815 KAR 15:025, Section 1(3). [No boiler or pressure vessel, except reinstalled boilers or pressure vessels and those exempted by the Act, shall hereafter be installed in this Commonwealth unless it has been constructed, inspected and stamped in conformity with ASME Boiler and Pressure Vessel Code for power boilers or pressure vessels and is approved, registered, and inspected in accordance with the requirements of the boiler safety regulations.]

(2) Installation:

(a) Vessels subject to external corrosion shall be so installed that there is sufficient access to all parts of the exterior to permit proper inspection of the exterior surfaces, otherwise sufficient protection against corrosion shall be provided, or the vessel shall be of such size, dimension and connected that it can be readily removed from its location for inspection.

(b) Vessels having handholes, manholes, or cover plates to permit inspection of interior surfaces shall be so installed that these openings are readily accessible.

(c) When cylindrical vessels are installed in a vertical position and subject to corrosion, the bottom head, if dished, should be concave to pressure to facilitate proper drainage.

(d) The installed vessel shall be so located that the stamping or marking shall be accessible to the inspector and shall not be obliterated by insulation or other covering not readily removable.

(3) Pressure relieving devices (pressure vessels):

(a) Single pressure relieving devices shall be set to operate at a pressure not exceeding the maximum allowable working pressure (MAWP) of the vessel.

(b) All pressure vessels other than unfired steam boilers shall be protected by a pressure relieving device that shall prevent the pressure within the vessel from rising more than five (5) percent above the maximum allowable working pressure (MAWP) when full open and discharging, except as in paragraphs (c) and (d) of this subsection. Unfired steam boilers shall have protective devices as required by this administratie regulation.

(c) The aggregate capacity of the pressure relieving devices connected to any vessel or system of vessels for the release of a liquid, air, steam, or other vapor shall be sufficient to discharge the maximum quantity that can be generated or supplied to the attached equipment without permitting a rise in pressure within the vessel or more than sixteen (16) percent above the maximum allowable working pressure (MAWP) of the vessel when all pressure relieving devices are full open and discharging.

(d) Where an additional hazard can be created by exposure of a pressure vessel to fire or other unexpected sources of external heat, supplemental pressure relieving devices shall be installed capable of protecting against excessive pressure. These supplemental pressure relieving devices shall be capable of preventing the pressure from rising more than twenty-one (21) percent above the maximum allowable working pressure.

(e) Pressure relieving devices shall be constructed, located, and installed so that they are readily accessible for inspection and repair and so that they cannot be readily rendered inoperative and shall be selected on the basis of their intended service.

(f) Safety, safety relief, and relief valves shall be of the direct spring loaded type.

(g) Pilot operated pressure relief valves may be used, provided that the pilot is self-actuated and the main valve will open automatically at not over the set pressure and will discharge its full rated capacity if some essential part of the pilot should fail.

(h) The spring in a pressure relief valve in service for pressures up to and including 250 psi shall not be reset for any pressure more than ten (10) percent above or below that for which the valve is marked. For higher pressures, the spring shall not be reset for any pressure more than five (5) percent above or five (5) percent below that for which the safety or relief valve is marked.

(i) The set pressure tolerances, plus or minus, of pressure relief valves shall not exceed two (2) psi for pressures up to and including seventy (70) psi and three (3) percent for pressures above seventy (70) psi. All other requirements regarding over pressure protection devices shall be in accordance with UG 125 through UG 136 of ASME Pressure Vessel Code, Section VIII, Division 1. [A boiler having the standard stamping of another state that has adopted a standard of construction equivalent to the standard of the Commonwealth of Kentucky may be accepted by the department; provided, however, that the person desiring to install the boiler or pressure vessel shall make application for the installation and shall file with this application the manufacturer's data report covering the construction of the boiler in question (see also "State Specials" 815 KAR 15:010, Section 1).

(3) All new boiler or pressure vessel installations, including reinstalled boilers or pressure vessels, shall be installed in accordance with the requirements of the latest revision of the ASME Boiler and Pressure Vessel Code for power boilers and the boiler safety regulations.

(4) Where special designs are not covered by said code, their construction may be determined by the manufacturer in cooperation with the purchaser, subject to the approval of the chief boiler inspector and the Board of Boiler Rules. Upon completion of the installation, all boilers and pressure piping shall be inspected as set forth in 815 KAR 15:020.]

Section 2. Maximum Allowable Working Pressure for [3.] Existing Installations[, Power Boilers and Pressure Vessels]. (1) Maximum allowable working pressure for standard boilers and pressure vessels. The maximum allowable working pressure for standard boilers and pressure vessels shall be determined in accordance with the applicable provision of the edition of ASME Boiler and Pressure Vessel Code under which they were constructed and stamped.

(2) Maximum allowable working pressure for nonstandard boilers.

(a) The maximum allowable working pressure on the shell of a nonstandard boiler, pressure vessel or drum shall be determined by the strength of the weakest section of the structure, computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint or tube ligaments, the inside diameter of the weakest course and the factor of safety allowed by subsection (h) of this section. [~~the boiler safety regulations:~~]

(b) Formulas. (TS times t times E) divided by (R times FS) equals maximum allowable working pressure in psig; where, [~~:~~

~~Where:~~]

1. TS = ultimate tensile strength of shell plates psi.

2. t = minimum thickness of shell plate, of weakest course, in inches.

3. E = efficiency of longitudinal joint.

(c) For riveted construction, E may [~~shall~~] be determined under [~~by rules given in~~] Paragraph PR-15 of ASME Boiler and Pressure Vessel Code for Power Boilers[~~, 1971 Edition, adopted by reference herein, which is published by and copies available from American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, New York 10017. This document is also available for review Monday through Friday from 8 a.m. to 4:30 p.m. at the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky~~].

(d) For tube ligaments, E shall be determined by rules given in Paragraphs PG-52 and 53 of ASME Boiler and Pressure Vessel Code for Power Boilers.

For seamless construction, E shall be considered 100 percent.

R = inside radius of the weakest course of the shell or drum in inches.

FS = factor of safety permitted.

(e) [~~(b)~~] Tensile strength. When the tensile strength of steel or wrought iron shell plates is not known, it shall be taken at 55,000 psi for steel and 45,000 psi for wrought iron.

(f) [~~(c)~~] Crushing strength of mild steel. The resistance to crushing of mild steel shall be taken at 95,000 psi of cross section area.

(g) [~~(d)~~] Strength of rivets in shear. When computing the ultimate strength of rivets in shear, the following values in pounds psi of the cross sectional area of the rivet shank shall be used:

Iron rivets in single shear	38,000 lbs.
Iron rivets in double shear	76,000 lbs.
Steel rivets in single shear	44,000 lbs.
Steel rivets in double shear	88,000 lbs.

When the diameter of the rivet holes in the longitudinal joints of a boiler is not known, the diameter and cross sectional area of rivets, after driving, may be selected from the following table or as ascertained by cutting out one (1) rivet in the body of the joint:

SIZES OF RIVETS BASED ON PLATE THICKNESS
(In Inches)

Thickness of plate	1/4	9/32	5/16	11/32	3/8	13/32
Diameter of rivet after driving	11/16	11/16	3/4	3/4	13/16	13/16
Thickness of plate	7/16	15/32	1/2	9/16	5/8	-----
Diameter of rivet after driving	15/16	15/16	15/16	1 1/16	1 1/16	-----

(h) [~~(e)~~] Factors of safety. The following factors of safety shall be increased by the inspector if the condition and safety of the boiler demand it:

1. The lowest factor of safety permissible on existing installations shall be four and five-tenths (4.5) except[~~ing~~] for horizontal return tubular boilers having continuous longitudinal lap seams more than twelve (12) feet in length where the factor of safety shall be eight (8), but [~~and~~] when the [~~this latter type of~~] boiler is removed from its existing setting, it shall not be reinstalled for pressure in excess of fifteen (15) lbs. psig.

2. Reinstalled or secondhand nonstandard boilers shall have a minimum factor of safety of six (6) when the longitudinal seams are of lap riveted construction and minimum factor of safety of five (5) when the longitudinal seams are of butt and double strap construction.

(3) Age limit of fire tube boilers. The age limit of a horizontal return tubular, flue or cylinder boiler having a longitudinal lap joint and operating at a pressure in excess of fifty (50) lbs. psig shall be twenty (20) years.

(4) Welded boilers. Boilers having either longitudinal or circumferential seams of fusion welded construction shall have been constructed and stamped in accordance with the rules and regulations of the ASME Boiler and Pressure Vessel Code for [~~of~~] Power Boilers or shall have the standard stamping of a state that has adopted a standard of construction equivalent to the standards of the ASME [~~Boiler and Pressure Vessel~~] Code for Power Boilers and Pressure Vessels.

(5) Cast iron headers and mud drums. The maximum allowable working pressure on a water tube boiler, the tubes of which are secured to cast iron or malleable iron headers, or which have cast iron mud drums, shall not exceed 160 lbs. psig.

(6) Pressure on cast iron boilers. The maximum allowable working pressure for any cast iron boiler, except for hot water boilers, shall be fifteen (15) lbs. psig.

(7) Safety valve requirements for power boilers:

(a) The use of weight-level safety valves shall not be used [~~is prohibited~~] and the [~~these~~] valves shall be replaced by safety valves that conform to the requirements of the ASME [~~Boiler and Pressure Vessel~~] Code for Power Boilers.

(b) Safety valves having either the seat or disc of cast iron shall not be used.

(c) Each boiler shall have at least one (1) safety valve, and, if it has more than 500 square feet of water heating surface, it shall have two (2) or more safety valves.

(d) Safety valves and safety relief valves shall be installed with their spindles vertical.

(e) The method of computing the steam generating capacity of the boiler shall be as given in paragraph A-12 of the ASME Boiler and Pressure Vessel Code for Power Boilers. The safety valve or valves shall be connected to the boiler, independent of any other steam connection, and attached to the boiler, without intervening pipe or fittings. If [~~Where~~] alteration is required to conform to this requirement [~~rule and regulation~~], owners and users shall be allowed one (1) year in which to complete the work. [~~No~~] Valves [~~of any description~~] shall not be placed between the safety valve and the boiler or [~~, nor~~] on the discharge pipe (if used) between the safety valve and the atmosphere. If [~~When~~] a discharge pipe is used, it shall be full sized and fitted with an open drain to prevent water lodging in the upper part of the safety valve or discharge pipe and supported independently of the safety valve. If [~~When~~] an elbow is placed on a safety valve or discharge pipe, it shall be located close to the safety valve outlet. All safety valve discharges shall be [~~so~~] located or piped to avoid [~~so as not to~~] endangering persons using walkways or platforms used to control the main valves of boilers or steam headers.

(f) The safety valve capacity of each boiler shall be sufficient to allow [~~such that~~] the safety valve or valves to [~~will~~] discharge all the steam [~~that can be~~] generated by the boiler without allowing the pressure to rise more than six (6) percent above the maximum allowable working pressure.

(g) For each boiler, one (1) or more safety valves on the boiler [~~proper~~] shall be set at or below the maximum allowable working pressure. If additional valves are used, the highest pressure setting

shall not exceed the maximum allowable working pressure by more than three (3) percent. The complete range of pressure settings of all of the saturated steam safety valves on a boiler shall not exceed ten (10) percent of the highest pressure to which any valve is set. If [When] two (2) or more boilers operating at different pressures and safety valve settings are interconnected, the lower pressure boilers or interconnected piping shall be equipped with safety valves of sufficient capacity to prevent overpressure considering the generating capacity of all boilers. If [In those cases where] the boiler is supplied with feed water directly from pressure mains without the use of feeding apparatus (not to include return taps), [no] safety valve shall not be set at a pressure greater than ninety- four (94) percent of the lowest pressure obtained in the supply main feeding the boiler.

(h) The relieving capacity of the safety valves on any boiler may be checked by one (1) of the three (3) following methods; and, if found to be insufficient, additional capacity shall be provided.

1. By making the accumulation test, which consists of shutting off all other steam discharge outlets from the boiler and forcing the fires to the maximum. The safety valve capacity shall be sufficient to prevent a pressure in excess of six (6) percent above the maximum allowable working pressure. This method shall [should] not be used on a boiler with a superheater or reheater.

2. By measuring the maximum amount of fuel that can be burned and computing the corresponding evaporative capacity (steam generating capacity) upon the basis of the heating valve of this fuel. This computation may [These computations shall] be made as outlined in the Appendix of the ASME [Boiler and Pressure Vessel] Code for Power Boilers.

3. By determining the maximum evaporative capacity by measuring the feed water.

4. If [When] either of the methods outlined above [in subparagraph 2 or 3 of this paragraph] is employed, the sum of the safety valve capacity shall be equal to or greater than the maximum evaporative capacity (maximum steam generating capacity) of the boiler. The minimum safety valve or safety relief valve relieving capacity for other than electric boilers shall be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface and water wall heating surface, as given in the following table:

MINIMUM POUNDS OF STEAM PER HOUR
PER SQUARE FOOT OF SURFACE

	Fire Tube Boilers	Water Tube Boilers
Boiler heating surface		
Hand-fired	5	6
Stoker-fired	7	8
Oil-, gas-, or pulverized-fuel-fired	8	10
Waterwall heating surface		
Hand-fired	8	8
Stoker-fired	10	12
Oil-, gas-, or pulverized-fuel-fired	14	16

a. If [When] a boiler is fired only by a gas having a heat value in excess of 200 BTU per cubic foot, the minimum safety valve or safety relief valve relieving capacity may be based on the values given for hand-fired boiler above.

b. The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be three and one-half (3 1/2) pounds per hour per kilowatt input.

(8) Boiler feeding and feed piping: Except as allowed by paragraphs (b) through (f) of this subsection, boilers having more than 500 square feet of water-heating surface shall have at least two (2) means of feeding water. Each source of feeding shall be capable of supplying water to the boiler at a pressure of three (3) percent higher than the highest setting of any safety valve on the boiler.

(a) All boilers shall have a feed supply which allows [will permit] the boiler to be fed at any time while under pressure.

(b) [Except as provided for below, boilers having more than 500 square feet of water heating surface shall have at least two (2) means of feeding water. Each source of feeding shall be capable of supplying water to the boiler at a pressure of three (3) percent higher than the highest setting of any safety valve on the boiler.

(c) For] Boilers that are fired with solid fuel not in suspension and for boilers whose setting or heat source can continue to supply sufficient heat to cause damage to the boiler if the feed supply is interrupted, one (1) such means of feeding shall be steam operated.

(c) [(d)] Boilers fired by gas[eous], liquid, or solid fuel in suspension, may be equipped with a single means of feeding water if [; provided, means are] furnished for the immediate shut off of the heat input if the water feed is interrupted. If the boiler has [For boilers having] a water-heating surface of not more than 100 square feet, the feed piping and connection to the boiler shall not be smaller than one-half (1/2) inch pipe size. If the boiler has [For boilers having] a water-heating surface more than 100 square feet, the feed piping and connection to the boiler shall not be less than three-fourths (3/4) inch pipe size.

(d) [(e)] High temperature water boilers shall be provided with means of adding water to the boiler or system while under pressure. The feed water shall be introduced into the boiler to prevent its discharge [in such a manner that it will not be discharged] close to riveted joints of the shell, [or] furnace sheets, [or] directly against surfaces exposed to gases at high temperature or direct radiation from the fire.

(e) [(f)] The feed pipe to the boiler shall be provided with a check valve near the boiler and a valve or cock between the check valve and the boiler. If [When] two (2) or more boilers are fed from a common source, there shall also be a globe or regulating valve on the branch to each boiler between the check valve and source of supply. If [Whenever] globe valves are used on feed piping, the inlet shall be under the disc of the valve. The valve shall be located as close to the boiler as is practicable.

(f) If [(g) When] de-aerating heaters are not employed, it is recommended that the temperature of the feed water be no less than 120 degrees Fahrenheit to avoid the possibility of setting up localized stress. If [Where] de-aerating heaters are employed, it is recommended that the minimum feed water temperature be no less than 215 degrees Fahrenheit so that dissolved gases may be thoroughly released.

(9) Fusible plugs. Fire-actuated fusible plugs, if used, shall conform to the requirements of the ASME Boiler and Pressure Vessel Code for Power Boilers, Sections A-19, A-20 and A-21.

(10) Water columns, gauge glasses, and gauge cocks.

(a) [No] Outlet connections, except for damper regulator, feed water regulator, low-water fuel cutout, drains, steam gauges, or [such] apparatus that does not permit the escape of an appreciable amount of steam or water [therefrom] shall not be placed on the piping that connects the water column to the boiler. The minimum size of the steam and water connection to the water column shall be one (1) inch pipe size, and each water column shall be provided with a valved drain of at least three-fourths (3/4) inch pipe size. [;] The drain shall be [to be] piped to a safe location.

(b) Each boiler shall have three (3) or more gauge cocks located within the range of the visible length of the water glass, except when the boiler has two (2) water glasses with independent connections to the boiler located on the same horizontal lines and not less than two (2) feet apart. Two (2) gauge cocks are sufficient for boilers not over thirty-six (36) inches in diameter in which the heating surface does not exceed 100 square feet [have but two (2) gauge cocks].

(c) Gauge cocks are not required for electric boilers operating at pressures not exceeding 400 psi [need not be fitted with gauge cocks]. The gauge cock connections shall be not less than one-half

(1/2) inch pipe size.

(d) For all installations where the water gauge glass or glasses are more than thirty (30) feet from the boiler operating floor, it is recommended that water level indicating or recording gauges be installed at eye height from the operating floor.

(11) Pressure gauges.

(a) Each boiler shall have a pressure gauge connected to the steam space or to the water column or its steam connection. The pressure gauge shall be connected to a siphon or equivalent device of sufficient capacity to keep the gauge tube filled with water and so arranged that the gauge cannot be shut off from the boiler except by a cock placed near the gauge and provided with a tee or lever handle arranged to be parallel to the pipe in which it is located when the cock is open. The dial of the pressure gauge shall be graduated to approximately double the pressure at which the safety valve is set, but, in no case to less than one and one-half (1 1/2) times the pressure.

(b) If [~~When~~] a pressure gauge connection longer than eight (8) feet becomes necessary, a shutoff valve may be used near the boiler provided the valve is of the outside screw and yoke type and is locked or wired open. The line shall be ample size with provisions for free blowing.

(c) Each boiler shall be provided with a one-fourth (1/4) inch nipple and globe valve connected to the steam space for the exclusive purpose of attaching a test gauge when the boiler is in service so that the accuracy of the boiler pressure gauge may be ascertained.

(12) Stop valves.

(a) Each outlet from a boiler (except safety valve connections) shall be fitted with a stop valve located as close as practicable to the boiler.

(b) If [~~When~~] boilers provided with manholes are connected to a common main, the steam or high temperature water connection from each boiler shall be fitted with two (2) stop valves having an ample free blow drain between them. The discharge of this drain shall be visible to the operator while manipulating the valves and shall be piped clear of the boiler setting. The stop valves shall consist [~~preferably~~] of one (1) automatic nonreturn valve (set next to the boiler) and a second valve of the outside screw and yoke type shall [~~to~~] be installed in accordance with Section I of the ASME Boiler and Pressure Vessel Code.

(13) Blow-off piping.

(a) The construction of the setting around each blow-off pipe shall permit free expansion and contraction. Careful attention shall be given to the problem of sealing these setting openings without restricting the movement of the blow-off piping. All blow-off piping, when exposed to furnace heat, shall be protected by firebrick or other heat resisting material[~~, se~~] constructed to allow close inspection of [~~that~~] the piping [~~may be readily inspected~~].

(b) When the maximum allowable working pressure exceeds 100 psig, blow-off piping shall be extra heavy from the boiler to the valve or valves, and shall be run full size without use of reducers or bushings. The piping shall be of extra heavy wrought iron or steel and shall not be galvanized. All fittings between the boiler and blow-off valve shall be steel or extra heavy fittings of malleable iron. In case of renewal of blow-off pipe or fittings, they shall be installed in accordance with rules and regulations for new installations.

(14) Blowdown [~~Blow-off~~] valves.

(a) Ordinary type straight-run globe valves in which [~~of the ordinary type and valves of such types that~~] dams or pockets may [~~can~~] exist for the collection of sediment shall not be used on these [~~such~~] connections. Straightway Y-type globe valves or angle valves may be used in vertical pipes, or they may be used in horizontal runs of piping provided they are so constructed or installed allowing [~~that~~] the lowest edge of the opening through the seat to be [~~is~~] at least twenty-five (25) percent of the inside diameter below the center line of the valve.

(b) The blow-off valve or valves and the pipe between them and the boiler shall be of the same size except where a larger pipe for the return of condensation is used as provided for by the ASME Boiler and Pressure Vessel Code for Power Boilers. On all boilers, except those used for high temperature water, traction or portable purposes, when the allowable working pressure exceeds 100 psi, each bottom blow-off pipe shall have two (2) slow-opening valves, or one (1) slow-opening valve and a quick-opening valve, or a cock complying with the requirements of the ASME Boiler and Pressure Vessel Code for Power Boilers.

(c) If a blow-off cock is used, the plug shall be held in place by a guard or gland. The plug shall be distinctly marked in line with the passage. A [~~By~~] slow-opening valve [~~is meant a valve which~~] requires at least five (5) 360-degree turns of the operating mechanism to change from full-closed to full-opening, or [~~and~~] vice versa.

(d) If [~~On~~] a boiler has [~~having~~] multiple blow-off pipes, a single master valve may be placed on the common blow-off pipe from the boiler, in which case only one (1) valve on each individual blow-off shall be [~~is~~] required. In this [~~such a~~] case, either the master valve or the individual valves or cocks shall be of the slow-opening type [~~valves~~], or a slow-opening valve and a quick-opening valve or cock may be combined in one (1) body and may be used if [~~provided~~] the combined fitting is the equivalent of two (2) independent slow-opening valves or a slow-opening valve and a quick-opening valve or cock and if [~~provided further that~~] the failure of one (1) to operate cannot affect the operation of the other. The bottom blow-off pipes of every traction engine or portable boiler shall have at least one (1) slow-opening or quick-opening blow-off valve or cock conforming to the requirements of Section I of the ASME Boiler and Pressure Vessel Code. Only one (1) blow-off valve, which shall be of a slow- opening type, shall be [~~is~~] required on forced circulation and electric boilers having a normal water content not exceeding 100 gallons.

(15) Boiler blowoff equipment. The blowdown from a boiler or boilers that enters a sanitary sewer system or blowdown which is considered a hazard to life or property shall pass through some form of blowoff equipment that will reduce pressure and temperature as required hereinafter.

(a) The temperature of the water leaving the blowoff equipment shall not exceed 150 degrees Fahrenheit.

(b) The pressure of the blowdown leaving any type of blowoff equipment shall not exceed five (5) psig.

(c) The blowoff piping and fittings between the boiler or boilers and the blowoff tank(s) shall comply with Paragraphs PG-58 and PG-59 of the ASME Boiler and Pressure Vessel Code, Section I.

(d) The blowoff tank construction shall comply with ASME Pressure Vessel Code, Section VIII (Division I).

(e) All materials used in the fabrication of boiler blowoff equipment shall comply with Material Section II of the ASME Boiler and Pressure Vessel Code.

(f) When a steam separator is used, it shall be designed to withstand at least twice the operating pressure of the separator and it shall be equipped with a vent, inlet, outlet and a pressure gauge.

(g) All blowoff equipment shall be fitted with openings to facilitate cleaning and inspection.

(h) A copy of a booklet for the design, construction and arrangement of boiler blowoff equipment may be obtained from the National Board of Boiler and Pressure Vessel Inspectors, whose address is 1055 Crupper Avenue, Columbus, Ohio 43229.

(16) Piping.

(a) Piping connected to the outlet of a boiler, which comes with the ASME Boiler and Pressure Vessel Code requirements, shall be attached as follows:

1. Screwing into a tapped opening with a screwed fitting or a valve at the other end.

2. Screwing each end into tapered flanges, fittings, or valves with or without rolling or peening.

3. Bolted joints, including those of the Van Stone type.

4. Expanding into grooved holes, seal welding, if desired. Pipe which is expanded, rolled, or peened shall be made from open-hearth or electric-furnace steel.

(b) If exposed to products of combustion, blow-off piping of fire-tube boilers shall be attached as outlined in paragraph 1 of subsection (a) of this section. [~~by paragraph (a)1 of this subsection if exposed to products of combustion, or by paragraph (a)1, 2, or 3 of this subsection,~~] If not so exposed to products of combustion, the piping shall be attached as outlined in paragraph (a)1, 2 or 3 of this subsection. Fusion welding for sealing purposes at the junction of bolted joints may be used.

(c) Welding may be used to attach piping to nozzles or fittings if the rules for fusion welding or forge welding are followed. If two (2) or more boilers with manholes are connected to a common steam or high temperature water main or header, all welded external piping [~~external to the boiler,~~] from the boiler out to the second stop valve [~~when two (2) or more boilers with manholes are connected to a common steam or high temperature water main or header,~~] shall be installed by a manufacturer or contractor authorized to use any one (1) of the American Society of Mechanical Engineers Code symbol stamps for pressure piping, power boilers or assembly stamps. The piping or [~~of~~] fittings, adjacent to the welded joint farthest from the boiler, shall be stamped with the pressure piping, power boiler or assembly code symbol stamp of the American Society of Mechanical Engineers when approved by the inspector.

CHARLES A. COTTON, Commissioner
EDWARD J. HOLMES, Secretary
APPROVED BY AGENCY: February 3, 1994
FILED WITH LRC: February 8, 1994 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 22, 1994 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 March 17, 1994, (five days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is received. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: 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: All high pressure boiler and pressure vessel owners.

(a) Direct and indirect costs or savings to those affected: No change in costs or savings for those companies operating under established practices of the industry and previous requirements of the Boiler Code.

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 paperwork or reporting requirements will be changed with this amendment.

(2) Effects on the promulgating administrative body: This regulation clarifies and refines existing requirements, updates standards and complies with KRS Chapter 13A.

(a) Direct and indirect costs or savings: None involved with the implementation of this amendment.

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: This regulation represents no change in existing methods used in the department.

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No known conflicting statutes.

(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. All boiler and pressure vessel contractors and standards for boilers and pressure vessels need to be uniform in treatment and protection.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Office of State Fire Marshal
(Proposed Amendment)

815 KAR 15:051. Heating boiler supplemental requirements [~~Installations of~~] steam heating, hot water heating and hot water supply boilers.

RELATES TO: KRS 236.030
STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 236.030 authorizes [~~provides~~] the commissioner, through [~~upon advisement of~~] the Board of Boiler Rules, to fix reasonable standards for the safe construction, installation, inspection and repair of boilers and pressure piping. This administrative regulation sets forth [~~the basic~~] requirements for heating boilers which supplement the basic requirements for all vessels set forth in 815 KAR 15:025 and 815 KAR 15:026. Many of the provisions have been in effect for some time under the administrative regulation which preceded this one. This amendment is necessary to codify additional safety measure applicable only to heating boilers; to comply with the requirements of KRS Chapter 13A that the administrative regulation be separated and deal with one (1) topic; and also to allow mechanical couplings to be used where appropriate.

Section 1. New Installations. (1) All hot water supply, hot water and steam [~~, Heating Boilers. (1) Requirements.~~

~~(a) No~~] heating boilers, except reinstalled boilers and those approved under the "special design" provisions of 815 KAR 15:025, Section 5, shall be [~~exempted by these rules and regulations, shall hereafter be installed in this Commonwealth unless it has been~~] constructed, stamped, [~~and~~] inspected and installed in conformity with the ASME Boiler and Pressure Vessel Code, Section IV. All boilers and pressure vessels shall comply with other applicable provisions of 815 KAR Chapter 15 of the Kentucky administrative regulations. [~~for heating boilers, and is approved, registered, and inspected in accordance with the requirements of the boiler safety regulations (see also "State specials" 815 KAR 15:010, Section 1(37)).~~

~~(b) All new heating boiler installations, including reinstalled boilers, must be installed in accordance with the requirements of the latest revision of the ASME Boiler and Pressure Vessel Code for heating boilers and the boiler safety regulations.~~]

(2) Safety valve requirements for steam boilers.

(a) Each steam boiler shall have one (1) or more officially rated safety valve[s] of the spring-pop type adjusted and sealed to discharge at a pressure not to exceed fifteen (15) psi. Seals shall be attached in a manner to prevent the valve from being taken apart without breaking the seal. The safety valves shall be arranged so that they cannot be reset to relieve at a higher pressure than the maximum allowable working pressure of the boiler. A body drain connection below seat level shall be provided by the manufacturer and this drain shall not be plugged during or after field installation. For iron and steel bodied valves exceeding two (2) inch pipe size, the drain hole, or holes, shall be tapped not less than three-eighths (3/8) inch pipe size. For valves two (2) inch pipe size or less, the drain hole shall not be less than one-fourth (1/4) inch in diameter.

(b) [No] Safety valves for a steam boiler shall not be smaller than one-half (1/2) inch. [No] Safety valves shall not be larger than four and one-half (4 1/2) inches. The inlet opening shall have an inside diameter equal to, or greater than, the seat diameter.

(c) The minimum relieving capacity of valve, or valves, shall be governed by the capacity-marking on the boiler.

(d) The minimum valve capacity in pounds per hour shall be the greater of that determined by dividing the maximum BTU output at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1000, or shall be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface as given in Table "A." In many cases, a greater relieving capacity of valves will have to be provided than the minimum specified by the Table [these rules]. In every case, the requirements of paragraph (e) of this subsection shall be met.

TABLE A
MINIMUM POUNDS OF STEAM PER HOUR PER SQUARE FOOT OF HEATING SURFACE

	Fire Tube Boilers	Water Tube Boilers
Boiler Heating Surface		
Hand fired	5	6
Stoker fired	7	8
Oil, gas or pulverized fuel fired	8	10
Waterwall Heating Surfaces		
Hand fired	8	8
Stoker fired	10	12
Oil, gas or pulverized fuel fired	14	16

1. When a boiler is fired only by a gas having a heat valve not in excess of 200 BTU per cubic foot, the minimum safety valve or safety relief valve relieving capacity may be based on the values given for hand fired boilers.

2. The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be three and one-half (3 1/2) pounds per hour kilowatt input.

3. For heating surface determination, see ASME Code for Heating Boilers, paragraph HG403.

(e) The safety valve capacity for each steam boiler shall be sufficient to prevent [such that with the fuel-burning equipment installed and operated at maximum capacity,] the pressure from rising [cannot rise] more than five (5) psi above the maximum allowable working pressure when the fuel-burning equipment is installed and operated at maximum capacity.

(f) If [When] operating conditions are changed or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions and be in accordance with paragraph (e) of this subsection. If [The] additional valves are required, they [on account of changed conditions,] may be installed on the outlet piping, if [provided] there is no intervening valve.

(3) Safety relief valve requirements for hot water heating boilers and hot water supply boilers.

(a) Each hot water heating boiler shall have at least one (1) officially rated pressure relief valve set to relieve at or below the maximum allowable working pressure of the boiler.

(b) Each hot water supply boiler shall have at least one (1) officially rated pressure/temperature safety relief valve of the automatic-reseating type, set to relieve at or below the maximum allowable pressure of the boiler.

(c) Safety relief valves officially rated as to capacity shall have pop action when tested by steam.

(d) If [When] more than one (1) safety relief valve is used on either hot water heating or hot water supply boilers, the additional valve or valves shall be officially rated and may be set within a range not to exceed six (6) psi above the maximum allowable working pressure up to and including exceeding sixty (60) psi and five (5) percent for those having a maximum allowable working pressure exceeding sixty (60) psi, [. Safety relief valves] shall be spring loaded and [. Safety relief valves] shall be [so] arranged to prevent resetting [that they cannot be reset] at a higher pressure than the maximum permitted in this subsection [paragraph].

(e) [(b) No] Materials which are likely [liable] to fail due to deterioration or vulcanization when subjected to saturated steam temperature corresponding to capacity test pressure shall not be used for any part.

(f) [(c) No] Safety relief valves shall not be smaller than three-fourths (3/4) inch, nor larger than four and one-half (4 1/2) inches, standard pipe size, except that boilers having a heat input not greater than 15,000 BTU per hour may be equipped with a rated safety relief valve of one-half (1/2) inch, standard pipe size; [.] the inlet opening shall have an inside diameter approximately equal to, or greater than, the seat diameter; and [. In no case shall] the minimum opening through any part of the valve shall not be less than one-fourth (1/4) inch diameter, or its equivalent area.

(g) [(d)] The required steam relieving capacity, in pounds per hour, of the pressure relieving device, or devices, on a boiler shall be the greater of that determined by dividing the maximum output in BTU at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1000, or shall be determined on the basis of pounds of steam generated per hour, per square foot of boiler heating surface, as given in Table A. In many cases a greater relieving capacity of valves will have to be provided than the minimum specified by the Table [these rules]. In every case, the requirements of paragraph (i) [(f)] of this subsection shall be met.

(h) If [(e) When] operating conditions are changed or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions and shall be in accordance with paragraph (i) [(f)] of this subsection. The additional valves required[, on account of changed conditions,] may be installed on the outlet piping if [provided] there is no intervening valve.

(i) [(f)] Safety relief valve capacity for each boiler with a single safety relief valve shall be such that, with the fuel burning equipment installed and operated at maximum capacity, the pressure cannot rise more than ten (10) percent above the maximum allowable working pressure when more than one (1) safety relief valve is used, the over pressure shall be limited to ten (10) percent above the set pressure of the highest set valve allowed by subsection (2) of this section.

[(4) New installations of heating boilers. All new installations of heating boilers shall comply with Section 4 of the ASME Code.]

Section 2. Mechanical Couplings for Heating Boilers. (1) Design limits. If mechanical pipe couplings are used, the pipe, fittings, couplings and gaskets shall have design ratings by the manufacturer which meet or exceed the operating control settings of the boiler itself and shall comply with this section.

(2) Materials used and location.

(a) Piping materials listed in the ASME Code, Section IV, shall be used up to the first stop valve on supply and return piping.

(b) Mechanical pipe couplings tested and listed by a nationally

recognized testing laboratory may then be used in lieu of flanged, threaded or welded joints within the complete pressure piping system of boilers in which the operating temperatures shall not exceed 200 degrees Fahrenheit and operating pressures shall not exceed 100 psig.

(c) All mechanical pipe couplings shall be fabricated and installed with strict adherence to manufacturers written procedures and using only factory approved tooling.

(d) Mechanical couplings shall not be installed unless the temperature controls on the boiler shall be permanently set to prevent operation in excess of 200 degrees Fahrenheit.

(3) Tests. The mechanical coupling shall be subjected to the same hydrostatic pressures as are applied to test the strength of the boiler (i.e., up to one and one-half (1 1/2) times the maximum allowable pressure of the boiler).

(4) Certification by the contractor. The contractor shall document to the inspector that the mechanical joints conform to the design and were installed to comply with the manufacturer procedures, utilizing the materials and equipment specified and that the temperature and pressure ranges comply with subsection (2)(b) of this section.

Section 3. Existing Installations, Heating Boilers. (1) ASME Code boilers. The maximum allowable working pressure of a boiler built in accordance with the ASME Code shall not [~~, in no case,~~] exceed the pressure indicated by the manufacturer's identification stamped or cast upon the boiler or upon a plate secured to it.

(2) Noncode riveted boilers. The maximum allowable working pressure on the shell of a noncode riveted heating boiler shall be determined in accordance with 815 KAR 15:040, Section 2 [~~806 KAR 50:165, Section 2(1), covering existing installations~~] (power boiler[s] installations) except that[~~, in no case, shall~~] the maximum allowable working pressure of a steam boiler shall not exceed fifteen (15) psi or a hot water boiler shall not exceed 160 psi at a temperature not to exceed 250 degrees Fahrenheit.

(3) Noncode welded boilers. The maximum allowable working pressure of a noncode steel or wrought iron heating boiler of welded construction shall not exceed fifteen (15) psi. For other than steam service, the maximum allowable working pressure shall be calculated in accordance with Section IV of the ASME Boiler and Pressure Vessel Code.

(4) Noncode cast iron boilers.

(a) The maximum working pressure of a noncode boiler, composed principally of cast iron, shall not exceed fifteen (15) psi for steam service or thirty (30) psi for hot water service.

(b) The maximum allowable working pressure of a noncode boiler having cast iron shell or heads and steel or wrought iron tubes shall not exceed fifteen (15) psi for steam service or thirty (30) psi for water service.

(5) Hydrostatic tests.

(a) If [~~Where~~] repairs are necessary which [~~in any way~~] affect the working pressure or safety of a boiler, it shall be subjected to a hydrostatic test of the greater of sixty (60) psig or one and one-half (1 1/2) times the maximum allowable working pressure that is stamped on the boiler with the exception that cast iron steam boilers shall be subjected to a hydrostatic test of not less than forty-five (45) psig.

(b) In making hydrostatic pressure tests, the pressure shall be controlled to prevent [~~under such control that in no case shall~~] the required test[s] pressure from being be exceeded by more than ten (10) psig.

(c) Hydrostatic test[s] water shall be at no less than ambient room temperature, but in no case less than seventy (70) degrees Fahrenheit, nor high enough to allow the metal temperature to exceed 120 degrees Fahrenheit.

(d) The safety valve[~~(s)~~] or safety relief valve[~~(s)~~] shall be removed or each valve disc shall be held to its seat by means of a testing clamp.

(e) To test for [~~all cases involving the question of~~] tightness, the test pressure shall be equal to the relieving pressure of the safety valve[~~(s)~~] having the lowest relief setting.

(6) General. If[~~, in~~] the inspector finds that [~~judgment of the inspector,~~] a steam heating boiler is unsafe for operation at the pressure previously approved, the pressure shall be reduced, proper repair made, or the boiler retired from service.

CHARLES A. COTTON, Commissioner
EDWARD J. HOLMES, Secretary

APPROVED BY AGENCY: February 3, 1994

FILED WITH LRC: February 8, 1994 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 22, 1994 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 March 17, 1994, (five days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is received. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: 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: All high pressure boiler and pressure vessel owners.

(a) Direct and indirect costs or savings to those affected: No change in costs or savings for those companies operating under established practices of the industry and previous requirements of the Boiler Code.

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 paperwork or reporting requirements will be changed with this amendment.

(2) Effects on the promulgating administrative body: This regulation clarifies and refines existing requirements, updates standards and complies with KRS Chapter 13A.

(a) Direct and indirect costs or savings: None involved with the implementation of this amendment.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: This regulation represents no change in existing methods used in the department.

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No known conflicting statute.

(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. All boiler and pressure vessel contractors and standards for boilers and pressure vessels need to be uniform in treatment and protection.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Office of State Fire Marshall
(Proposed Amendment)

815 KAR 15:060. Nuclear vessel requirements.

RELATES TO: KRS Chapter 236 [236.030]
STATUTORY AUTHORITY: KRS Chapter 13A, 236.030
NECESSITY AND FUNCTION: KRS 236.030 authorizes [requires] the commissioner, through [upon advisement of] the Board of Boiler Rules, to fix reasonable standards for the safe construction, installation, inspection and repair of boilers and pressure piping. This administrative regulation sets forth the basic requirements for nuclear vessels. This amendment is necessary to clarify language in accordance with KRS Chapter 13A.

Section 1. Nuclear Vessels. (1) ASME, National Board stamping. All nuclear vessels covered under the scope of Section III of the ASME Boiler and Pressure Vessel Code shall be constructed, stamped and installed in accordance with the boiler safety rules of the latest edition of the ASME Boiler and Pressure Vessel Code, Section III, together with the addenda and code cases [thereto]. These [Such] vessels shall be registered with the National Board and [so] stamped to indicate their registration. [(see also "State Specials" 815 KAR 15:010, Section 1(37)).]

(2) Responsibilities of parties involved.

(a) The various parties involved in the work of producing vessels under Section III of the ASME Boiler and Pressure Vessel Code have definite responsibilities in meeting code requirements. The owner requiring that a vessel or vessels be designed, constructed, tested and certified to be a code vessel in compliance with the code shall provide [or cause to be provided] a diagram of each vessel, a specification related to operating conditions in sufficient [such] detail to [as will] provide a complete basis for design, construction and inspection in accordance with the code. The diagram shall [to] be treated as a data report form and attached to the other data forms to create a master report which shall [will] be registered with the Boiler Inspection Section, Office of the State Fire Marshal, Department of Housing, Buildings and Construction, 1047 U.S. Highway 127 South, Frankfort, Kentucky 40601.

(b) Design specifications certified. The design specifications shall be certified as to compliance with the above requirements and Section III, ASME Boiler and Pressure Vessel Code by a registered professional engineer experienced in nuclear pressure vessel design.

(3) Inspections and tests.

(a) It shall be [is] the duty of the inspector to make all inspections specified by the ASME Boiler and Pressure Vessel Code, Section III and [in addition such] other inspections and tests he determines [as in his judgment] are necessary to verify that the equipment is fabricated and installed in accordance with requirements of the code.

(b) Inspections and tests of nuclear vessels shall be made only by a national board inspector qualified as an inspection specialist, nuclear, under Section III, ASME Boiler and Pressure Vessel Code.

(4) Field inspections.

(a) Upon completion of installation, the vessel [such vessels] and associated piping shall be inspected by a national board inspector qualified as engineering specialist, nuclear, under Article N-612, Section III, ASME Boiler and Pressure Vessel Code and commissioned to inspect pressure vessels in this Commonwealth. At the time of initial inspection, a vessel composed of two (2) or more pressure retaining compartments shall constitute one (1) complete unit for the purpose of assigning and stamping the serial number thereon [as set forth in 815 KAR 15:020, Section 1(4)].

(b) Recurring inspections. Recurring inspections of nuclear vessels in service shall [will] be made only by an inspector or inspectors qualified as above. [Such inspections shall be conducted in strict adherence to methods and precautions set forth in the Nuclear In service Inspection Code.]

CHARLES A. COTTON, Commissioner
EDWARD J. HOLMES, Secretary
APPROVED BY AGENCY: February 3, 1994
FILED WITH LRC: February 8, 1994 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 22, 1994 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 March 17, 1994, (five days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is received. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: 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: All nuclear vessel owners.

(a) Direct and indirect costs or savings to those affected: No change in costs or savings for those companies operating under established practices of the industry and previous requirements of the Boiler Code.

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 paperwork or reporting requirements will be changed with this amendment.

(2) Effects on the promulgating administrative body: This regulation clarifies and refines existing requirements, updates standards and complies with KRS Chapter 13A.

(a) Direct and indirect costs or savings: None involved with the implementation of this amendment.

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: This regulation represents no change in existing methods used in the department.

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No known conflicting statute.

(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. All boiler and pressure vessel contractors and standards for boilers and pressure vessels need to be uniform in treatment and protection.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Fire Prevention
(Proposed Amendment)

815 KAR 15:080. Fees for licensing new boiler and pressure vessel contractors.

RELATES TO: KRS Chapter 236
STATUTORY AUTHORITY: KRS 13A.100, 236.210
NECESSITY AND FUNCTION: KRS 236.210 authorizes ~~[requires]~~ the Commissioner, through ~~[of the Department of Housing, Buildings and Construction upon advice of]~~ the Board of Boiler and Pressure Vessel Rules to establish reasonable fees for the licensing of all new boiler and pressure vessel contractors. This administrative regulation is necessary to establish the fees incident to the ~~[such]~~ licensing of contractors. This amendment is needed to clarify language in accordance with KRS Chapter 13A.

Section 1. All boiler or pressure vessel contractors required by KRS 236.210 to be licensed shall pay the following fees upon application or ~~[for such license or upon]~~ reapplication for license.
(1) Initial fee - $100.
(2) Annual renewal fee - seventy (70) dollars.

CHARLES A. COTTON, Commissioner
EDWARD J. HOLMES, Secretary
APPROVED BY AGENCY: February 3, 1994
FILED WITH LRC: February 8, 1994 at 2 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 22, 1994 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 March 17, 1994, (five days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is received. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: 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: All nuclear vessel owners.
(a) Direct and indirect costs or savings to those affected: No change in costs or savings for those companies operating under established practices of the industry and previous requirements of the Boiler Code.
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 paperwork or reporting requirements will be changed with this amendment.
(2) Effects on the promulgating administrative body: This regulation clarifies and refines existing requirements, updates standards and complies with KRS Chapter 13A.
(a) Direct and indirect costs or savings: None involved with the implementation of this amendment.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: This regulation represents no change in existing methods used in the department.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were assessed or rejected.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No known conflicting statute.
(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. All boiler and pressure vessel contractors and standards for boilers and pressure vessels need to be uniform in treatment and protection.

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Unemployment Insurance
(Proposed Amendment)

903 KAR 5:250. Recoupment and recovery.

RELATES TO: KRS 341.415
STATUTORY AUTHORITY: KRS 341.155
NECESSITY AND FUNCTION: This administrative regulation defines the term "departmental error" for the purpose of recovery and recoupment of improperly paid unemployment insurance benefits and requires that the department shall provide a listing of overpayments with liens to credit reporting agencies. This administrative regulation shall ensure that department liens shall be considered on a parity with other liens listed in KRS 341.415(3), and to facilitate recoupment.

Section 1. "Departmental error" means:
(1) Errors in computing benefit rate;
(2) Incorrect weekly payment due to failure to consider deductible amount;
(3) Payment beyond the expiration of the benefit year;
(4) Payment in excess of maximum benefit amount;
(5) Payment under incorrect program where no program adjustment can be made;
(6) Retroactive nonmonetary determinations;
(7) Monetary redeterminations;
(8) Payment during a period of disqualification;
(9) Payment to wrong claimant;
(10) Erroneous payments resulting from a malfunction of automatic data processing equipment provided such malfunction is the result of human error in the data entry process.

Section 2. Filing of Liens. The department shall, on a monthly basis, compile a listing of outstanding overpayments on which a lien has been created. The listing shall be made available to credit reporting agencies. The listing shall be compiled in an electronic format if requested by the credit reporting agency. Liens are not filed on overpayments that result from departmental error, and they shall not be made available to credit reporting agencies.

MARGARET WHITTET, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: February 2, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 21, 1994, at 9 a.m. at the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by March 16, 1994, 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.

CONTACT PERSON: William K. Moore, Deputy Counsel, Department of Law, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Contact person: Thomas A. DeName

(1) Type and number of entities affected:

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

1. First year: None to those recipients of improperly paid unemployment insurance benefits.

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: Based on projections of existing overpayments, agency savings to the UI benefits fund will be $875,000 to $990,000.

2. Continuing costs or savings: Expect to return $586,000 to $664,000 to benefit fund in future years based on current experience.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods are available in accordance with statutory requirements.

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

(a) Necessity of proposed administrative 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: Is tiering applied? No. All recipients of improperly paid UI benefits who have liens filed will be treated equally.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:013. Payments for hospital inpatient services.

RELATES TO: KRS 205.520, 205.575, 1992 Acts c. 462, Part I.G.52.b.2

STATUTORY AUTHORITY: KRS 194.050, 205.460, 1992 Acts c. 462, Part I.G.52.b.2., 20 CFR 405.402 through 405.488, 42 CFR 440.10, 440.140, 447.250 through 447.280, 42 USC 1396a, b, d, r-4

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance. KRS 205.520 empowers the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. [~~KRS 205.575 provides for hospital indigent care assurance program (HICAP) payments.~~] This administrative regulation sets forth the method for determining amounts payable by the cabinet for hospital inpatient services.

Section 1. Acute Care Hospital, Rehabilitation Hospital and Mental Hospital (Including Psychiatric Facility) Inpatient Services. The Department for Medicaid Services shall pay for inpatient hospital services provided to eligible recipients of Medical Assistance through the use of rates that are reasonable and adequate to meet the costs that are required to be incurred by efficiently and economically operated hospitals to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Section 2. Establishment of Payment Rates. (1) The policies, methods, and standards to be used by the cabinet in setting payment rates are specified in the cabinet's "Inpatient Hospital Reimbursement Manual" revised November 29, 1993 [~~July 1, 1992~~], which is incorporated by reference in this administrative regulation.

(2) For any reimbursement issue or area not specified in the manual, the cabinet shall apply the Medicare standards and principles (excluding the Medicare inpatient routine nursing salary differential).

(3) The Kentucky Medical Assistance Program Inpatient Hospital Reimbursement Manual may be reviewed during regular working hours of 8 a.m. to 4:30 p.m. eastern time in the Office of the Commissioner, Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621. Copies may also be obtained from that office upon payment of an appropriate fee which shall not exceed approximate cost.

Section 3. General Description of the Payment System. The following provisions shall be applicable for purposes of setting inpatient hospital payment rates:

(1) Use of prospective rates. Each hospital shall be paid using a prospective payment rate based on allowable Medicaid costs and Medicaid inpatient days.

(a) The prospective rate shall be all inclusive in that both routine and ancillary cost shall be reimbursed through the rate.

(b) For universal rate years prior to January 1, 1985 the prospective rate shall not be subject to retroactive adjustment except to the extent that an audited cost report alters the basis for the prospective rate or the projected inflation index utilized in setting the individual rate is different from actual inflation as determined by the index being used.

(c) For universal rate years beginning on or after January 1, 1985, the prospective rate shall not be subject to retroactive adjustment except to the extent that facilities with a rate based on unaudited data shall have their rate appropriately revised for the rate year when the audited cost report is received from the fiscal intermediary.

(d) [~~However,~~] Total prospective payments shall not exceed the total customary charges in the prospective year.

(e) Overpayments shall be recouped:

1. By payment from the provider [~~to the cabinet~~] of the amount of the overpayment; or

2. [~~alternatively,~~] By the withholding of the overpayment amount [~~by the cabinet~~] from future payments [~~otherwise~~] due the provider.

(2) Use of a uniform rate year. A uniform rate year shall be set for all facilities, with the rate year established as January 1 through December 31 of each year. The first uniform rate year for psychiatric [~~mental~~] hospitals shall be July 1, 1985 through June 30, 1986; however, effective January 1, 1986 the psychiatric [~~mental~~] hospital rate year shall be reestablished and shall be January 1 through December 31 of each year thereafter. Changes of rates throughout the rate year as a result of policy changes shall not change the rate year, although the facility rates may change. Hospitals are not required to change their fiscal years.

(3) Trending of cost reports. Allowable Medicaid cost as shown in cost reports on file in the cabinet, both audited and unaudited, shall be trended to the beginning of the rate year so as to update Medicaid costs. When trending, capital costs and return on equity capital are excluded. The trending factor to be used shall be the Data Resources, Inc. rate of inflation for the period being trended.

(4) Indexing for inflation. After allowable costs have been trended to the beginning of the rate year, an indexing factor shall be applied so as to project inflationary cost in the uniform rate year. The forecasting index currently in use is prepared by Data Resources, Inc. This policy shall be effective August 3, 1985.

(5) Peer grouping. Acute care hospitals (but not including those considered to be primarily rehabilitative in nature) shall be [~~peer~~] grouped with other acute care hospitals according to bed size (referred to as "peer grouping").

(a) The peer groupings for the payment system shall be: 0-50 beds, 51-100 beds, 101-200 beds, 201-400 beds, and 401 beds and up.

(b) [~~(except that the~~] Designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville shall not be included in the array for facilities with 401 beds and up, unless the [~~such~~] facility's primary characteristics are considered essentially the same as the peer group's, and the facility, although not a university teaching hospital as such, is treated in [~~such~~] a manner which [~~as to~~] recognizes the presence of the major pediatric teaching component existing outside the state university hospitals[~~)~~].

(c) A [~~No~~] facility in the 201-400 peer group shall not have its operational per diem reduced below that amount in effect in the 1982 rate year as a result of the establishment of a peer grouping of 401 beds and up.

(d) Psychiatric [~~Mental~~] hospitals shall not be peer grouped but shall have a separate array of psychiatric [~~mental~~] hospitals only.

(e) Rehabilitation hospitals and acute care hospitals considered to be primarily rehabilitative in nature shall not be peer grouped or arrayed.

(6) Use of a minimum occupancy factor. A minimum occupancy factor shall be applied to capital costs attributable to the Medicaid program. A sixty (60) percent occupancy factor shall apply to hospitals with 100 or fewer beds. A seventy-five (75) percent occupancy factor shall apply to facilities with 101 or more beds. Capital costs are interest and depreciation related to plant and equipment.

(7) Use of a reduced depreciation allowance. The allowable amount for depreciation on building and fixtures (not including major movable equipment) shall be sixty-five (65) percent of the reported depreciation amount as shown in the hospital's cost reports. The use of a reduced depreciation allowance is not applicable with regard to psychiatric [~~mental~~] hospitals.

(8) Use of upper limits with regard to services provided on or after November 29, 1993 [~~July 1, 1991~~].

(a) The following upper limits and payment principles shall apply to all hospitals with other limitations for disproportionate share hospitals shown in paragraph (b) of this subsection.

1.a.(i) For acute care hospitals, except hospitals with 100 beds or less, an upper limit shall be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in each peer group, using the most recent medicaid cost report available as of December 1 of each year.

(ii) For acute care hospitals with 100 beds or less, the upper limit on all costs (except Medicaid capital cost) shall be established at 110 percent of the weighted median per diem for hospitals in the peer groups, using the most recent Medicaid cost report available as of December 1 of each year.

b. For psychiatric [~~mental~~] hospitals, an upper limit shall be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in the array. A psychiatric [~~mental~~] hospital designated by the cabinet as a primary referral and services resource for children in the custody of the cabinet shall be exempt from the upper limit for the array and shall be paid at actual projected cost with no year end settlement to actual cost; the projected cost may be adjusted for usual cost of living increases using the Data Resources, Incorporated Index.

c. Upon being set, the arrays and upper limits shall not be altered due to revisions or corrections of data; however the arrays or upper limits may be changed as a result of changes of agency policy.

d. Disproportionate share hospitals [~~participating in the Hospital Indigent Care Assurance Program (HICAP)~~] shall also receive, in addition to regular program payments, disproportionate share hospital payments as described in the Reimbursement Manual at Section 102C. [~~amounts which are payable under HICAP. Effective with regard to payments for the quarter ending June 30, 1992 and thereafter, the HICAP payments shall be the product of the ratio of each hospital's Medicaid patient days compared to total Medicaid patient days as applied to total available HICAP funds (which are the amounts remaining, from the hospital assessments paid, for distribution to hospitals after exclusion of appropriate amounts for administrative expense, the contingency reserve amount, and amounts reserved for other program needs in accordance with budget commitments, obligations, and appropriations, and taking into consideration available federal Medicaid matching funds and upper limits on HICAP payments). The formula for determination of HICAP payment amounts is shown in the Reimbursement Manual at Section 102D(b)(2), (3), (4), and (5). No hospital participating in HICAP shall receive on an annual basis less than five and one-quarter (5.25) percent of its operating costs, or five (5) percent of its annual operating costs plus $100,000, whichever amount is greater. For hospitals which are disproportionate share hospitals the limitations shown in paragraph (b) of this subsection and subsection (9) of this section shall be applicable for HICAP payments. If a hospital which is a nondisproportionate share hospital is determined by the cabinet to be a nonparticipant in HICAP, the amounts otherwise payable under HICAP to the hospital shall not be made.~~]

e. Provider taxes shall be considered allowable cost. For the rate period beginning November 29, 1993, the allowable cost of the tax shall be added to the hospital rate with no offsets and without regard for usual upper limits. For subsequent rate periods the cost (excluding, effective March 1, 1994, any per diem rate adjustments for the prior rate period relating to provider taxes) shall be shown in the appropriate cost report with adjustment as necessary to reflect an annual amount.

f. Allowable cost growth from the prior rate base year to the new rate base year shall be limited to not more than one and one-half (1 1/2) times the Data Resources, Inc. inflation amount for the same time period; limits shall be applied by component (capital and operating cost only); cost growth beyond the allowable amounts shall be considered unallowable cost for rate setting purposes.

2. For medically necessary hospital inpatient services provided to infants under the age of one (1) with exceptionally high costs or long

lengths of stay (defined as being those costs and days of stay which for newborns are after thirty (30) days beyond the date of discharge for the mother of the child and for all other infants are after thirty (30) days from the date of admission), the payment rate shall be set at 110 percent of the per diem payment rate, without regard to length of stay or number of admissions of the infants.

(b) The following upper limits and payment principles shall apply to disproportionate share hospitals as defined in subsection (9) of this section.

1. Acute care hospitals with Medicaid utilization of twenty (20) percent or higher, and hospitals having twenty-five (25) percent or more nursing days resulting from Medicaid covered deliveries as compared to the total number of paid Medicaid days, shall have an upper limit set at 120 percent of the weighted median per diem cost for hospitals in the array. In addition to the per diem amount computed in this manner, the hospitals shall be paid (as appropriate) additional amounts for services to children under age six (6) (as shown in subsection (9)(b)2 of this section). These hospitals shall also be entitled to disproportionate share hospital payments in accordance with KRS 205.640 and Section 102C of the Reimbursement Manual. [~~amounts payable under HICAP (as shown in subsection (9)(b)3 of this section) or the disproportionate share minimum adjustment amount shown in subsection (9)(b)1 of this section if greater.~~]

2. Designated state teaching hospitals and major affiliated pediatric teaching hospitals (i.e., those affiliated with or a part of the University of Kentucky and the University of Louisville) shall have an upper limit set at 126 percent of the weighted median per diem cost for all other hospitals of comparable size (401 beds and up). The pediatric teaching hospitals shall also be paid, in addition to the facilities' base rate, an amount which is equal to two (2) percent of the base for each one (1) percent of Medicaid occupancy but this amount shall not exceed the prospective reasonably determined uncompensated Medicaid cost to the facility. In addition to the per diem amount computed using the limits specified in this subparagraph, the hospitals shall be paid (as appropriate) additional amounts for services to children under age six (6) (as shown in subsection (9)(b)2 of this section). These hospitals shall also be entitled to disproportionate share hospital payments in accordance with KRS 205.640 and Section 102C of the Reimbursement Manual. [~~amounts payable under HICAP (as shown in subsection (9)(b)3 of this section) or the disproportionate share minimum adjustment amount shown in subsection (9)(b)1 of this section if greater.~~]

3. Psychiatric [~~Mental~~] hospitals with Medicaid utilization of thirty-five (35) percent or higher shall have an upper limit set at 115 percent of the weighted median per diem cost for hospitals in the array. The hospitals shall also be entitled to disproportionate share hospital payments in accordance with KRS 205.640 and Section 102C of the Reimbursement Manual. [~~The per diem amount shall be computed using this upper limit or by using the disproportionate share minimum payment amount shown in subsection (9)(b)1 of this section if doing so results in a higher per diem amount.~~]

4. All other disproportionate share acute care hospitals shall have their upper limit set at the weighed median per diem of the cost for hospitals in the array. In addition to the per diem amount computed in this manner, the hospitals shall be paid (as appropriate) additional amounts for services to children under age six (6) (as shown in subsection (9)(b)2 of this section). These hospitals shall also be entitled to disproportionate share hospital payments in accordance with KRS 205.640 and Section 102C of the Reimbursement Manual. [~~amounts payable under HICAP (as shown in subsection (9)(b)3 of this section) or the disproportionate share minimum adjustment amount shown in subsection (9)(b)1 of this section if greater.~~]

(9) Disproportionate share hospitals.

(a) Disproportionate share hospitals are those hospitals meeting the criteria specified in 42 USC 1396r-4(b) and (d) and those hospitals which may not meet the [~~such~~] criteria but meet the criteria specified in 42 USC 1396r-4(d) and meet this additional criteria:

1. Acute care hospitals with Medicaid utilization of twenty (20) percent or higher and psychiatric [~~mental~~] hospitals with Medicaid utilization of thirty-five (35) percent or higher;

2. Hospitals which are designated state teaching hospitals;

3. Hospitals which are designated major pediatric teaching hospitals;

4. Hospitals having twenty-five (25) percent or more nursery days resulting from Medicaid covered deliveries as compared to the total number of paid Medicaid days; and

5. Effective with regard to services provided on or after July 1, 1990, hospitals not meeting the additional criteria specified in subparagraphs 1 through 4 of this paragraph but with Medicaid utilization of one-half (1/2) of one (1) percent or higher.

(b) The upper limit for payments for hospitals in Kentucky shall be set at the lower of allowable Medicaid cost or the median of the facility array of allowable cost with payment adjustments allowed for hospitals deemed disproportionate share hospitals in accordance with subsections (8) and (9) of this section. For compliance with 42 USC 1396r-4(c), the minimum payment adjustment and actual payment adjustment shall be computed in the following manner:

1.a. Each disproportionate share hospital shall be paid a minimum disproportionate share payment amount for the type of hospital plus any earned adjustment to which the hospital is entitled. The hospital types, minimum payment amounts, and earned adjustments shall be as follows:

(i) Type I hospitals shall be those acute care in-state hospitals serving a federally designated medically underserved area, a federally designated health manpower shortage area, or a primary care physician shortage area designated under the rural Kentucky medical scholarship fund, when the hospital has fifty (50) beds or less. Minimum amount: ninety-five (95) dollars per Medicaid day.

(ii) Type II. These hospitals shall be described in the same manner as Type I, except these hospitals have fifty-one (51) beds to 100 beds. Minimum amount: seventy (70) dollars per Medicaid day.

(iii) Type III. These hospitals shall be described in the same manner as Type I except these hospitals have 101 beds to 200 beds and include rehabilitation hospitals. Minimum amount: fifty-five (55) dollars per Medicaid day.

(iv) Type IV. These hospitals shall be described in the same manner as Type I except these hospitals have 201 or over beds and include rehabilitation hospitals. Minimum amount: forty-five (45) dollars per Medicaid day.

(v) Type V. All acute care in-state hospitals with 100 beds and under except those described as Type I or II. Minimum amount: forty-five (45) dollars per Medicaid day.

(vi) Type VI. All acute care and rehabilitation in-state hospitals with 101 beds to 200 beds except those that are Type III. Minimum amount: thirty-five (35) dollars per Medicaid day.

(vii) Type VII. These hospitals shall be described in the same manner as Type I, except the type shall be limited to rehabilitation hospitals. Minimum amount: ninety-five (95) dollars per Medicaid day.

(viii) Type VIII. These hospitals shall be described in the same manner as Type II, except the type shall be limited to rehabilitation hospitals. Minimum amount: seventy (70) dollars per Medicaid day.

(ix) Type IX. All rehabilitation hospitals, with 100 beds and under except those described as Type VII or VIII. Minimum amount: forty-five (45) dollars per Medicaid day.

(x) Type X. All other in-state hospitals including psychiatric hospitals. Minimum amount: ten (10) dollars per Medicaid day.

(xi) Type XI. All out-of-state hospitals. Minimum amount: one (1) dollar per Medicaid day.

b.(i) Each Type I through Type X hospital shall have the opportunity for an earned payment adjustment based on the provision of indigent care (i.e., care provided to Medicaid recipients beyond the Medicaid covered days or to individual or families with income under the poverty level).

(ii) The earned adjustment shall equal ten (10) dollars for each indigent day of care provided plus an amount equal to the cost of the indigent care (at Medicaid rates) provided by the hospital for which there has been no direct or indirect payment (i.e., where the cost of the care has not been paid or cost-shifted to other payors).

(iii) A hospital shall be presumed to have received payment for indigent care to the extent that other patient revenues exceed other patient costs, and to the extent that direct or other indirect payments are made to the hospital for the indigent care.

(iv) Any acute care disproportionate share hospital with 100 beds or less whose July 1, 1993, or January 1, 1994, per diem payment rate is less than the April 1, 1993 rate paid as of June 30, 1993, and also less than full allowable per diem costs for the services provided by the hospital as of July 1, 1993, or January 1, 1994, respectively, shall receive an adjustment to the hospital's disproportionate share minimum payment for the period March 1, 1994 through June 30, 1994. The payment adjustment for an acute care hospital shall be determined by multiplying the number of the hospital's Medicaid days as follows:

i. For services provided for the July 1, 1993 through December 31, 1993 period by the difference between the hospital's July 1, 1993 payment rate and the April 1, 1993 rate as paid on June 30, 1993 not to exceed allowable cost; and

ii. For services provided for the January 1, 1994 through June 30, 1994 period by the difference between the hospital's January 1, 1994 payment rate and the April 1, 1993 rate as paid on June 30, 1993 not to exceed allowable cost.

(v) Any acute care disproportionate share hospital of 100 beds or less shall receive an additional disproportionate share hospital payment of $200,000 for the period March 1, 1994 through June 30, 1994. This payment shall be made in two (2) equal installments of $100,000 each with the first payment amount to be paid on or before March 31, 1994 and the second payment amount to be paid on or before June 30, 1994.

c. Each Type XI hospital shall qualify for an earned adjustment which is equal to ten (10) cents for each one (1) percent of Medicaid occupancy above one (1) standard deviation. [~~All hospitals determined to be disproportionate share hospitals shall be entitled to a minimum payment adjustment equal to one (1) dollar as an addition to the hospital payment rate computed using usual upper limits; and for hospitals with Medicaid utilization in excess of one (1) standard deviation above the mean Medicaid inpatient utilization rate for hospitals receiving Medicaid payments in the state, a further payment adjustment which is equal to ten (10) cents for each one (1) percent of Medicaid utilization in the hospital which is in excess of utilization at the one (1) standard deviation level.~~]

2. Effective with regard to medically necessary hospital inpatient services provided by all Kentucky disproportionate share hospitals on or after July 1, 1991 to children under the age of six (6) with exceptionally high costs or long lengths of stay (defined as being those costs and days of stay which for newborns are after thirty (30) days beyond the date of discharge for the mother of the child and for all other children are after thirty (30) days from the date of admission), the payment rate shall be set at 110 percent of the per diem payment rate, without regard to length of stay or number of admissions of the children.

[~~3. Effective with regard to services provided on or after July 1, 1990 any hospital which is participating in the Hospital Indigent Care Assurance Program (HICAP) shall receive disproportionate share payments under HICAP. HICAP assessments and payments are described in 907 KAR 1:017, Hospital indigent care assurance program. If a hospital is determined by the cabinet to be a nonparticipant in the HICAP program, the hospital shall be entitled to the minimum adjustment shown in subparagraph 1 of this paragraph.~~]

(10) Operating costs shall not include professional (physician) costs for purposes of establishing the median based upper limits. Professional costs shall be trended separately.

(11) Hospitals whose general characteristics are not those of an acute care or psychiatric [~~mental~~] hospital (i.e., because they are rehabilitation hospitals or acute care hospitals considered to be primarily rehabilitative in nature) are not subject to the operating cost upper limits.

(12) Rate appeals. As specified in the Inpatient Hospital Reimbursement Manual, hospitals may request an adjustment to the prospective rate with the submittal of supporting documentation. The established appeal procedure allows a representative of the hospital group to participate as a member of the rate review panel.

Section 4. Payments to Participating Out-of-state Hospitals. (1) Effective with regard to services provided on or after July 1, 1990 participating out-of-state hospitals shall be reimbursed for covered inpatient services rendered eligible Kentucky Medicaid recipients at the rate of seventy-five (75) percent of usual and customary charges, up to the in-state per diem upper limit for a comparable size hospital, except as specified in subsection (2) of this section.

(2) Effective with regard to medically necessary hospital inpatient services provided on or after July 1, 1991 to infants under the age of one (1), and for children under the age of six (6) in disproportionate share hospitals (determined in the same manner as for in-state hospitals except that out-of-state hospitals are not included in facility arrays), for days of stay which for newborns are after thirty (30) days beyond the date of discharge for the mother of the child and for all other children are after thirty (30) days from the date of admission, participating out-of-state hospitals shall be paid at the rate of eighty-five (85) percent of usual and customary actual billed charges up to 110 percent of the per diem upper limit for the in-state peer group for comparably sized hospitals in recognition of exceptionally high costs and lengths of stay related to infants under the age of one (1) and children under age six (6), without regard to length of stay or number of admissions of the infants and children.

(3) Effective with regard to services provided on or after February 1, 1991, professional costs (i.e., physician fees) for all covered days of stay shall be paid at seventy-five (75) percent of the usual and customary charges of the provider.

Section 5. Except as otherwise specified the changes shown in this administrative regulation shall be effective with regard to services provided on or after November 29, 1993.

MASTEN CHILDERS II, Commissioner
FONTAINE BANKS, JR., Secretary

APPROVED BY AGENCY: February 7, 1994

FILED WITH LRC: February 9, 1994 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 21, 1994 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor East, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by March 16, 1994, 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: W. K. Moore, Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, (502) 564-7900.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Masten Childers II

(1) Type and number of entities affected: All hospitals participating in the Medicaid program.

(a) Direct and indirect costs or savings to those affected: Provider revenues are reduced in the amount of the agency savings.

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: $152,050,000 (savings)

2. Continuing costs or savings: Same

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: The July 1, 1993 changes decreased expenditures by approximately $162,650,000 annually. The change for the period of March 1, 1994 through June 30, 1994 will increase expenditures by approximately $10.6 million. It is assumed that any substantive administrative cost relating to this action will be absorbed within the current organizational structure.

TIERING: Was tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to 42 USC 1396a et seq., the Commonwealth of Kentucky has exercised the option to establish a Medicaid Program for indigent Kentuckians. Having elected to offer Medicaid coverage, the state must comply with federal requirements contained in 42 USC 1396 et seq.

2. State compliance standards. This administrative regulation does not set compliance standards.

3. Minimum or uniform standards contained in the federal mandate. This administrative regulation does not set minimum or uniform standards.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation does not set stricter requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. No additional standard or responsibilities are imposed.

PROPOSED ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, FEBRUARY 15, 1994

KENTUCKY LEGISLATIVE ETHICS COMMISSION

2 KAR 2:020. Statement of financial disclosure.

RELATES TO: KRS 6.781 to 6.797
STATUTORY AUTHORITY: KRS 6.666(5), (6)
NECESSITY AND FUNCTION: KRS 6.781 requires all members of the General Assembly, all candidates and nominees for election to the General Assembly, and major management personnel in the Legislative Branch of state government to file statements of financial disclosure. This administrative regulation establishes the required form.

Section 1. The statement of financial disclosure required by KRS 6.781 shall be mailed to the Kentucky Legislative Ethics Commission, Room 318, Capitol Annex, Frankfort, Kentucky 40601.

Section 2. (1) The "Statement of Financial Disclosure" is incorporated by reference.

(2) This document may be inspected, copied, or obtained at the Kentucky Legislative Ethics Commission, Room 318, Capitol Annex, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday.

JUDGE GEORGE E. BARKER, Chair
APPROVED BY AGENCY: February 15, 1994
FILED WITH LRC: February 15, 1994 at 11 a.m.
PUBLIC HEARING: A public hearing will be held at the Legislative Ethics Commission Office in Room 318, Capitol Annex, Frankfort, Kentucky 40601, 10 a.m on March 25, 1994. Individuals interested in attending this hearing shall notify this agency in writing by March 20, 1994, 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 canceled. 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 and prior arrangements for a transcript are 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: Michael O'Connor, Attorney, Kentucky Legislative Ethics Commission, Room 318, Capitol Annex, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Michael O'Connor
(1) Type and number of entities affected: The statement of financial disclosure will affect all members of the General Assembly, all candidates and nominees for election to the General Assembly, and all major management personnel in the legislative branch of state government. The exact number cannot be determined in advance.
(a) Direct and indirect costs or savings to those affected:
1. First year: This regulation will not add any direct or indirect costs or savings to those affected.
2. Continuing costs or savings: This regulation will not add any direct or indirect costs or savings to those affected.
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no known additional factors which will increase or decrease costs.
(b) Reporting and paperwork requirements: KRS 6.793 requires that the listed individuals file a statement of financial disclosure with the Kentucky Legislative Ethics Commission not later than February 15 of each year, complete through December 31 of the preceding year. This regulation creates the required form.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Costs to the Kentucky Legislative Ethics Commission will be approximately one cent per page for printing costs. The original printing of 1,000 pages will cost $10. The costs will be paid from money already budgeted from general and restricted funds, and fees collected.
2. Continued costs or savings: The costs should be consistent on an annual basis.
3. Additional factors increasing or decreasing costs: None known.
(b) Reporting and paperwork requirements: KRS 6.791 requires the commission to make the completed forms available for public inspection, and to retain the forms for five years after filing. This regulation adds no additional requirements.
(3) Assessment of anticipated effect on state and local revenues: This regulation will not have any effect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The forms are required by the 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: No conflict determined.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict determined.
(6) Any additional information or comments: None
TIERING: Is tiering applied? No. Tiering is not applicable as this regulation applies equally to all members of the General Assembly, candidates and nominees for election to the General Assembly, and major management personnel in the legislative branch of state government.

KENTUCKY LEGISLATIVE ETHICS COMMISSION

2 KAR 2:030. Rules of procedure.

RELATES TO: KRS 6.601, 6.849
STATUTORY AUTHORITY: KRS 6.666(5)
NECESSITY AND FUNCTION: KRS 6.691 requires the Kentucky Legislative Ethics Commission to conduct adjudicatory proceedings in appropriate cases. The function of this administrative regulation is to regulate the proceedings of the commission, subject to KRS 6.691(1), which provides that the Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence apply to all commission adjudicatory proceedings.

Section 1. Definitions. (1) "Chair" means Chair of the Kentucky Legislative Ethics Commission, or vice-chair in the absence or disability of the chair.
(2) "Commission" means the Kentucky Legislative Ethics Commission.
(3) "Formal complaint" means a formal written statement issued by the commission accusing one (1) or more persons of a violation of the provisions of KRS 6.601 to 6.849.
(4) "Respondent" means a person accused of violating KRS 6.601 to 6.849.

Section 2. Right of a Respondent to Request an Adjudicatory Hearing. If, after an investigation, the commission determines that probable cause exists to support an alleged violation of KRS 6.601 to

6.849 and, due to mitigating circumstances set forth in KRS 6.686(5)(a), the commission issues a confidential reprimand, the respondent may file a written request, within five (5) days of receipt of the reprimand, requesting an adjudicatory proceeding. A respondent shall not file an appeal based on a confidential reprimand without having first filed a timely request for an adjudicatory proceeding.

Section 3. Formal Complaints. (1) If the commission determines that probable cause exists to support an alleged violation of KRS 6.601 to 6.849, and further decides that a confidential reprimand as defined by KRS 6.686(5)(a) is not appropriate, a formal complaint shall be issued against the respondent.

(2) The formal complaint shall be prepared in writing, stating the facts alleged to constitute a violation of KRS 6.601 to 6.849, and containing a general statement of the applicable law. The formal complaint shall be signed by the chair or another member authorized by the commission.

(3) Any number of acts or omissions, and any number of separate and distinct transactions alleged to constitute a violation of KRS 6.601 to 6.849 may be alleged in a single formal complaint, but each act or omission shall be set out in a separate paragraph.

(4) Separate complaints may be consolidated and heard as a single case.

(5) A formal complaint may be filed against two (2) or more persons if based upon the same or related sets of facts, and may, at the commission's discretion, be consolidated and heard as a single proceeding.

(6) When two (2) or more persons are proceeded against in the same proceeding, the commission shall make a separate finding regarding each respondent.

Section 4. Notice of Filing of Formal Complaint: Time to Answer. Upon the filing of a formal complaint, the administrative secretary, by certified mail with return receipt requested shall furnish the respondent with a copy of the formal complaint and notify the respondent that within twenty (20) days after the receipt of the notice, he must file his answer with the administrative secretary and serve a copy of his answer on the attorney for the commission by mailing or delivering a copy to him.

Section 5. When a Formal Complaint Can be Taken as Confessed. The commission may take the allegations of the formal complaint as admitted or confessed if a respondent who was notified of the formal complaint by the commission files an answer admitting the allegations or fails to file an answer within the time provided in these rules. The commission may receive evidence if it deems that evidence would be of assistance in making its determination.

Section 6. Proceedings When Pleadings Present Only an Issue of Law. If the pleadings present only an issue of law, the commission shall fix a time for filing of briefs. The commission may receive evidence if it deems that evidence would be of assistance in making its determination.

Section 7. Rulings on Motions. (1) Dispositive motions shall be ruled on by the commission. Examples of dispositive motions are motions to dismiss, or motions to exclude essential evidence.

(2) The chair or another member authorized by the commission shall rule on procedural motions. An example of a procedural motion is a motion for a continuance.

(3) All pleadings shall be filed with the administrative secretary and copies served upon opposing parties or their counsel as provided by the Kentucky Rules of Civil Procedure.

Section 8. Authority for Settlement Negotiations. The attorney for the commission, with the approval of the chair, may attempt to negotiate a settlement with the respondent, and may recommend to the chair that an agreed stipulation of fact, finding of violation, and judgment be entered. The chair may accept or reject the recommendation. If the recommendation is accepted the agreed stipulation, finding, and judgment shall be entered. If the recommendation is rejected the matter shall be heard by the commission without any reference to the offer of settlement by the respondent being made to any member of the commission, but the chair will decline to vote. However, the respondent shall have the right to appeal the rejection of the recommendation to the full commission but shall first sign a waiver of any objections to the commission conducting a hearing regarding the complaint in the event the respondent's proposed settlement is rejected by the commission.

Section 9. Witness Lists. At least ten (10) days before the date set for a hearing the attorneys for all parties, and for the commission, shall provide the names of all proposed witnesses to the commission. Copies of the witness lists shall be served upon opposing parties or their counsel as provided by the Kentucky Rules of Civil Procedure and additional witnesses may only be called for rebuttal, or with the permission of the commission for good cause shown.

Section 10. Prehearing Conference. The chair may order that a prehearing conference be held with reasonable notice to all parties.

Section 11. Amendments to Formal Complaint or Answer. The formal complaint may be amended to conform to the proof or to set forth additional facts, either occurring before or after the commencement of the hearing. If an amendment is made, the respondent shall be given reasonable time to answer the amendment and to prepare and present his defense against the matters charged thereby.

Section 12. Hearing Additional Evidence. The commission may order a hearing for the taking of additional evidence at any time while the matter is pending before it. The order shall set the time and place of hearing and shall indicate matters on which the evidence is to be taken. A copy of the order shall be sent by mail to the respondent, and his attorney if any, at least ten (10) days prior to the date of the hearing.

Section 13. Deliberations. At the conclusion of the evidence, the deliberations of the commission shall be held in closed session, with only clerical staff present.

Section 14. Transcript of Evidence. The proceedings before the commission shall be reported by a reporter appointed by the commission, or recorded by a mechanical device. If after a hearing the commission orders that the charge or charges be dismissed, or that the respondent be administered a reprimand, the commission may direct the reporter to preserve all notes of the hearing, but defer a transcription of the record until ordered by the commission. In all other proceedings the testimony shall be transcribed at the expense of the commission.

JUDGE GEORGE E. BARKER, Chair

APPROVED BY AGENCY: February 15, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing will be held at the Legislative Ethics Commission Office in Room 318, Capitol Annex, Frankfort, Kentucky 40601, 10 a.m on March 25, 1994. Individuals interested in attending this hearing shall notify this agency in writing by March 20, 1994, 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 canceled. 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 and prior arrangements for

a transcript are 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: Michael O'Connor, Attorney, Kentucky Legislative Ethics Commission, Room 318, Capitol Annex, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Michael O'Connor

(1) Type and number of entities affected: 2 KAR 2:030 will affect all respondents, witnesses, and attorneys who appear before the Kentucky Legislative Ethics Commission.

(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: The regulation sets out the hearing procedures.

(a) Direct and indirect costs or savings:

1. First year: None

2. Continued costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The statute requires the promulgation of this regulation.

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

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. Tiering is not applicable as this regulation applies equally to all respondents, witnesses, and attorneys in the same ways.

GENERAL GOVERNMENT CABINET
Kentucky State Board of Podiatry

201 KAR 25:023. Repeal of 201 KAR 25:022 and 201 KAR 25:071.

RELATES TO: KRS 311.420, 311.450

STATUTORY AUTHORITY: KRS 311.410(4)

NECESSITY AND FUNCTION: 201 KAR 25:022 and 201 KAR 25:071 exceed the board's statutory authority and therefore are being repealed.

Section 1. 201 KAR 25:022, Reinstatement of surrendered license with waiver of renewal requirements for exclusively altruistic and gratuitous practice, is hereby repealed.

Section 2. 201 KAR 25:071, Residency and examination results, is hereby repealed.

JOSEPH P. LEONE, President

APPROVED BY AGENCY: January 29, 1994

FILED WITH LRC: February 14, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held the 21st day of March, 1994, at 9 a.m. in Room 127, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by the 16th day of March, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William B. Pettus, Assistant Attorney General, Office of Attorney General, Box 2000, Frankfort, Kentucky 40602-2000, (502) 573-7600.

REGULATORY IMPACT ANALYSIS

Agency Contact: William B. Pettus

(1) Type and number of entities affected: Approximately 80-90 podiatrists licensed in Kentucky.

(a) Direct and indirect costs or savings to those affected: There will be no additional direct or indirect costs or savings since this merely repeals two existing regulations.

1. First year: There will be no additional direct or indirect costs or savings since this merely repeals two existing regulations.

2. Continuing costs or savings: There will be no continuing direct or indirect costs or savings since this merely repeals two existing regulations.

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 since this merely repeals two existing regulations.

(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 since this merely repeals two existing regulations.

1. First year: There will be no additional direct or indirect costs or savings the first year since this merely repeals two existing regulations.

2. Continuing costs or savings: There will be no continuing direct or indirect costs or savings since this merely repeals two existing regulations.

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 since this merely repeals two existing regulations.

(3) Assessment of the anticipated effect on state and local revenues: There is no effect anticipated on state and local revenues.

(4) Assessment of alternative methods: reasons why alternatives were rejected: This regulation repeals two existing regulations. No other alternatives were deemed appropriate.

(5) Identify any state or federal statute or regulation that may conflict with, overlap, or duplicate the administrative regulation being promulgated: There is no such statute or regulation.

(6) Any additional information or comments: None

TIERING? Was tiering applied? No. Tiering was not applied because all podiatrists are treated uniformly under the law.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department For Environmental Protection
Division Of Waste Management

401 KAR 42:080. Classification of petroleum underground storage tank systems and listing of associated cleanup levels.

RELATES TO: KRS 224.01, 224.10, 224.40, 224.43, 224.46, 224.60, 40 CFR Part 280 Subparts F, G, Part 281, 42 USC 6991 to 6991i

STATUTORY AUTHORITY: KRS 224.10-100, 224.60-105, 224.60-137

NECESSITY AND FUNCTION: KRS 224.60-105 requires the cabinet to promulgate administrative regulations on underground storage tanks to protect public health and the environment. The statute recognizes that the administrative regulations may distinguish between types, classes, and ages of underground storage tanks. KRS 224.60-137 requires the cabinet to adopt standards for corrective action for a release into the environment from a petroleum storage tank. The corrective action standards are to be protective of human health and the environment and based upon a study performed for the Petroleum Storage Tank Environmental Assurance Fund Commission, unless the cabinet states in detail why it did not accept a recommendation from the study. This administrative regulation complies with these requirements by establishing a classification scheme for petroleum underground storage tank systems and cleanup levels for benzene, toluene, ethylbenzene, and xylene released into the environment from tank systems containing gasoline, kerosene, jet fuel, or aviation fuel. The classification scheme and the cleanup levels are consistent with recommendations contained in the study performed for the Petroleum Storage Tank Environmental Assurance Fund Commission, except as specified in the Regulatory Impact Analysis for this administrative regulation.

Section 1. Scope and Applicability. (1) The document incorporated by reference in Section 2 of this administrative regulation sets forth a classification scheme for all petroleum underground storage tanks systems. The document also establishes cleanup levels for benzene, toluene, ethylbenzene, and xylene released into the environment from tank systems containing gasoline, kerosene, jet fuel, or aviation fuel. Specific cleanup levels for these petroleum constituents at a particular petroleum underground storage tank system are dependent upon the particular category into which the tank system is classified.

(2) The provisions of this administrative regulation shall apply to any "Notice of Intent to Permanently Close Underground Storage Tank(s) Form" (DEP Form 5025) received by the cabinet on or after April 18, 1994, and to those closure notices received prior to April 18, 1994 for which a request was submitted pursuant to 401 KAR 42:080E Section 1(2).

Section 2. Incorporation by Reference. (1) The following document is hereby incorporated by reference: "Petroleum Underground Storage Tank System Facility Classification Outline" (January 1994).

(2) The document referenced in subsection (1) of this section is available for inspection and copying, subject to copyright law, at the Division of Waste Management, 14 Reilly Road, Frankfort, Ky 40601, (502) 564-6716, from 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, excluding state holidays.

PHILLIP J. SHEPHERD, Secretary
E. DOUGLAS STEPHAN, Commissioner
APPROVED BY AGENCY: February 9, 1994
FILED WITH LRC: February 9, 1994 at 2 p.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed administrative regulation has been scheduled for Wednesday, March 23, 1994, at 10 a.m. eastern time in the auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing must notify James Hale in writing at the address noted below, by March 18, 1994, of their intent to attend the hearing. If no notification of intent to attend the hearing is received by that date, the hearing will be canceled. This hearing is open to the public. Any person wishing to be heard will be given an opportunity to comment on the proposed administrative regulation. Persons testifying at the hearing are requested to provide a written copy of their testimony, if available. A transcript of the hearing will not be made unless a written request for a transcript is filed with Mr. Hale by March 18, 1994. Written comments may also be submitted on the proposed administrative regulation. Written comments must be received by Mr. Hale no later than 4:30 p.m. on March 23, 1994. The Department for Environmental Protection does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of services and provides, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities. Requests for reasonable accommodation for this public hearing, such as a interpreter or alternate formats for printed materials, must be submitted to Mr. Hale at the address below by March 18, 1994.

CONTACT PERSON: James Hale, Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601, (502) 564-6716.

REGULATORY IMPACT ANALYSIS

Agency Contact: James Hale

(1) Type and number of entities affected: This proposed administrative regulation affects service stations and other facilities with petroleum underground storage tank systems (petroleum UST systems) as they close or perform corrective action. Currently, there are approximately 38,000 registered petroleum UST systems in Kentucky. Of these, approximately one-third are presently in closure or corrective action. Of this third, there are approximately 400 that have known groundwater contamination and approximately 1100 that have known soil contamination. This administrative regulation creates five classes of petroleum UST systems based on their potential impact to human health and the environment. The administrative regulation also establishes cleanup levels for benzene, toluene, ethylbenzene, and xylene released into the environment from tank systems containing gasoline, kerosene, jet fuel, or aviation fuel. These cleanup levels are to be met as part of corrective action. The effect on the regulated entities will vary. For facilities with Class I, II, or III petroleum UST systems, corrective action and closure will generally be easier under this administrative regulation. For facilities with Class IV or V petroleum UST systems, corrective action and closure will generally not change dramatically.

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

1. First year: Virtually all petroleum UST systems currently are required to comply with the same closure and corrective action requirements. Under this administrative regulation, those existing standards will only apply to petroleum UST systems in Classes IV and V. Creation of the less stringent closure and corrective action requirements through establishment of Classes I, II, and III will decrease the percentage of petroleum UST systems that need to meet the more stringent existing standards. The cost of closure and corrective action will generally decrease for petroleum UST systems that will be classified in Classes I, II, and III, but will generally remain the same as they are now for systems that fall into Classes IV and V. Also note that certain petroleum UST systems that would be required to perform corrective action under the existing standards may be able to close without corrective action under this administrative regulation.

2. Continuing cost or savings: There are no costs or savings beyond those specified above.

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: Under existing administrative regulations, facilities with a petroleum underground storage tank system are required to submit plans when the UST system closes or corrective action is performed on the UST system. This administrative regulation will not alter these reporting and paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Some petroleum UST systems that would be required to perform corrective action under the current administrative regulations will be able to close under this administrative regulation. Because of this, the cabinet's workload will shift from one oriented toward corrective action to one emphasizing closure. This may require a shift in resources, but it will neither increase nor decrease the cabinet's costs or savings.

2. Continuing costs or savings: There are no cost or savings beyond those specified above.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: The cabinet's reporting and paperwork requirements will not change as a result of this administrative regulation.

(3) Assessment of anticipated effect on state and local revenues: This administrative regulation does not distinguish between UST systems owned by private entities and those owned by the government. Therefore, all levels of government - state, county, and local - will be required to comply with this administrative regulation if they own UST systems. For a discussion of the impact on these entities, see item (1) of this Regulatory Impact Analysis.

(4) Assessment of alternative methods; reason why alternatives were rejected: The cabinet considered the possibility of not using a classification system to tier closure and corrective action requirements; however, this was rejected, as it would not allow the cabinet and the collective resources of the industry to focus limited resources on those sites that are the most significant threat to human health and the environment.

(5) Identify any statute, administrative regulation, or government policy that may be in conflict, overlapping, or duplication: There are no statutes, administrative regulations, or government policies that overlap, duplicate, or conflict with the requirements of this administrative regulation.

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: KRS 224.60-105(3) requires the Natural Resources and Environmental Protection (Cabinet) to adopt a regulatory program that implements federal regulatory requirements for underground storage tanks. KRS 224.60-137(3) requires the cabinet to establish corrective action standards for a release into the environment from a petroleum storage tank. The statutes require that the regulatory program be protective of human health and the environment, and that the corrective action standards be based upon a study performed for the Petroleum Storage Tank Environmental Assurance Fund Commission, unless the cabinet states in detail why recommendations in the study were not accepted. Pursuant to these statutory mandates, this administrative regulation establishes standards for the classification of petroleum underground storage tank systems. Using this classification scheme, the administrative regulation also establishes cleanup levels for benzene, toluene, ethylbenzene, and xylene released into the environment from a tank system containing gasoline, kerosene, jet fuel, or aviation fuel. The requirements in this administrative regulation are protective of human health and the environment, and they are consistent with federal UST requirements at 40 CFR Part 280 Subparts F and G, 40 CFR Part 281, and 42 U.S.C. 6991 et. seq. The standards are also consistent with the corrective action study conducted for the Petroleum Storage Tank Environmental Assurance Fund Commission, except as follows:

• This regulation determines and evaluates off-site impacts to soil or groundwater. This issue was not addressed in the study; however, the cabinet believes that consideration of off-site impacts is essential for compliance with the cabinet's mandate to protect the public, as specified at KRS 224.10-100, 224.60-105, and 224.60-137. Because of these mandates, this regulation requires soil and groundwater testing at the property line downgradient of the petroleum UST system. If contamination is detected, appropriate corrective action measures must be employed in accordance with the classification requirements.

• This regulation requires soil testing and external leak detection for Class II petroleum UST systems in lieu of the tightness testing recommendations in the study. The study proposed to allow tank and line tightness testing to serve as an indication of whether a release has occurred. The cabinet did not adopt this recommendation for two reasons: 1) because of past experience showing that tightness tests are a very poor indicator of contamination; and 2) because it is not allowed under 40 CFR 280.72 (adopted at 401 KAR 42:070). The proposal contained in this regulation is consistent with both the cabinet's experience and the existing federal and state regulatory requirements.

• This regulation does not adopt the recommendation of the study suggesting that cleanup, reporting, and corrective action requirements not apply if the release is less than 25 gallons. Adoption of such a provision would be inconsistent with state and federal requirements at 40 CFR 280.34 (adopted at 401 KAR 401 KAR 42:030). In accordance with this regulation, owners and operators of petroleum UST systems "must submit the following information to the implementing agency" (§ 280.34(a)):

(2) Reports of all releases including suspected releases (§ 280.50), spills and overfills (§ 280.53), and confirmed releases (§ 280.61);

40 CFR Part 280 Subpart E (adopted at 401 KAR 42:050) requires that owners or operators "must report to the implementing agency within 24 hours" (§ 280.50) in the event of questionable monitoring results or unusual operating conditions, or more importantly, in the event of any following conditions:

(a) The discovery by owners and operators or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water). (40 CFR 280 Subpart E, § 280.50)

Because the above regulations state that ANY confirmed release, suspected release, or even vapors in soil are reportable, the study's instructions are incorrect in that they describe the minimal reportable quantity as 25 gallons of product found in a pit in a 24-hour period. Any loss, release, or suspected release is reportable in accordance with the federal and state regulations.

The study proposes to use the standards in 40 CFR 280.53 (adopted at 401 KAR 42:050) "Reporting and cleanup of spills and overfills" as a criterion for all closure classification. Spills and overfills constitute only a portion of the potential risk posed by a petroleum UST system and are listed in regulatory definition as one type of release. By definition, a spill is a release but releases encompass much more than spills. By imposing the reporting and cleanup requirements of spill and overfill onto petroleum UST closures, the study incorrectly ignores the potential risk to the environment caused by all other types of releases. Unless a clean petroleum UST pit is contaminated by a "spill or overfill", conceivably at the time of removal, closure criteria based upon free product in the tank pit is a misapplication of state and federal regulations.

Contamination at petroleum UST sites is most commonly the result of a release, which is defined in 40 CFR 280.12 (adopted at 401 KAR 42:011) and KRS 224.60-115 as: any spilling, leaking, emitting, discharging, escaping, leaching or disposing from a petroleum storage tank into groundwater, surface water, or surface or

subsurface soils. The term shall not include releases that are permitted or authorized by the state or federal law.

The release of any quantity which causes a sheen on the water (40 CFR 131) is reportable. A release which cannot be cleaned up in 24 hours is also reportable, and must follow corrective action requirements.

The problem with using "spill and overfill" reporting quantities for sites contaminated by releases is that a release, as defined by regulation, is often not measurable. A release is rarely identified by the study's criteria of the "amount of free products found in the pit after tank removal".

In order for the 25-gallon criteria used by the study to serve as an accurate indicator of risk at a site, the amount of the release must be accurately estimated. A "product in the pit" criterion is not an accurate field indicator of the amount of the release or potential risk.

The action required when a release occurs is described in 401 KAR 42:060, which adopts 40 CFR Part 280 Subpart F titled "Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances." These technical standards pertain to any "confirmed release" and describe "Initial response" (§ 280.61), "Initial abatement measures and site check" (§ 280.62), "Initial site characterization" (§ 280.63), "Free product removal" (§ 280.64), Investigations for soil and groundwater cleanup (§ 280.65), "Corrective action plan" (§ 280.66), and "Public participation" (§ 280.67). These regulations dictate the minimum required actions applicable to a confirmed release of any amount.

The study's assertion "that the critical quantity of product that requires action is more than 25 gallons found in a 24-hour period" is only true in the event of a measurable surface spill. The study, by equating surface spill and underground release, misdirects owners and operators on the actions required for releases caused by "leaking, emitting, discharging, escaping, leaching or disposing from a petroleum storage tank" (224.60-115(19)).

For the reasons cited above, the cabinet cannot legally adopt the study's recommendations on use of a 25-gallon reporting and corrective action limit. The cabinet's position on this issue has been affirmed by the U.S. EPA in two sets of correspondence, dated December 10, 1993 and February 2, 1994. Copies of these documents are available upon request.

TIERING: Was tiering applied? Yes. In accordance with KRS 13A.210, this regulation was tiered to correlate the cleanup requirements imposed on owners and operators of petroleum underground storage tank systems with the degree to which the tank system is a threat to public health and the environment.

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

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will affect any state, county, or local office of government that owns underground storage tank systems that require corrective action or site closure.

3. State the aspect or service of local government to which this administrative regulation relates. KRS 224.60-105 and 224.60-137 require the cabinet to establish standards for underground storage tanks. These statutes mandate that the standards be protective of human health and the environment. Because the health and environmental threats from underground storage tanks that are publicly owned are no different than the threats from tanks that are privately owned, the UST standards must apply equally to public and private entities. This administrative regulation establishes a classification scheme for petroleum underground storage tank systems. It also establishes cleanup levels for benzene, toluene, ethylbenzene, and xylene released into the environment from tank systems containing gasoline, kerosene, jet fuel, or aviation fuel. The agencies referenced in item 2 of this fiscal note will be subject to these requirements.

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 (+/-): This administrative regulation will not affect state, county, or local revenues.

Expenditures (+/-): For petroleum underground storage tank systems falling into Class I, II, or III, the expenses for corrective action and site closure will generally decrease as a result of this administrative regulation. There will also be an indirect savings because under this administrative regulation the cleanup levels for benzene, toluene, ethylbenzene, and xylene will be standardized, causing less confusion and a shorter time period before final closure can be reached. For systems that are grouped into Class IV or V, corrective action and site closure expenses will generally remain at their current level.

Other Explanation: None

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate: There is no federal mandate for this administrative regulation. KRS 224.60-105(3) is a state mandate that requires the Natural Resources and Environmental Protection Cabinet to adopt a regulatory program that implements federal regulatory requirements for underground storage tanks. KRS 224.60-137(3) requires the cabinet to establish corrective action standards for a release into the environment from an underground storage tank. The statutes require that the regulatory program be adequate to protect human health and the environment, and that the corrective action standards be based upon a study performed for the Petroleum Storage Tank Environmental Assurance Fund Commission, unless the cabinet states in detail why recommendations in the study were not accepted. Pursuant to these statutory mandates, this administrative regulation establishes procedures and standards for site investigation and site closure of underground storage tank systems and cleanup levels for petroleum underground storage tank systems. The requirements in this administrative regulation are protective of human health and the environment, and they are consistent with federal UST requirements at 40 CFR Part 280 Subparts F and G, 40 CFR Part 281, and 42 U.S.C. 6991 et. seq. The procedures and standards are also consistent with the corrective action study conducted for the Petroleum Storage Tank Environmental Assurance Fund Commission, except as specified in the Regulatory Impact Analysis accompanying this administrative regulation.

2. State compliance standards: This proposed administrative regulation incorporates by reference a classification scheme for petroleum underground storage tank systems. The document also establishes cleanup levels for benzene, toluene, ethylbenzene, and xylene released into the environment from tank systems containing gasoline, kerosene, jet fuel, or aviation fuel. The cleanup standards use a tiered system in which a petroleum underground storage tank system is classified in one of five categories, based on the extent to which the system is a threat to human health and the environment. Cleanup requirements are then determined by the category in which the system is classified.

3. Minimum or uniform standards contained in the federal mandate: The federal underground storage tank program contains general site investigation and cleanup standards applicable to sites across the United States. The federal requirements are general in nature, and they defer to the state regulatory agencies to establish detailed, state-specific standards. 40 CFR 280.66 requires that corrective action plans "adequately protect human health, safety, and the environment." The federal administrative regulation lists the factors to be considered in determining compliance with the general

280.66 standard. These factors include the physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration; the hydrogeologic characteristics of the facility and the surrounding area; the proximity, quality, and current and future uses of nearby surface water and groundwater; the potential effects of residual contamination on nearby surface water and groundwater; and an exposure assessment. The 280.66 factors were considered in the corrective action study performed for the Petroleum Storage Tanks Environmental Assurance Fund Commission. The resulting standards recommended by the study are contained in this administrative regulation, except as specified in the Regulatory Impact Analysis accompanying this administrative regulation. The document incorporated by reference is state-specific in that it classifies tank systems based on the contrasts and similarities in geologic conditions and other environmental variables across Kentucky.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 40 CFR 280.66 defers to the state regulatory agencies to establish corrective action requirements using certain criteria established in the federal administrative regulation. The federal criteria are general and broad, and they rely on state regulatory agencies to establishes state-specific standards. The state administrative regulation dovetails with the federal program in that it is more detailed and state-specific. The state standards also reflect recommendations from a corrective action study performed for the Petroleum Storage Tank Environmental Assurance Fund Commission, except as specified in the Regulatory Impact Analysis accompanying this administrative regulation. The state standards are more detailed, not more stringent, than the federal program.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements: KRS 224.60-105(2) requires the cabinet to establish minimum standards for underground storage tanks to protect the public health and the environment. KRS 224.60-137 requires that the cabinet establish standards based on a corrective action study conducted for the Petroleum Storage Tank Environmental Assurance Fund Commission, unless the cabinet justifies deviation from the standards recommended in the study. Additionally, the federal program, specifically 40 CFR 280.66, looks to the states to establish program details consistent with the state's needs and certain broad, federal criteria. It is these factors that cause the state program to differ from that established at the federal level.

LABOR CABINET
Department of Workplace Standards
Kentucky Occupational Safety and Health

803 KAR 2:424. Adoption of 29 CFR Part 1926.1071-.1092.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.06 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR, Part 1926.1071-.1092 revised as of June 20, 1993, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, Volume 58, Number 124. These standards are hereby incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: These regulations affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these regulations, as these are simply the renumbering of regulations which have been previously enforced under different standard numbers.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these regulations which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These regulations will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these regulations.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of these regulations.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these additions are simply the renumbering of regulations that have been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of

these regulations.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These additions adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These proposed regulations adopt regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These proposed regulations are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These proposed regulations impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These regulations affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations affect safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these regulations are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These regulations will not affect the number of local government employees.

LABOR CABINET
Department of Workplace Standards
Kentucky Occupational Safety and Health

803 KAR 2:425. Adoption of 29 CFR Part 1926.1071-.1092.

RELATES TO: KRS Chapter 338

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR, Part 1926.1100-.1148 revised as of June 30, 1993, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, Volume 58, Number 124. These standards are hereby incorporated by reference with the following additions, revisions, and deletions: the amendment to 29 CFR 1926.1147, "Ethylene oxide," as published in the Federal Register, Volume 58, Number 143, July 28, 1993, is incorporated by reference.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

MRS. CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: February 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 1994, at 1 p.m. (ET), at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1994, 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 canceled. 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: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, (502) 564-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: These regulations affect all employers in the construction industry.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected by these regulations, as these are simply the renumbering of regulations which have been previously enforced under different standard numbers.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these regulations which will increase or decrease costs. There will be no affect on competition.

(b) Reporting and paperwork requirements: These regulations will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these regulations.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of these regulations.

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

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these additions are simply the renumbering of regulations that have been previously enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflicting, overlapping, or duplication as a result of adoption of these regulations.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one (1) or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KyOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of five or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These additions adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These proposed regulations adopt regulations in 29 CFR Part 1926, as published in the Federal Register, Volume 58, Number 124, June 30, 1993 and corrections, as published in the Federal Register, Volume 58, Number 143, July 28, 1993.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? These proposed regulations are identical to the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These proposed regulations impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These regulations affect all local government entities that have employees do construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations affect safety and health of employees of local government who do construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these regulations are to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. These regulations will not affect the number of local government employees.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Office of State Fire Marshal

815 KAR 15:025. New installations, general design, construction and inspection criteria for boilers, pressure vessels and pressure piping.

RELATES TO: KRS Chapter 236

STATUTORY AUTHORITY: KRS 236.030, 236.120

NECESSITY AND FUNCTION: KRS 236.030 and 236.120 authorizes the commissioner, through the Board of Boiler Rules, to fix reasonable fees and standards for the safe construction, installation, inspection and repair of boilers, pressure vessels and associated pressure piping. This administrative regulation is necessary to establish the design, construction and inspection criteria requirements of the boiler inspection section for all boilers and pressure vessels not exempted by KRS 236.060. This administrative regulation incorporates provisions contained in other 815 KAR Chapter 15 administrative regulations which are being repealed simultaneously.

Section 1. Minimum Standards. (1) Boiler and pressure vessels. All new boilers and pressure vessels, except those approved pursuant to Section 5 of this administrative regulation as "state specials," shall comply with applicable provisions of 815 KAR Chapter 15 of the Kentucky administrative regulations and the ASME Boiler and Pressure Vessel Code/1989, which is hereby adopted by reference.

(a) It is published by and available from the American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, New York 10017.

(b) A copy is also available to be inspected at the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky, Monday through Friday from 8 a.m. to 4:30 p.m.

(c) Compliance with a later edition of this code shall be deemed equivalent and may be used in lieu of the edition specified.

(2) Details of vessels of special design not covered by the code or not fully complying with the ASME Code shall be submitted to the Boiler Section of the State Fire Marshal's Office and approval secured before field erection or construction shall begin.

(3) Pressure piping.

(a) All new pressure piping installations connected to the boiler or pressure vessel shall conform to the standards set forth in the ASME Code for Power Piping, B.31.1, 1989 edition, an American National Standard, which is hereby adopted by reference. For low pressure boilers, the metallic piping material allowed by B.31.9 shall be acceptable.

1. The Power Piping Code is published by and available from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, New York 10017.

2. Copies are also available to be inspected at the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky, Monday through Friday from 8 a.m. to 4:30 p.m.

3. Compliance with a later edition of this code shall be deemed equivalent and may be used in lieu of the edition specified.

(b) The maximum allowable design temperature and pressure of the piping system and all of its component parts shall meet or exceed the operating control settings of the boiler itself.

(c) If the maximum allowable design temperature or pressure of the boiler exceeds the maximum design limits of the piping system or any of its component parts, the pipe or its components shall not be used unless the temperature and pressure controls on the boiler are permanently set to prevent operation in excess of the design limits of the piping system and safety valves are added to activate at the maximum design limits of the piping system.

(4) Welded joints. Welded joints shall be installed by qualified welders in accordance with the ASME Code, Section IX. Welded joints shall be visually inspected for complete and full root penetra-

tion, soundness of the weld and freedom from undercutting, cracking and other surface imperfections in accordance with Section 3(5) of this administrative regulation.

Section 2. Manufacturer's Data Report. A manufacturer's data report on all boilers of steel construction and all pressure vessels conducted in accordance with ASME Boiler and Pressure Vessel Code shall be filed with the National Board of Boiler and Pressure Vessel Inspectors unless the boiler or pressure vessel is exempted by KRS 236.060.

Section 3. Installation Inspection or First Inspection and Stamping of New Boilers and Pressure Vessels. (1) Stamping. Upon completion of the installation or at the time of first inspection, a Commonwealth of Kentucky serial number shall be assigned to the boiler or pressure vessel and shall be applied to the boiler or pressure vessel as follows:

(a) Steel boilers shall be stamped with the letters, "KY" followed by the state serial number assigned, and pressure vessels shall be stamped with the letters "KY" followed by the numeral "K" and the remainder of the state serial number assigned. The stamping shall be accomplished as follows:

1. Stamping shall be applied in the immediate area of code stamping on the boiler or pressure vessel and shall be in letters and figures not less than five-sixteenths (5/16) inch in height.

2. A metal tag may additionally be used showing identical lettering and serial number as used in the stamping, this tag shall be securely affixed in the area of the manufacturer's name plate or data plate.

(b) Cast iron boilers shall have securely attached to the boiler (preferably adjacent to the manufacturer's data plate or in the most conspicuous area) a metal tag not less than one (1) inch in height on which the letters "KY" and the state serial number shall be stamped.

(c) Hot water supply boilers shall have securely attached to the heater (preferably adjacent to the manufacturer's data plate or in the most conspicuous area) a metal tag not less than one (1) inch in height on which the letters "KY" and the state serial number shall be stamped.

(d) A boiler or pressure vessel having the standard stamping of another state that has adopted a standard of construction equivalent to the standard of the Commonwealth of Kentucky may be accepted by the department if the person desiring to install the boiler or pressure vessel shall make application for the installation and shall file with this application the manufacturer's data report covering the construction of the boiler in question.

(2) Shop or field inspection. Any new power boiler, steel heating boiler, pressure vessel or piping being constructed for installation in the Commonwealth of Kentucky shall be shop or field inspected in accordance with the provisions of the applicable section of the ASME Boiler and Pressure Vessel Code and shall be stamped with the applicable ASME code stamp and the applicable national board registration number. Applicable copies of the data sheets shall be supplied to the Boiler Inspection Section.

(3) Installation inspection. New installations of boilers and of unfired pressure vessels and associated pressure piping shall be inspected by the department for compliance with applicable ASME Boiler and Pressure Vessel Code requirements and this administrative regulation.

(4) General welding. If welded assembly has been used, the installing contractor shall present for the inspector's review his welding procedures and proof of qualification of his welding operators. The contractor shall be responsible for the quality of the welding done by his organization.

(5) Welded joints. If applicable codes or engineering specifications require additional tests or if the visual inspection reveals a potential defect or if joints have been insulated prior to inspection, the inspector may require other nondestructive tests, such as radiography, to be performed by the contractor to verify the soundness of the weld. All tests or retests required by the inspector shall be at the owner's or contractor's expense.

(6) Hydrostatic pressure test. A hydrostatic pressure test, when applied to a boiler or unfired pressure vessel of riveted or welded construction, shall not exceed one and one-half (1 1/2) times the maximum allowable working pressure. The pressure shall be under proper control so that in no case shall the required test pressure be exceeded by more than two (2) percent. During the hydrostatic pressure test, the safety valve or valves shall be removed or each valve disc shall be held down by means of a testing clamp (hand tight) and not by screwing down the compression screw upon the spring. The minimum temperature of the water used to apply a hydrostatic test shall not be less than ambient temperature, but in no case less than seventy (70) degrees Fahrenheit and the maximum temperature shall not exceed 120 degrees Fahrenheit. If the only purpose of the test is to determine tightness, the test pressure shall be equal to the relieving pressure of the safety valve having the lowest relief setting.

(7) Pressure piping systems installed in association with the boiler or pressure vessel shall be inspected for proper materials, adequate pressure and temperature ranges for the boiler operation and for adequate support and tightness as follows:

(a) Hydrostatic tests. Hydrostatic tests shall be preformed on the pressure piping system connected to the boiler at one and one-half (1 1/2) times the maximum allowable pressure of the boiler when the installation is complete.

(b) Code compliance. Pressure piping inspection shall include determining compliance with design plans, material specifications and ASME Code for the piping and component parts. The contractor shall document to the inspector that:

1. That the piping installation and each of its component parts conforms to the design;

2. That the materials used and method of construction meets the manufacturer's procedures and specifications; and

3. That the system is utilizing the materials and equipment specified within the temperature and pressure ranges set forth in the design and as required by Section 1(3)(c) of this administrative regulation.

Section 4. Notification of Inspection. The owner or user shall prepare each boiler for internal inspection and shall prepare for and apply a hydrostatic pressure test on the date specified by the inspector. The inspection shall not be less than seven (7) days after the date of notification.

Section 5. State Special. (1) Boilers and pressure vessels of special design equivalent to the ASME Code and vessels designed and fabricated according to the standards of the applicable sections of the ASME Boiler and Pressure Vessel Code, but not stamped with the ASME symbol stamp, shall meet the requirements of this section. The prospective owner or user who desires approval of the boiler installation as a state special shall pursue the following procedure in each individual case.

(a) Prior to installation and operation of the boiler or pressure vessel, the proposed owner, user, or his authorized agent shall make written application for permission to install the boiler or pressure vessel in the state of Kentucky. The application shall be directed to the Chief Boiler Inspector, Office of the State Fire Marshal, Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky 40601.

(b) To establish ASME Boiler and Pressure Vessel Code equivalency, the following data, material and information shall be submitted with the application for permit and approved by the Boiler Inspection Section, Department of Housing, Buildings and Construction:

1. Detailed shop drawings and welding details of the proposed construction. All materials shall be in the English language and United

States units of measurements listed in the ASME Code.

2. Design calculations and supporting data which shall include pressure (psi), temperature (deg. F.), use and other service conditions.

3. Specifications for all construction materials. The specifications shall conform to the applicable ASME Code standards or their suitable equivalent. If reference is made to a standard or specification of a country other than the United States, a copy shall be attached to indicate how the material is considered equivalent.

4. Copies of the welding procedures to be used and welding qualification test reports for each welding operator or welder to be used. The procedures and tests required in this paragraph shall be made in accordance with the ASME Boiler and Pressure Vessel Code, Section IX, "Welding Qualifications."

5. If the design exceeds ASME Boiler and Pressure Vessel Code limitation, recognized engineering practices shall be used and identified in the submittal.

6. Design drawings and calculations shall be certified by a professional engineer holding a license acceptable to the boiler inspection section.

7. The manufacturer of the vessel shall identify the inspection agency responsible for the shop inspections and manufacturer's data reports for the proposed vessel.

8. The shop inspection agency shall furnish the qualifications and experience of the individual inspector or inspectors assigned to make the shop inspections and shall give his jurisdiction commission number.

(2) When the boiler or pressure vessel is completed, a manufacturer's data report, signed by the manufacturer and shop inspector, shall be submitted to the jurisdictional authorities containing the equivalent type data required by the ASME Boiler and Pressure Vessel Code. ASME Boiler and Pressure Vessel Code data report forms shall not be used.

(3) Upon arrival in the state of Kentucky, the boiler or pressure vessel shall be inspected before installation by a qualified boiler and pressure vessel inspector in the employ of the department to verify that the above provisions have been complied with and that the vessel is properly marked and stamped for identification.

Section 6. General Requirements. (1) Low water fuel cutoff or water-feeding device (low pressure boilers).

(a) Automatically fired steam or vapor-system boilers shall have an automatic low-water fuel cutoff located to automatically cut off the fuel supply when the water falls to the lowest part of the water gauge glass. If a water-feeding device is installed, it shall be constructed so that the water inlet valve cannot feed water into the boiler through the float chamber and located to supply requisite feed water.

(b) A fuel cutoff or water-feeding device may be attached directly to a boiler.

(c) A fuel cutoff or water-feeding device may also be installed in the tapped openings available for attaching a water glass directly to a boiler under the following conditions:

1. The connections shall be made to the boiler with nonferrous tees or Y's not less than one-half (1/2) inch pipe size between the boiler and the water glass so that the water glass is attached directly and as close as possible to the boiler;

2. The run of the tee and Y shall take the water glass fittings and the side outlet or branch of the tee or Y shall take the fuel cutoff or water-feeding device.

(d) The ends of all nipples shall be reamed to full-size diameter.

(e) Fuel cutoffs and water-feeding devices embodying a separate chamber shall have a vertical drain pipe and a blowoff valve not less than three-fourths (3/4) inch pipe size and located at the lowest point in the water equalizing pipe connections so that the chamber and the equalizing pipe can be flushed and the device tested.

(2) Safety appliances. The safety appliances prescribed by these administrative regulations shall not be removed or tampered with except for the purpose of making repairs. The resetting of safety valves shall be done by a V-R stamp holder.

(3) Location of discharges to atmosphere. The discharge of safety valves, blowoff pipes, and other outlets shall be located so as to prevent injury to personnel.

(4) Pressure reducing valves (high pressure boilers).

(a) If pressure reducing valves are used, one (1) or more relief or safety valves shall be provided on the low pressure side of the reducing valve in case the piping or equipment on the low pressure side does not meet the requirements for the full initial pressure. The relief or safety valves shall be located either adjoining or as close as possible to the reducing valve. Proper protection shall be provided to prevent injury or damage caused by the escaping steam from the discharge or safety valves if vented to the atmosphere. The combined discharge capacity of the relief valve shall be such that the pressure rating of the lower pressure piping or equipment shall not be exceeded in case the reducing valve sticks open.

(b) The use of hand-controlled bypasses around reducing valves shall be permissible. The bypass, if used around a reducing valve, shall not be greater in capacity than the reducing valve unless the piping or equipment is adequately protected by relief valves or meets the requirements of the high pressure system.

(c) A pressure gauge shall be installed on the low pressure side of a reducing valve.

(5) Electric boilers. All appliances required for electric boilers shall be attached in accordance with the National Electrical Code and the following requirements:

(a) The grounding of the shell shall be permanently fastened on some part of the boiler and shall be grounded in accordance with the edition of the National Electrical Code in effect at the time the permit for the installation was made.

(b) A suitable screen or guard shall be provided around high tension bushings and a high voltage warning sign shall be posted. This screen or guard shall be located to prohibit anyone working around the boiler to accidentally come in contact with the high tension circuits. When adjusting safety valves, the power circuit to the boiler shall be open.

(c) The boiler may be under pressure, but the power line shall be open while the operator is making the necessary adjustments.

(d) Each KW of electrical energy consumed by an electric boiler operating at maximum rating shall be considered the equivalent of one (1) square foot of heating surface.

(6) Clearance.

(a) If boilers are replaced or new boilers installed in either existing or new buildings, a minimum of two (2) feet shall be provided on all service sides, unless the installation allows for proper maintenance without the separation. Vessels having manholes shall have five (5) feet clearance from the manhole opening and any wall, ceiling or piping that will prevent a person from entering the boiler or vessel.

(b) Boilers shall be installed to:

1. Allow adequate space for their proper operation and their appurtenances;

2. Allow inspection of all surfaces, tubes, water walls, economizer, piping, valves, and other equipment; and

3. Allow for necessary maintenance and repair.

(7) Emergency devices for certain installations. Installations of power boilers or heating boilers in hospitals, rest homes, schools, mental institutions or similar institutional facilities shall comply with provisions of ASME Boiler and Pressure Vessel Code, Section IV, Article HG-634, regarding remote emergency cutoff switches. These installations shall be judged on their own merits from a standpoint of accessibility of electrical power cutoffs to the boiler or boilers in case of fire or heavy smoke emission. If installed cutoff switches are not adjacent to boiler room entryways, emergency cutoff switches shall be provided as outlined in Article HG-634, of Section IV, ASME Boiler and Pressure Vessel Code.

CHARLES A. COTTON, Commissioner
EDWARD J. HOLMES, Secretary
APPROVED BY AGENCY: February 3, 1994
FILED WITH LRC: February 8, 1994 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 22, 1994 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 March 17, 1994, (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 be heard at 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

Contact Person: Judith G. Walden

(1) Type and number of entities affected: Manufacturers, contractors/installers and owner/users.

(a) Direct and indirect costs or savings to those affected: There are no changes proposed that would affect costs or savings for those companies operating under established practices of the industry and previous requirements of the Boiler Code.

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: (Note any affects upon competition)

(b) Reporting and paperwork requirements: Existing reporting procedures and reporting compliance paperwork remain unchanged with this amendment.

(2) Effects on the promulgating administrative body: This regulation clarifies and refines existing requirements, updates standards and complies with KRS Chapter 13A.

(a) Direct and indirect costs or savings: None involved with the implementation of this amendment.

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 revenue: This regulation represents no change in existing or anticipated state or local revenue.

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

(5) Identify any statute, rule, regulation or governmental policy which may be in conflict, overlapping or duplication: No known conflicting statute.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

Tiering: Was tiering applied? No. All boiler and pressure vessel contractors and standards for boilers and pressure vessels need to be uniform in treatment and protection.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Office of the State Fire Marshal

815 KAR 15:026. Existing boilers and pressure vessels; testing, repairs, inspection and safety factors.

RELATES TO: KRS Chapter 236, 815 KAR 15:010-080
STATUTORY AUTHORITY: KRS 236.030
NECESSITY AND FUNCTION: KRS 236.030 authorizes the commissioner, through the Board of Boiler and Pressure Vessel Rules, to fix reasonable standards for the inspection and repair of boilers and pressure vessels. This administrative regulation contains the requirements for safe maintenance of those vessels.

Section 1. Frequency of Inspection of Existing Vessels. Inspection frequency. Upon notification by an inspector, all boilers and pressure vessels which are subject to annual or semiannual inspections pursuant to KRS 236.110 shall be prepared for the inspection or hydrostatic test by the owner or user.

Section 2. Preparation for Inspections and Tests. (1) The owner or user shall prepare each boiler/pressure vessel for internal inspection and shall prepare for and apply required hydrostatic tests on the date specified by the inspector. The date set for inspection shall be not less than seven (7) days after the date of notification by the inspector.

(2) The owner or user shall prepare a boiler for internal inspection in the following manner:

(a) Water shall be drawn off and the boiler thoroughly washed.

(b) All manhole and handhole plates, washout plugs, and plugs in water column connections shall be removed and the furnace and combustion chambers thoroughly cooled and cleaned.

(c) All grates of internally fired boilers shall be removed.

(d) At each annual inspection, brickwork shall be removed as required by the inspector in order to determine the condition of the boilers, headers, furnace, supports or other parts.

(e) The steam gauge shall be removed for testing.

(f) Any leakage of steam or hot water into the boiler shall be cut off by disconnecting the pipe or valve at the most convenient point.

(3) If the boiler is jacketed and the longitudinal seams of shells, drums or domes are not visible, enough of the jacketing, setting wall or other forms, casing or housing shall be removed so that the size of the rivets, pitch of the rivets and other data necessary to determine the safety of the boiler may be obtained, if the information cannot be determined by other means.

(4) If a boiler has not been properly prepared for an internal inspection or the owner or user fails to comply with the requirements for hydrostatic test as set forth in this administrative regulation, the inspector may decline to make the inspection or test and the inspection certificate shall be withheld until the owner or user complies with the requirements.

(5) Lap seam crack. A crack in the lap seam extending parallel to the longitudinal joint between or adjacent to rivet holes of the shell or drum of a boiler/pressure vessel shall cause the vessel to be immediately discontinued from use. If the boiler/pressure vessel is not more than fifteen (15) years of age, a complete new course of the original thickness may be installed at the discretion of the inspector and after approval by the chief inspector. Patching shall be prohibited.

(6) Hydrostatic pressure tests. If hydrostatic tests shall be applied to existing installations, the pressure shall be as follows:

(a) For determining tightness, the pressure shall be equal to the release pressure of the safety valve or valves having the lowest release setting.

(b) For determining safety or the strength of a vessel and related piping as well as tightness, the pressure shall be equal to one and one-half (1 1/2) times the maximum allowable working pressure,

except for locomotive type boilers in which case it shall be one and one-fourth (1 1/4) times the maximum allowable working pressure. The pressure shall be under proper control so that in no case shall the required test pressure be exceeded by more than two (2) percent.

(c) The temperature of the water used for the hydrostatic test shall be no less than ambient temperature, but in no case less than seventy (70) degrees Fahrenheit, or high enough to allow the metal temperature to exceed 120 degrees Fahrenheit.

Section 3. Safety Factors in Existing Boilers and Pressure Vessels. (1) Maximum pressure and temperature. The maximum allowable working pressure for standard pressure vessels and the maximum allowable temperature and pressure for standard boilers shall be determined in accordance with the ASME Code Edition under which they were constructed and stamped.

(2) Notice of accident or malfunction. If an accident or malfunction occurs, which renders the boiler inoperative, the owner, user, or insurer shall immediately notify the Boiler Inspection Section and submit a detailed report of the accident or malfunction. In case of serious accident, such as explosion, notice shall be given immediately by telephone, telegraph, or messenger and neither the boiler, pressure vessel nor any of the parts shall be removed or disturbed before an inspection has been made by an inspector, except for the purpose of saving a human life.

(3) Condemned boilers. A boiler or pressure vessel inspected and found unsafe for further use by the chief boiler inspector or boiler inspector shall be stamped by the inspector with the letters "XX" and the letters "KY," to designate a condemned boiler or pressure vessel, i.e., XX KY 12345 XX.

(4) A person, firm, partnership or corporation using or offering for sale a condemned boiler or pressure vessel for operation within this Commonwealth shall be subject to the penalties in KRS 236.990.

(5) Nonstandard boilers and pressure vessels. Shipment of nonstandard boilers, pressure vessels or hot water supply boilers into this state shall be prohibited, unless exempted under KRS Chapter 236.

(6) Used boilers. Nonstandard boilers, pressure vessels or hot water supply boilers, once removed from use, shall not be reinstalled.

(7) Removal of safety appliances. A person shall not attempt to remove or work on any safety appliance while a boiler is in operation unless under the direction of an inspector. If any safety appliance is repaired during an outage of a boiler or pressure vessel, the appliance shall be reinstalled and in proper working order before the vessel shall be returned to service.

(8) All boilers, pressure vessels and pressure piping shall be maintained in accordance with the minimum requirements of the edition of the ASME Code which was in effect when it was constructed and installed.

Section 4. Used Vessels. (1) Used boilers or pressure vessels. Before any vessel is brought into Kentucky for use, it shall be inspected by a boiler inspector or a special boiler inspector and the data shall be filed by the owner or user of the boiler or pressure vessel with the Boiler Inspection Section for approval.

(2) Reinstalled boilers or pressure vessels. If a boiler or pressure vessel is moved and reinstalled, the fittings and appliances shall comply with the ASME Boiler and Pressure Vessel Code and the administrative regulations adopted in 815 KAR Chapter 15.

(3) Unsafe conditions. The inspector shall order increases in the factors of safety, pursuant to the ASME Boiler and Pressure Vessel Code, if the condition of the boiler is unsafe. If the owner or user does not concur with the inspector's decision, he may appeal to the commissioner who may request a joint inspection by the chief inspector and the boiler inspector or special boiler inspector. Each inspector shall render his report to the commissioner, who shall render the final decision, based upon the data contained in all the inspector's reports.

Section 5. Major Repairs. (1) Major repairs shall require prior approval of an inspector and permits as required by KRS 236.240 and 236.250. Repairs to all boilers, pressure vessels and their appurtenances shall conform to the requirements of the National Board Inspection Code, 1989 edition, which is hereby adopted by reference.

(a) The National Board Inspection Code is published by and available from the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229.

(b) A copy is also available to be inspected at the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky, Monday through Friday from 8 a.m. to 4:30 p.m.

(c) Compliance with a later edition of this code shall be deemed equivalent and may be used in lieu of the edition specified.

(2) Repairs. Repairs to any safety valve, safety relief valve, relief valve or liquid relief valve shall be made by a firm possessing the National Board Certificate of Authorization for Use of the Valve Repair (VR) Stamp and shall be stamped with the VR stamp upon completion of the repair.

Section 6. Inspection by Special Inspectors. (1) Special inspectors shall submit inspection reports to the Boiler Inspection Section of the State Fire Marshal's Office on the following form:

HBC-BI-220
INSURANCE NO.

COMMONWEALTH OF KENTUCKY
DEPT. OF HOUSING, BUILDINGS AND CONSTRUCTION
OFFICE OF STATE FIRE MARSHAL
BOILER OR PRESSURE VESSEL INSPECTION

( ) ADD
( ) CHANGE
( ) REINSPECTION

1	INSP DT:	EXP DT:	YR	TYPE	STATUS	ST OWN	STATE NO:	NAT BOARD NUMBER:
			1	2		( )		
			( )	( )			KY	

2 OWNER: ADDRESS:

ADDRESS: CITY: ST: ZIP:

3 USER: ( ) ADDRESS:

ADDRESS: CITY: ST: ZIP:

4 USER PHONE: NATURE OF BUSINESS: COUNTY: SPECIFIC LOCATION IN PLANT:

5 TYPE: YR BLT: MANUFACTURER:

CIS	FT	OTH	HFB	HSM	WT
( )	( )	( )	( )	( )	( )

6 USER: FUEL: INSP TYPE: CERT INSP:

POWER	PROCESS	STEAM HTG	HWH	HWS	UNFIRED	INT	EXT	YES	NO
( )	( )	( )	( )	( )	( )	( )	( )	( )	( )

7 PRESSURE ALLOWED: SAF RELIEF VALVE: SAF VALVE CAP: MIM SAF VALVE CAP:
THIS INSP PREV INSP
SET AT:

8 HYDRO TEST PSI TEST DATE:

VIOLATIONS TO BE CORRECTED ARE BELOW

CODE

1
2
3
4
5
6
7

FEE:

INSP. _____ COMP. DATE: _____ KY COMM. _____
CONTACT PERSON_____ CERT. _____

TOTAL_____ CO. NO._____ INSPECTOR SIGNATURE_____

CHECK BOX IF ADDITIONAL REMARKS ARE ON BACK ☐
EMPLOYED BY_____

* *

(2) Insurance companies shall notify the Boiler Inspection Section of new, cancelled or suspended risks. All insurance companies shall notify the Boiler Inspection Section within thirty (30) days of all boiler or pressure vessel risks written, cancelled, not renewed or suspended because of unsafe conditions.

(3) Insurance companies shall notify the Boiler Inspection Section of defective boilers or pressure vessels. If a special boiler inspector finds, upon the first inspection of a boiler or pressure vessel, the boiler or pressure vessel or any of the appurtenances in a condition causing his company to refuse insurance, the company shall immediately notify the Boiler Inspection Section and submit a report of the defects.

(4) Defective conditions disclosed at time of external inspections. If, upon an external inspection, there is evidence of a leak or crack, enough of the covering of the boiler or pressure vessel shall be removed to satisfy the inspector of its safety. If the covering cannot be removed at that time, the special inspector shall order the operation stopped until the covering may be removed and a proper examination made.

CHARLES A. COTTON, Commissioner

EDWARD J. HOLMES, Secretary

APPROVED BY AGENCY: February 3, 1994

FILED WITH LRC: February 8, 1994 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 22, 1994 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 March 17, 1994, (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 be heard at 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

Contact Person: Judith G. Walden

(1) Type and number of entities affected: All contractors, installers, owners/users and insurance companies of boilers and pressure vessels.

(a) Direct and indirect costs or savings to those affected: No change in costs or savings for those companies operating under established practices of the industry and previous requirements of the Boiler Code.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs: (Note any affects upon competition)

(b) Reporting and paperwork requirements: No paperwork or reporting requirements will be changed with this regulation.

(2) Effects on the promulgating administrative body: This regulation clarifies and refines existing requirements, updates standards and complies with KRS Chapter 13A.

(a) Direct and indirect costs or savings: None involved with the implementation of this amendment.

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 revenue: This regulation represents no change in existing methods used in the department.

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

(5) Identify any statute, rule, regulation or governmental policy which may be in conflict, overlapping or duplication: No known conflicting statute.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

Tiering: Was tiering applied? No. All boiler and pressure vessel contractors and standards for boilers and pressure vessels need to be uniform in treatment and protection.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Office of the State Fire Marshal

815 KAR 15:027. Certificates and fees for boiler and pressure vessel inspection.

RELATES TO: KRS Chapter 236

STATUTORY AUTHORITY: KRS 236.030, 236.120

NECESSITY AND FUNCTION: KRS 236.030 and 236.120 authorizes the commissioner, through the Board of Boiler and Pressure Vessel Rules, to fix reasonable inspection fees for boilers and pressure piping. This administrative regulation specifies fees for the boiler inspection section. These are the same fee amounts previously existing in 815 KAR 15:020, which has been repealed.

Section 1. Boiler Certificates of Inspection. (1) A boiler or pressure vessel complying with the rules of the department shall be issued the certificate required by KRS 236.120(1) upon payment of a fifteen (15) dollar fee.

(2) If the owner or user of the boiler or pressure vessel required to be inspected refuses to allow an inspection to be made or refuses to pay the required fee, the inspection certificate shall be suspended by the commissioner until the owner or user complies with the requirements.

(3) If the owner or user operates a boiler or pressure vessel without possessing a valid certificate of inspection, the owner or user shall be subject to the penalties provided for in KRS 236.990.

(4) Certificates shall be located as required by KRS 236.120(1).

(5) Validity of inspection certificates. An inspection certificate, issued in accordance with KRS 236.120, shall be valid until expiration unless a defect or condition affecting the safety of the boiler or pressure vessel is disclosed. A certificate issued for a boiler or pressure vessel inspected by a special boiler inspector shall be valid only if the boiler for which it was issued continues to be insured by an authorized insurance company.

(6) Suspension of certificate of operations. Certificates shall be suspended in accordance with KRS 236.120(3).

Section 2. Fees. (1) Following an inspection, the owner or user of a boiler, pressure vessel or pressure piping, unless exempt under KRS 236.060, shall pay to the department fees in accordance with this section. The fees for new installations of boilers, pressure vessels or pressure piping and fees for repairs shall be in accordance with the fees listed in subsection (5) of this section and shall be submitted by the contractor prior to installation.

(2) Shop inspections made by boiler inspectors for purposes of inspecting the fabrication of the vessel at the request of a boiler manufacturer, installer, engineering contractor or owner shall be charged at the following rates:

(a) $150 for one-half (1/2) day of four (4) hours or less.

(b) $200 for one (1) day of over four (4) hours.

(c) $240 for eight (8) hours or any part of a day on Saturdays, Sundays or public holidays.

(d) Thirty (30) dollars per hour for overtime in excess of eight (8) hours in any one (1) day, plus itemized expenses to include mileage, lodging, meals and incidentals. These charges shall not void regular fees for inspection and certificate when the boilers or pressure vessels are completed.

(3) Charges for inspection of second-hand equipment shall be at the rates specified above plus charges for mileage, lodging, meals and incidentals. These charges shall not void regular fees for inspection and certificate when the boilers or pressure vessels are installed.

(4) ASME and national board inspections. Inspections of the manufacturing facility itself, at the request of the manufacturer, for the issuance of ASME or National Board Certificates of Authorization shall be charged as follows:

(a) Initial inspection for ASME certificates - $1,000.

(b) Reviews for renewal of ASME certificates - $750.

(c) Initial inspections and renewals for National Board R or VR certificate - $200.

(5) Inspection of new installations of pressure piping, boilers or pressure vessels shall be charged as follows:

(a) The fees charged for inspection of each boiler or pressure vessel and each pressure piping system shall be based upon the total dollar value of each installation, either actual or estimated. It shall be the obligation of the installing contractor to supply this value which shall include both labor and material costs. An exact figure does not need to be quoted or divulged to the boiler inspector or department, only a designation that the true value lies within certain limits as listed in the left column of the table below. The fees for all new installations of boilers, pressure vessels or pressure piping and fees for repairs are listed in the right column of the table.

Amount in Dollars	Fee
$2,000 or less	$60
$2,001 to $10,000	$90
$10,001 to $25,000	$120
$25,001 to $50,000	$150
$50,001 to $75,000	$200
$75,001 to $100,000	$300
$100,001 to $150,000	$400
$150,001 to $200,000	$500
$200,001 to $250,000	$600
$250,001 to $300,000	$700
$300,001 to $400,000	$800
$400,001 to $500,000	$1,000
$500,001 and over	$1,200

(b) The installing contractor, owner or user shall request an inspection of a boiler and pressure piping at least seven (7) days in advance. If the inspection is not made within this time limit, the installation may proceed. Requests for inspection shall be made by letter or telephone to the department.

(6) Inspection of nuclear installations. Nuclear installation inspections shall be charged as set forth under subsection (2) of this section or as determined by contracts between the installer and the department.

(7) Hydrostatic tests. If it is necessary to make a special trip to witness the application of a hydrostatic test, an additional fee based on the scale of fees set forth under subsection (2) of this section shall be charged.

(8) Fees for reinspection of boilers and pressure vessels.

(a) Fees for reinspection of power boilers shall be in accordance with the following tables:

INTERNAL INSPECTIONS OF POWER BOILERS

Heating Surface (Square Feet)	Fee
100 or less	$20
101 to 1,000	$40
1,001 to 4,000	$70
4,001 to 10,000	$100
10,001 and over	$160

EXTERNAL INSPECTIONS OF POWER BOILERS

Heating Surface (Square Feet)	Fee
100 or less	$16
101 and over	$20

(b) Fees for reinspection of heating boilers shall be as follows:

HEATING BOILERS

Boilers with manway where internal inspection required	$40
Other heating boilers	$20
Hot water supply boilers	$10
Miniature boilers	$10

(c) The initial installation inspection fee for pressure vessels shall be twenty (20) dollars.

Section 3. Plan Review of Boiler and Unfired Pressure Vessel Installations. (1) Prior to the construction and installation of any boiler or unfired pressure vessel, the installing contractor shall submit shop drawings and fees for the installation to the chief boiler inspector of the department for review and release for construction.

(2) Fees for plan review shall be provided in accordance with the following table:

Heating Surface (Square Feet)	Fee
100 and under	$20
101 to 1,000	$30
1,001 to 4,000	$50
4,001 to 10,000	$70
10,001 and over	$100
Unfired pressure vessels	$20

CHARLES A. COTTON, Commissioner
EDWARD J. HOLMES, Secretary
APPROVED BY AGENCY: February 3, 1994
FILED WITH LRC: February 8, 1994 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 22, 1994 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 March 17, 1994, (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 be heard at 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

Contact Person: Judith G. Walden

(1) Type and number of entities affected: Manufacturers, contractors/installers and owner/users of boilers and pressure vessels.

(a) Direct and indirect costs or savings to those affected: No change in costs or savings for those companies operating under established practices of the industry and previous requirements of the Boiler Code.

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: (Note any affects upon competition)

(b) Reporting and paperwork requirements: No paperwork or reporting requirements will be changed with this amendment.

(2) Effects on the promulgating administrative body: This regulation clarifies and refines existing requirements, updates standards and complies with KRS Chapter 13A.

(a) Direct and indirect costs or savings: None involved with the implementation of this amendment.

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 revenue: This regulation represents no change in existing methods used in the department.

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

(5) Identify any statute, rule, regulation or governmental policy which may be in conflict, overlapping or duplication: No known conflicting statute.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

Tiering: Was tiering applied? No. All boiler and pressure vessel contractors and standards for boilers and pressure vessels need to be uniform in treatment and protection.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Office of the State Fire Marshal

815 KAR 15:081. Repeal of 815 KAR 15:020; 815 KAR 15:030 and 815 KAR 15:070.

RELATES TO: KRS Chapter 236

STATUTORY AUTHORITY: KRS 236.030

NECESSITY AND FUNCTION: 815 KAR 15:020; 815 KAR 15:030 and 815 KAR 15:070 are no longer necessary because the requirements have been rewritten and placed in other more appropriate administrative regulations.

Section 1. 815 KAR 15:020, Administrative procedures; requirements, is hereby repealed.

Section 2. 815 KAR 15:030, General requirements, is hereby repealed.

Section 3. 815 KAR 15:070, Installation and inspection of pressure vessels, is hereby repealed.

CHARLES A. COTTON, Commissioner
EDWARD J. HOLMES, Secretary

APPROVED BY AGENCY: February 3, 1994

FILED WITH LRC: February 8, 1994 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 22, 1994 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 March 17, 1994, (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 be heard at 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

Contact person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed administrative regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Is tiering applied? Not applicable for repeal regulation.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the February 7 and 8, 1994 Meeting

The February meeting of the Administrative Regulation Review Subcommittee was held on Monday, February 7, 1994 at 5:45 p.m. and Tuesday, February 8, 1994 at 4:15 p.m. in Room 131 of the Capitol Annex. Chairman Tom Kerr called the meeting to order, and the secretary called the roll. The minutes of the January 5, 1994 meeting were approved.

Present were:

Members: Representative Tom Kerr, Chairman; Senators Tom Smith, Nick Kafoglis, Gene Huff; Representatives Jim Bruce, Woody Allen and James Yates.

Guests: William P. Hanes, Pam Johnson, Kentucky Retirement Systems; Dave Nicholas, Occupations and Professions; Bill Schmidt, Wes Faulkner, Kentucky Board of Medical Licensure; Richard Carroll, Board of Accountancy and Board of Embalmers and Funeral Directors; Nathan Goldman, Board of Nursing; Ronnie L. Galloway, James P. Daniels, Real Estate Appraisers Board; Tom Bennett, Mark Marraccini, Ron Pritchert, Department of Fish and Wildlife Resources; Dave Rosenbaum, R. Bruce Scott, Pat Haight, Linda Stacy, George Gilbert, Jim Villines, Fred J. Kirchhoff, Natural Resources and Environmental Protection Cabinet; Sgt. Gene C. Batts, Sgt. David F. Wilkinson, Jack Damron, Judy Morris, Louis T. Smith, Department of Corrections; Charles E. Whaley, Kenneth Warlick, Linda Hargan, David Thurmond, Gary Griesser, Charles E. Whaley, Mark Ryles, Michael L. Luscher, Kevin Noland, Department of Education; Rod Raby, Public Protection and Regulation Cabinet; Judith Walden, Department of Housing, Buildings and Construction; Thomas E. Maxson, Dale Marcum, David Klee, Ed Maxwell, Wes Combs, John P. Draper, James Lambert, Jeanne Southworth, Terry Wescott, Michael Littlefield, Vickie Bryant, Robert Calhoun, Sally Money, Gary Bevill, Ked Fitzpatrick, Ed Crews, Anita Moore, Mark Birdwhistell, Janice Kline, Mark Cornett, Karen Doyle, Karen Thomas, Eric Friedlander, Danna Droz, Ralph Von Derau, Patricia R. Patterson, Cabinet for Human Resources; David Morgan, David Pollack, Kentucky Heritage Council; Laura Freese, Western Kentucky University; Mike Porter, Dr. Ken Rich, Kentucky Dental Association; Dr. George Georgilis, Ted Bradshaw, Kentucky Optometric Association; Jim Carloss, Kentucky Academy for Eye Surgeons; M. Diane Becker, Beechwood Board; Dot Darby, BHS; Sara S. Nicholson, Kentucky Hospital Association; Frank McCracken, Jr., Appalachian Regional Healthcare and KHA; Pauline Lewis, Billie Shepherd, Joan Tackett.

LRC Staff: Greg Karambellas, O. Joseph Hood, Tom Troth, Susan Wunderlich, Peggy Jones, Donna Valencia, Susan Eastman, Don Hines.

The Subcommittee determined that the following administrative regulations did not comply with statutory requirements:

Natural Resources and Environmental Protection Cabinet: Department for Surface Mining Reclamation and Enforcement: General Provisions

405 KAR 7:200. Disposal of coal combustion fly ash, bottom ash and scrubber sludge under special waste permit-by-rule at 401 KAR 45:060 Section 1(6). Senator Smith mentioned that the agency had quite a bit of comment at the hearing with evidently no changes being made, and that he believed the requirements to be totally unworkable. Senator Smith moved that the administrative regulation didn't conform to legislative intent. The motion was seconded.

Senator Huff asked Mr. Rosenbaum to respond. Mr. Rosenbaum said neither side of this issue believes we have a very good regulation. He said they have had a number of meetings with utility companies, with coal interests and with the environmental community. He stated that the agency had made significant changes during the preliminary process. He added that Senator Smith is correct that the agency did not make any changes after the hearing.

Mr. Rosenbaum explained that this administrative regulation implements a permit-by-rule coal combustion waste disposal process for surface coal mines. He stated that coal by-product ash could be disposed to the thickness of the coal removed, subject to environmental concern requirements. Mr. Rosenbaum stated any additional waste would require a separate special waste permit.

Senator Smith said this administrative regulation might sound good in theory but it wasn't practical.

Chairman Kerr pointed out that in the summary of comments and responses in the Statement of Consideration there are responses he believes to be inadequate. He said on page 4 of the Statement of Consideration Senator Nelson made comments and the Cabinet's response: "The Cabinet believes the regulation is appropriate and should be approved." Chairman Kerr stated that does not address the substance of the comment at all and is not an appropriate comment.

He continued "Also, on page 5 a comment that has quite a bit of information and facts and the response that 'the Cabinet appreciates the information and that no response is necessary' is not an adequate response, at least in my opinion."

Chairman Kerr stated that KRS Chapter 13A requires that the response specifically address the comment.

Mr. Rosenbaum stated he thought the commenter was just providing the Cabinet with some information and was not asking for a change.

A vote was taken on the motion and the motion passed.

Cabinet for Human Resources: Department for Medicaid Services

907 KAR 1:540. Eligibility requirements and benefits under the Kentucky hospital care program (KHCP). Frank McCracken, Chairman of the Medicaid Hospital Technical Advisory Committee of the Kentucky Hospital Association and an employee of the Appalachian Regional Health care (ARH), stated that: (1) if this administrative regulation goes into effect hospitals must: (a) give charity care to patients without billing, even though they meet the qualification requirements of medicaid; (b) provide unlimited inpatient and outpatient care without billing the patient, even though the patient is due funds from some source such as liability insurance; (c) use emergency rooms to provide unlimited general care that should be provided in primary care physician's offices without billing the patient; (d) implement this administrative regulation on February 1, 1994 for a program that began on January 1, 1993; (e) psychiatric hospitals must provide care to individuals ages 22 through 64 without payment of any kind; (2) this administrative regulation is seriously defective and does not comply with legislative intent regarding House Bill 1 and should be withdrawn and replaced with a new administrative regulation that complies with legislative intent; (3) if this administrative regulation is found deficient, the administrative regulation would still go into effect which would provide hospitals with some relief while the cabinet drafts eligibility administrative regulations that comply with the statute; (4) House Bill 1 became effective more than 7 months ago, the administrative regulation for collecting the tax was effective when the statute went into effect; (5) seven months later, there is still no administrative regulation for reimbursing hospitals; (6) to date, hospitals have paid in almost 40 million dollars in provider tax; (7) payments to hospitals have been made on a base amount formula without regard to the amount of indigent care

provided by the hospital; (8) the indigent payment based on indigent volume and only made to unprofitable hospitals has not been made; (9) these unprofitable hospitals can least afford the withholding of payments; (10) the ARH corporation has paid a provider tax of approximately 2 million dollars since July 1993 and has provided indigent care of almost 7 million dollars; (11) the Kentucky Medicaid Department projected that 72 hospitals would operate at a loss with a provider tax obligation without payment for indigent care; and (12) the operating loss has hurt many hospitals in this state.

Chairman Kerr asked why services should be provided at a hospital for free if the patient qualifies for medicaid

The cabinet responded that: (1) indigent services were to be provided for individuals below the poverty level; (2) some individuals who are medicaid eligible but below the poverty level fit within the statute; (3) the hospital may choose to provide certain services not covered by the medicaid program and thus not be reimbursed; (4) persons below the poverty level are entitled to services and House Bill 1 requires that those services be provided at no cost.

Chairman Kerr asked about the situation where a person has been injured in an automobile accident and has basic reparations benefits (BRBs), or liability insurance available to reimburse the hospital for service provided.

Cabinet personnel stated that: (1) it is unclear whether the hospital could recover the BRBs or the liability coverage in the event that a personal injury recovery was secured; and (2) under House Bill 1, it appears that the hospital could not sue the insured.

Chairman Kerr pointed out that under no fault BRBs the claimant files the claim under his insurance policy and receives reimbursement for the claim. It doesn't seem reasonable to prohibit a hospital from collecting from the patient for those medical expenses covered under his liability policy.

Cabinet personnel responded that: (1) House Bill 1 provides that if a service is provided by the hospital to an individual who is below the poverty level, the hospital cannot bill the individual for that service; (2) under state law a hospital is not required to provide the service, but if they do provide it, then they do so at their own risk

Chairman Kerr asked whether a hospital can collect from a person who has little income but significant assets.

The cabinet responded that the hospital cannot collect from the patient in that circumstance because of House Bill 1, which provides that a person below the poverty level cannot be billed for hospital services.

Chairman Kerr asked the cabinet to address the issue of using the emergency room for primary care services.

Cabinet personnel responded that: (1) this is a real problem; and (2) it is not an issue that can be easily remedied by the cabinet because the choice of whether or not to provide the service is the hospitals; (3) the cabinet must decide whether they will treat a given patient or not; (4) the hospital has the option to turn the patient away if it is not an emergency; (5) the cabinet is aware that it is often difficult to know whether this is a true emergency.

Chairman Kerr asked why the reimbursements had been delayed when the bill went into effect in July 1993.

The cabinet responded that: (1) it has taken this long to get the eligibility guidelines in place; (2) as soon as the guidelines are in place the payments can be made; (3) the cabinet cannot determine who is eligible to be paid until the guidelines are in place.

Senator Kafoglis pointed out that: (1) House Bill 1 provided that hospitals would be reimbursed at the medicaid rate; (2) hospitals cannot turn people at the emergency room away; and (3) this administrative regulation requires services to be provided without compensation for those services.

The cabinet responded that this administrative regulation does not set reimbursement rates and should not be found deficient because the reimbursement rates will be spelled out in a different administrative regulation.

Senator Huff asked if this administrative regulation was essential to provide a mechanism to pay the various hospitals.

Cabinet personnel stated that: (1) claims could be paid pursuant to this administrative regulation even though found deficient, through April of this year; (2) the cabinet would be willing to defer the administrative regulation if that would assist the subcommittee; and (3) the cabinet would prefer not to have the administrative regulation found deficient.

A motion was adopted finding this administrative regulation deficient by failing to comply with legislative intent pursuant to KRS 13A.120.

The Subcommittee determined that the following administrative regulations, as amended, complied with statutory requirements:

Board of Medical Licensure

The following Board of Medical Licensure administrative regulations were amended to: (1) comply with the format and drafting requirements of KRS 13A.220(4) and 13A.222; (2) specify the names of the organizations whose examinations were accepted; (3) delete abbreviations and insert in lieu thereof the full title of referenced organizations; and (4) delete language which was incorrectly included in the body of the administrative regulation rather than being placed in the NECESSITY AND FUNCTION section.

201 KAR 9:023. Endorsement.

201 KAR 9:031. Examinations.

201 KAR 9:051. License renewal and registration; reregistration of inactive license.

201 KAR 9:061. Limited licenses.

201 KAR 9:081. Disciplinary proceedings.

201 KAR 9:141. Denial, revocation and suspension of certification.

201 KAR 9:175. Emergency permits.

Board of Nursing

201 KAR 20:070. Licensure by examination. This administrative regulation was amended to provide in detail requirements for retaking an examination.

201 KAR 20:090. Temporary work permit. This administrative regulation was amended to add Section 2(5) to specify in detail when an applicant for licensure by endorsement may be issued a temporary work permit, and to establish restrictions on the temporary work permit.

201 KAR 20:240. Fees for applications and for services. This administrative regulation was amended to comply with the format and drafting requirements of KRS 13A.220(4) and 13A.222.

201 KAR 20:370. Applications for licensure and registration. This administrative regulation was amended to comply with the format and drafting requirements of KRS 13A.220(4) and 13A.222.

Department of Corrections: Jail Standards

501 KAR 3:080. Sanitation; hygiene. Section 1(15), being duplicative of the statute, was deleted to comply with drafting requirements of KRS Chapter 13A.

501 KAR 3:120. Admission; release. Section 2(4)(d) was amended to delete "emergency medical technician" from the list of those authorized to conduct body cavity searches.

Office of the Secretary

501 KAR 6:050. Luther Luckett Correctional Complex. Policy Manual LLCC 16-01-01 was amended in Section A 2.b to clarify the right to confidential contact with attorneys and their authorized representatives. Section A 2.e was amended to delete "honestly and fairly" from the requirement of petitions presented, since the fairness of a petition presented to the court is very subjective.

501 KAR 6:080. Department of Corrections manuals. The Classification Manual incorporated by reference in this administrative regulation was amended to comply with the format and drafting requirements of KRS 13A.220(4) and 13A.222.

Department of Education: Office of District Support Services: Facilities Management

702 KAR 4:160. Capital construction process. Kevin Noland appeared, representing the Cabinet. Various sections were amended for citation, grammar, and clarity to comply with the drafting requirements of KRS Chapter 13A.

Cabinet for Human Resources: Administration

900 KAR 1:015. Laetrile manufacturing standards. This administration regulation was amended to comply with the format and drafting requirements of KRS 13A.220(4) and 13A.222.

Department for Health Services: Sanitation

902 KAR 10:050. Refuse bins. Section 1 of this administrative regulation, establishing definitions, was amended to clarify the definition of the terms "tip over", "distributed in commerce", and "retrofit". Section 2 was deleted because it contained language which should have been placed in the NECESSITY AND FUNCTION section. Sections 5 and 8 were amended to reword standards and requirements for clarity.

Medical Laboratories

902 KAR 11:030. Personnel standards. This administrative regulation was amended to clarify language pursuant to KRS 13A.222(4)(a).

902 KAR 11:040. Specialty test procedure. This administrative regulation was amended clarify language pursuant to KRS 13A.222(4)(a).

Emergency Medical Technicians

902 KAR 13:090. Disciplinary actions. Sergeant Gene Batch and Sergeant David Wilkinson, training officers for the Kentucky State Reformatory, stated that; (1) the Kentucky State Reformatory (KSR) operates an ambulance service with inmates serving as "first responders"; (2) inmates are not certified as Emergency Medical Technicians (EMTs); (3) inmates work on the ambulance, under the direct supervision of an EMT; and (4) KSR supports this administrative regulation.

This administrative regulation was amended to clarify that: (1) a person may not reproduce any part of an EMT examination for the purpose of cheating on the exam; (2)EMTs shall not possess for personal use or gain, medicines, supplies, equipment or personal items of a patient; and (3) it is unethical conduct for an EMT to violate the provisions of KRS 335B relative to licensure.

Department for Social Insurance: Public Assistance

904 KAR 2:006. Technical requirements; AFDC. Janice Kline appeared before the Subcommittee, representing the Cabinet. Various sections were amended to conform with the drafting requirements of KRS Chapter 13A. Section 14(2) was amended to specify that the second parent's failure to register for work would result in that person's needs being removed from consideration concerning assistance.

Department for Mental Health and Mental Retardation Services: Institutional Care

The following three administrative regulations were amended to delete an incorrect statutory citation in the STATUTORY AUTHORITY paragraph.

908 KAR 3:100. Policies and procedures of Eastern State Hospital.

908 KAR 3:110. Policies and procedures of Central State Hospital.

908 KAR 3:120. Policies and procedures of Western State Hospital.

The Subcommittee determined that the following administrative regulations complied with statutory requirements:

Kentucky Employees' Retirement System: General Rules

105 KAR 1:010. Contributions and interest rates. This administrative regulation had been found deficient by the Subcommittee on May 3, 1993, because: (1) the issues concerning the disagreement between the Retirement Systems and the Executive and Legislative Branches over the right of the General Assembly to suspend applicable statutes and require a contribution rate different than that determined by the Retirement Systems, were identical to those raised by 105 KAR 1:040 at the Subcommittee's February 1993 meeting; (2) it was believed by members of the General Assembly that its action complied with statutory and constitutional provisions; and (3) although the courts would make a final disposition of a matter, this administrative regulation should be found deficient.

The Subcommittee accepted agency personnel's explanation that the rates that are established in this amendment conform to the rates that were included in the current budget bill; therefore, there is no longer a contribution rate that differs from the rate that is established by the General Assembly. The Subcommittee approved a motion that this administrative regulation was no longer deficient.

Board of Accountancy

201 KAR 1:140. Procedures for the reinstatement of a certificate and permit to practice public accounting.

Board for Specialists in Hearing Instruments

201 KAR 7:085. Repeal of 201 KAR 7:030, 201 KAR 7:060, 201 KAR 7:080, and 201 KAR 7:110.

Board of Medical Licensure

201 KAR 9:041. Fee schedule.

201 KAR 9:084. Fee schedule.

201 KAR 9:136. Procedure for certification of paramedics from other states; graduate paramedics; issuance of temporary certificate.

201 KAR 9:151. Contracts for support services; establish a fee schedule; and establish a paramedic advisory committee.

Board of Embalmers and Funeral Directors

201 KAR 15:090. Hearings.

Kentucky Real Estate Appraisers Board

201 KAR 30:010. Definitions for 201 KAR Chapter 30.

201 KAR 30:030. Types of appraisers required in federally related transactions; certification and licensure.

201 KAR 30:040. Standards of practice administrative regulation.

201 KAR 30:050. Examination, education, and experience.

201 KAR 30:140. Transitional licensed real property appraiser.

Natural Resources and Environmental Protection Cabinet: Division of Waste Management: Standards for Owners and Operators of Hazardous Waste Storage, Treatment and Disposal Facilities

401 KAR 34:090. Closure financial requirements.

401 KAR 34:100. Postclosure financial requirements.

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

401 KAR 35:090. Closure financial requirements (IS).

401 KAR 35:100. Postclosure financial requirements (IS).

Department of Education: Office of Chief State School Officer

701 KAR 5:050. Summary hearing procedures.

Office of Learning Programs Development: Office of Instruction

704 KAR 3:285. Programs for the gifted and talented.

Office of Education for Exceptional Children: Exceptional and Handicapped Programs

707 KAR 1:220. Placement in the least restrictive environment.

Department of Housing, Buildings and Construction: Plumbing

815 KAR 20:020. Parts or materials list.

Hazardous Materials

815 KAR 30:010. LP gas license; financial responsibility required.

Cabinet for Human Resources: Long-Term Care

900 KAR 2:030. Quality of care rating system for long-term care facilities.

900 KAR 2:040. Citations and violations; criteria and specific acts.

Personnel Policies

900 KAR 3:011. Repeal of 900 KAR 3:010, Cabinet for Human Resources personnel policies.

Department for Health Services: Sanitation

902 KAR 10:071. Repeal of 902 KAR 10:070.

Medical Laboratories

902 KAR 11:010. Application for licensure; fee.

902 KAR 11:020. Reports and standards of health and safety.

902 KAR 11:035. Proficiency test procedures.

902 KAR 11:045. Test and specimen records.

902 KAR 11:050. Equipment, methods, and samples.

Food and Cosmetics

902 KAR 45:030. Bakery products.

902 KAR 45:050. Food packaging and labeling.

902 KAR 45:060. Cosmetic packaging and labeling.

Hazardous Substances

902 KAR 47:010. Definitions.

902 KAR 47:020. Labeling and identification standards.

902 KAR 47:030. Exemptions.

Milk and Milk Products

902 KAR 50:031. Standards for producer eligibility for manufacturing grade milk.

902 KAR 50:032. Standards for farm requirements for manufacturing grade milk.

902 KAR 50:033. Standards for enforcement procedures for manufacturing grade milk.

902 KAR 50:040. Hauler requirements.

902 KAR 50:080. Open dating requirements.

902 KAR 50:120. Unpasteurized goat milk. In response to a question by Representative Bruce, Cabinet personnel stated that: (1) these administrative regulations have been amended to comply with KRS Chapter 13A; and (2) to provide an appropriate hearing procedure.

Representative Bruce asked what the cabinet intended to do about the new milk additive the federal government was allowing. Cabinet personnel responded that: (1) the FDA has approved the new additive; (2) the cabinet is required to take FDA's approval since the cabinet does not do independent testing; and (3) the Community Farm Alliance is working to have milk that does not contain the additive labelled as such.

In response to a question by Chairman Kerr, the cabinet stated that organoleptic referred to taste.

Representative Allen asked what the cabinet is doing with the unpasteurized goats milk administrative regulation. Cabinet personnel responded that the administrative regulation was being amended to conform to KRS Chapter 13A.

Controlled Substances

902 KAR 55:065. Return of prescription drugs prohibited, exceptions.

902 KAR 55:070. Storage of controlled substances in an emergency medication kit in certain long-term care facilities.

Department for Social Insurance: Public Assistance

904 KAR 2:001. Definitions.

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

904 KAR 2:016. Standards for need and amount; AFDC.

904 KAR 2:017. Job opportunities and basic skills (JOBS) child care and supportive services.

904 KAR 2:020. Child support enforcement program: confidentiality and cooperative agreements.

904 KAR 2:046. Adverse action; conditions.

904 KAR 2:060. Delegation of power for oaths and affirmations.

904 KAR 2:116. Home energy assistance program.

904 KAR 2:141. Repeal of 904 KAR 2:140.

904 KAR 2:171. Repeal of 904 KAR 2:170.

904 KAR 2:380. Child support enforcement program application process.

904 KAR 2:390. Child support enforcement program paternity establishment.

904 KAR 2:400. Establishment, review, and modification of child support and medical support orders.

904 KAR 2:410. Child support collection and distribution.

904 KAR 2:420. Repeal of 904 KAR 2:022.

904 KAR 2:430. Supplemental policy for money payment programs.

Food Stamp Program

904 KAR 3:030. Application process.

904 KAR 3:110. Supplemental policy for the food stamp program.

Department for Medicaid Services: Medicaid Services

907 KAR 1:004. Resource and income standard of medically needy.

907 KAR 1:615. Supplemental policy for the Medicaid program.

Department for Mental Health and Mental Retardation Services: Mental Health

908 KAR 2:010. Local board authority.

908 KAR 2:020. Personnel rules of local board.

908 KAR 2:030. Board structure and operation; eligibility for state grants.

908 KAR 2:050. Formula for allocation of funds.

908 KAR 2:060. Mental health and mental retardation manuals for funding instructions, program policies and standards, billing instructions, reporting requirements, and reimbursement guidelines.

The Subcommittee had no objections to emergency administrative regulations which had been filed.

The following administrative regulations were deferred to the March meeting upon agreement by the promulgating agency and the Subcommittee:

Registry of Election Finance: Practice and Procedure

32 KAR 2:160E. Candidate with write-in opposition, revocation of exemption.

32 KAR 2:170. In-kind contributions.

32 KAR 2:180. Extension of credit to candidates, campaign committees, or political issues committee.

32 KAR 2:190. Committee affiliation.

32 KAR 2:200. Allowable campaign expenditures.

Department of Corrections: Office of the Secretary

501 KAR 6:020. Corrections policies and procedures. Jack Damron and Judy Morris appeared before the Subcommittee, representing the agency. This administrative regulation was technically amended to insert a comma and correct a typographical error.

Pauline Lewis, Billie Shepherd and Joan Tackett spoke to the Subcommittee in opposition to the administrative regulation, representing a relative. Billie Shepherd stated that she felt it was very unfair for all Class A felons to be recalled as a group. She stated that these people should be considered individually. She testified that her relative had been in a half-way house for two years and with only a ten minute notice, had been returned to

prison (because of the emergency regulation which accompanies this administrative regulation). She stated that her relative had been up for parole and that this return to prison had hurt his chances for parole.

Joan Tackett spoke briefly and emphasized that the classification system isn't fair. She said she has been dealing with this for over eleven years.

Pauline Lewis presented letters and records of good behavior on behalf of her relative.

Chairman Kerr asked the Cabinet to respond and asked if this administrative regulation was promulgated because of the Michael Cruise incident in which a prisoner had walked away and later killed someone. Chairman Kerr stated that he was all in favor of this administrative regulation because of that atrocity, but these people are talking about a person who did not commit a murder in cold blood. He asked "isn't there a difference? Can't they be classified differently?"

Jack Damron responded that it was because of the Cruise incident and that the agency had previously assigned prisoners individually but because of this incident the agency had very quickly reassigned the entire group of Class A Felons. He stated that this administrative regulation applies to Class A Felons and that they are all now behind prison walls. Before this, model prisoners were moved. Now there is no exception.

Judy Morris, the classification manager for Corrections, stated that it used to be case by case, that they have debated this for years and were leaning toward the present policy. She said the Cruise situation accelerated it.

Senator Huff asked whether there would be any appeal if this administrative regulation stands. Ms. Morris said "not for this".

Billie Shepherd suggested that the administrative regulation should not apply retroactive to those who have already worked hard to get to the half-way house.

Senator Smith commented that there should be a difference between the violent and non violent offender. Ms. Morris responded that they cannot go beyond the sentence the Court gives.

Based on Representative Bruce's request Chairman Kerr asked if the agency would consider deferring the administrative regulation to give the Subcommittee time to further study this issue. The agency agreed to defer.

Transportation Cabinet: Department of Vehicle Regulation: Commercial Driver's License

601 KAR 11:030. Restrictions and endorsements on commercial driver's licenses.

Department of Education: Office of Chief State School Officer

701 KAR 5:110. Use of local monies to reduce unmet technology need.

Cabinet for Human Resources: Department for Medicaid Services

907 KAR 1:027. Payments for dental services. Mike Porter, Executive Director of the Kentucky Dental Association (KDA). and Ken Rich, practitioner in Williamstown, Kentucky spoke on behalf of the KDA and stated that: (1) the KDA strongly opposes the changes to this administrative regulation; (2) this administrative regulation does not consider the extremely high overhead at dental offices in violation of KRS 205.645; (3) the average office overhead is 69%; (4) current medicaid reimbursement is 70% of, 1989, usual, customary and reasonable fees; (5) the reduction of fees in this administrative regulation will have a severe impact on many practices; (6) in some areas of the state almost 90% of dental practice is medicaid related; (7) approximately 20% of dentists in Kentucky derive 50% or more of their income from medicaid; (8) if the reductions sought in this administrative regulation are implemented, many dentists will no longer be able to provide dental services under medicaid; (9) indigent patients will be unable to obtain dental care if this administrative regulation; (10) the changes in this administrative regulation do not provide for equitable payments as intended by the cabinet; (11) the entire dental program consists of less than 2% of the entire medicaid budget; (12) the dentists in Kentucky have been improperly singled out for fee reduction when other health care providers' fees were not lowered; and (13) the implementation of this administrative regulation will cause a reduction in quality health care in Kentucky.

Cabinet personnel responded that: (1) In 1990 medicaid funds were allocated in the budget to update dental fees; (2) subsequently the taxing mechanism for payment of dental fees was adopted; (3) the dental fees was greatly increased so that some of those fees would be returned to the state in the form of taxes; (4) because the federal law was amended, the cabinet could no longer recover the fees paid out through the taxing mechanism previously adopted; (5) the payment level for the dentists however remained the same; (6) the cabinet then attempted to reduce the fees paid to dentists to pre House Bill 1 rates; (6) the rates of reimbursement were still higher than the rates in 1990; (7) the cabinet believes that generally dentists will continue to provide services under medicaid, even with the reduction proposed in this administrative regulation; (8) the cabinet wants wide spread services to be available to medicaid recipients throughout the state.

Chairman Kerr pointed out that: (1) this administrative regulation proposes a 10% reduction in the current medicaid rates; and (2) the reduction would put the level of medicaid reimbursement to June 30, 1990 rates.

Cabinet personnel pointed out that: (1) when the cabinet stopped collecting taxes on dentists on June 30, 1990 the dentists received an increase in funds to the extent that they no longer had the tax burden; and (2) the relief from the tax burden amounted to a 10% increase in fees.

Chairman Kerr asked how the cabinet was taking into account KRS 205.645 which requires consideration of the dentist's overhead costs.

Cabinet personnel responded that: (1) the intent of House Bill 1 was to take into consideration the varying rates of overhead in each practice; (2) the current system provides for an upper limit of reimbursement based on a profile of all dentists throughout the state; (3) when a dentist formulates his fees, he takes into account his cost of doing business; and (4) since the reimbursement system is based on usual and customary charges, those charges take into account the overhead costs of each dentist.

Ken Rich pointed out that a 10% across the board reduction in fees at a time when overhead is increasing does not take into account the cost of overhead when figuring medicaid reimbursement rates, regardless of dentist profiles and usual and customary charges.

Cabinet personnel responded that Dr. Rich had a valid point in that the original base amount for reimbursement rates should have been higher and if the General Assembly allocates more funds to the dental program, then the base could be increased.

Senator Huff asked if dental and optometric providers were exempt from the provider tax.

The cabinet responded that: (1) dental providers and optometric providers were exempt from the provider tax because they were not included in House Bill 1; (2) both these providers were excluded from House Bill 1 because at the time House Bill 1 was passed the federal government took the position that dentists and optometrists could not be taxed; (3) subsequent to the passage of House Bill 1, the federal government decided that dentists and optometrists could be taxed.

Senator Huff asked the cabinet what percentage of dentists and optometrists participate in medicaid.

The cabinet responded that of 1700 dentists in the state, in 1992, over 1000 dentists participated in the state medicaid

program.

Senator Huff asked for information about optometrists participation in medicaid. The cabinet stated they would provide the information.

The cabinet requested deferral of this administrative regulation so that information can be provided to the subcommittee showing comparable reimbursements in other states.

907 KAR 1:040. Payments for vision care services. Dr. George Georgellis, president of the Kentucky Optometric Association (KOA) stated that: (1) the KOA opposes this administrative regulation for the same reasons that the Kentucky Dental Association opposes 907 KAR 1:027; (2) the fees in this administrative regulation are based upon the 1989 rates; (3) a reduction of 10% of the 1989 usual and customary rate for services cannot adequately be considering overhead costs in 1994; (4) this administrative regulation will have an adverse impact on the availability of services and providers of those services; (5) the KOA question why optometry and dentistry were singled out for cuts; (6) optometrists are not currently not paying the provider tax although they are scheduled to be taxed pursuant to House Bill 1; (7) total vision care represents .04% of the entire medicaid budget
(8) a reduction of such an insignificant amount does not make sense.

Senator Smith asked what services medicaid covers.

Dr. Georgellis responded that medicaid covers eye examinations and materials for children under the age of 21 years.

Senator Smith pointed out that every small amount that the budget can be reduced will help alleviate the financial crisis this state finds itself in.

Cabinet personnel stated that: (1) its response to comments on 907 KAR 1:027 apply to this administrative regulation as well; (2) dentists and optometrists were not singled out for cuts; (3) other cuts will come, however, the relatively simple costs containment measures in the dental services and optometrical services administrative regulations were implemented immediately; and (4) the Secretary and Deputy Secretary have made it very clear that all areas of medicaid will be examined for savings.

The cabinet requested deferral of this administrative regulation.

OTHER BUSINESS:

Department of Fish and Wildlife Resources: Game

301 KAR 2:260. Crow hunting season. This administrative regulation was found deficient by the Subcommittee on October 4, 1993, because it was believed to exceed the requirements imposed by federal or state law. At the October 4, 1993, meeting, agency personnel agreed to meet with Subcommittee staff, and Subcommittee staff was requested to review applicable law in order to determine whether the administrative regulation conformed to statutory authority.

Representative Allen stated that after the review by agency personnel and Subcommittee staff, it appeared that this administrative regulation complied with federal and state law, and did not restrict appropriate action to prevent crow depredation by farmers or other citizens.

The Subcommittee approved a motion that this administrative regulation was not deficient.

Kentucky Employees' Retirement System

105 KAR 1:040. Actuarial assumptions and tables. For a complete discussion of the issues raised by this administrative regulation, see the Subcommittee's report of its February 1, 1993, meeting. This administrative regulation established the valuation of assets and set aside the portion of the contributions to be dedicated to the insurance fund, and had been found deficient by the Subcommittee on February 1, 1993, because it exceeded the Budget Bill cap of 7.65%.

It had been found deficient because of the rate difference between the Budget Bill and the administrative regulation.

The Subcommittee approved a motion that this administrative regulation was no longer deficient because the Budget Bill and the administrative regulation no longer contained differing rates.

Natural Resources and Environmental Protection Cabinet

Administrative Regulations dealing with archaeological surveys of landfills. (401 KAR 4:220, 401 KAR 47:170, and 410 KAR 1:010) The Subcommittee considered these administrative regulations because they related to the archaeological survey required of landfills. Senator Smith stated that he believed the Subcommittee should consider these administrative regulations because: (1) the requirements of these administrative regulations were cumbersome to those who were attempting to site landfills; and (2) he was unaware of any federal requirement for such surveys.

Agency personnel stated that: (1) these administrative regulations were based on the National Historical Preservation Act; (2) the state historical preservation officer had informed the agency that, unless the archaeological survey requirements were included, the Cabinet's administrative regulations would violate federal requirements; and (3) the Cabinet was willing to review the archaeological survey requirements.

Senator Smith stated that although the Hardin County permitting process for solid waste landfills had completed a Phase I archaeological survey of at least 1300 acres that determined that it was along a creek that would not be disturbed, it had been notified that it would have to conduct a Phase II survey that would cost at least $33,000. He added that since the Phase I survey had found nothing, to require a Phase II survey would result only in the creation of jobs for some people and the imposition of an onerous burden on the people of the county, and the justification for this procedure should be explained to the Subcommittee.

Agency personnel stated that: (1) of the three administrative regulation, 401 KAR 47:170 dealt with solid waste, while the others dealt with the Division of Water and the Hazardous Waste Siting Board which has never addressed an application; (2) the archaeological survey requirement was: (a) a federal, rather than a state, requirement, and was not a federal mandate imposed upon the Cabinet; (b) was included in the application process in order to address all issues that may affect an application; (3) while the solid waste program does not receive federal money and the archaeological survey requirement is not a federal mandate relating to the Cabinet's program, if federal money is related to a program at the local level the archaeological survey requirement would apply, whether or not the Cabinet established it as a requirement.

Senator Smith stated that: (1) this interpretation exceeded the intent of the law; (2) after the LaRue County Industrial Park was notified that it had to conduct an archaeological survey, a university professor made a brief visit after which it was determined that no action was necessary, for which the county was billed about $8,000; (3) the LaRue County Industrial Park project was not a project which received federal funds; and (4) the Cabinet was actually enforcing requirements that should be imposed by another agency. Agency personnel stated that although the archaeological survey requirement would be required in some Cabinet programs, it agreed that the archaeological survey was not a federal mandate for the Cabinet's solid waste authorization. In response to a question by Senator Smith, agency personnel stated that the survey was required of some landfill applicants.

In response to a question by Representative Bruce, agency personnel stated that the Cabinet would agree to meet with Senator Smith and interested parties and attempt resolve the issues raised.

In response to a question by Chairman Kerr, agency personnel stated that along with 401 KAR 47:170, there were at least two additional solid waste application administrative regulations that do not address the survey, but address the federal act which requires

the survey, that should be considered. Agency personnel confirmed Senator Smith's statement that those relating to hazardous waste were not in issue. Senator Smith stated that the water supply planning administrative regulation was not an issue. He requested the Cabinet to inform the Subcommittee and Subcommittee staff of any other administrative regulations that related to the issue that were not being considered at this meting.

Tim Asher, Solid Waste Coordinator and Planning Director of Hardin County, stated that the county was permitting a landfill, and that the estimated cost for: (1) engineering alone, is $500,000; (2) Phase I archaeological survey is $8,000; (3) Phase II archaeological survey is $34,000. He added that: (1) the Phase I study concluded that the only things found were some flint chips and tools which, upon evaluation, were determined to be the remains of a prehistoric hunting trip; (2) a survey of any other stream would find such relics, which indicates that the area had not been a permanent prehistoric camp site, and that the surveys had not discovered anything of historical or cultural significance; (3) these Phase I costs, and the costs of county personnel and equipment of over $3,000, increased the cost of the county by $45,000 or more; and (4) the Phase I study proved that the landfill would not disturb any significant sites.

Senator Smith thanked Mr. Asher and stated that his testimony showed the need for action to prevent the imposition of unnecessary costs or requirements on the public. Agency personnel stated that the Cabinet did not evaluate the archaeological reports, and simply transmitted them.

The Subcommittee adjourned at 5:30 p.m. until March 7, 1994 upon adjournment of the House and Senate in Room 131 of the Capitol Annex.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

SENATE EDUCATION COMMITTEE
Meeting of February 1, 1994

The Senate Education Committee met Tuesday, February 1, 1994, and determined that the following administrative regulations complied with statutory requirements:

Department of Education
702 KAR 3:130 Internal accounting

Education Professional Standards Board
704 KAR 20:251 Professional certificate for teaching the moderately and severely disabled

Workforce Development Cabinet: Department for Adult & Technical Education
780 KAR 2:020 Occupational appeals officer
780 KAR 2:060 Suspension and expulsion of students
780 KAR 2:090 Postsecondary vocational technical school admission priorities
780 KAR 3:070 & E Attendance, compensatory time and leave
780 KAR 6:060 & E Attendance, compensatory time and leave

HOUSE EDUCATION COMMITTEE
Meeting of February 2, 1994

The House Education Committee met Wednesday, February 2, 1994, and determined that the following administrative regulations complied with statutory requirements:

Department of Education
702 KAR 3:130 Internal accounting

Education Professional Standards Board
704 KAR 20:251 Professional certificate for teaching the moderately and severely disabled

Workforce Development Cabinet: Department for Adult & Technical Education
780 KAR 2:020 Occupational appeals officer
780 KAR 2:060 Suspension and expulsion of students
780 KAR 2:090 Postsecondary vocational technical school admission priorities
780 KAR 3:070 & E Attendance, compensatory time and leave
780 KAR 6:060 & E Attendance, compensatory time and leave

HOUSE COMMITTEE ON STATE GOVERNMENT
Meeting of February 3, 1994

On February 3, the House Committee on State Government reviewed the following Department of Personnel administrative regulations that were referred by the LRC on January 11:

101 KAR 2:056 (Registers)
101 KAR 2:066 (Certification and selection of eligibles for appointment)
101 KAR 2:105 (Sick leave sharing procedures)

Without objection, the Committee adopted amendments proposed by the Department of Personnel (per letters from Commissioner Clark dated January 11 and January 28) and found that the regulations, as amended, comply with KRS Chapter 13A.

SENATE COMMITTEE ON STATE GOVERNMENT
Meetings of January 27, 1994, and February 3, 1994

On January 27, the Senate Committee on State Government reviewed the following Department of Personnel administrative regulations that were referred by the LRC on January 11:

101 KAR 2:056 (Registers)
101 KAR 2:066 (Certification and selection of eligibles for appointment)

Without objection, the Committee adopted amendments proposed by the Department of Personnel (per letter from Commissioner Clark dated January 11) and found that the regulations, as amended, comply with KRS Chapter 13A.

On February 3, the Committee reviewed the following Department of Personnel administrative regulation that was referred by the LRC on January 11:

101 KAR 2:105 (Sick leave sharing procedures)

Without objection, the Committee adopted amendments proposed by the Department of Personnel (per letter from Commissioner Clark dated January 28) and found that the regulation, as amended, complies with KRS Chapter 13A.

HOUSE COMMITTEE ON APPROPRIATIONS AND REVENUE
Meeting of January 27, 1994

The House Committee on Appropriations and Revenue met Thursday, January 26, 1994, and reviewed three Cabinet for Human Resources, Department for Medicaid Services, administrative regulations. The committee took the following action:

The Committee determined that administrative regulations 907 KAR 1:038, relating to hearing and vision services, and 907 KAR 1:585, relating to asset transfers, comply with the provisions of KRS Chapter 13A.

The Committee found that administrative regulation 907 KAR 1:580, relating to the provider tax, does not comply with the provisions of KRS Chapter 13A.

SENATE COMMITTEE ON APPROPRIATIONS AND REVENUE
Meeting of February 2, 1994

The Senate Committee on Appropriations and Revenue met Wednesday, February 2, 1994, and reviewed three Cabinet for Human Resources, Department for Medicaid Services, administrative regulations. The committee took the following action:

The Committee determined that administrative regulations 907 KAR 1:038, relating to hearing and vision services, and 907 KAR 1:585, relating to asset transfers, comply with the provisions of KRS Chapter 13A.

The Committee found that administrative regulation 907 KAR 1:580, relating to the provider tax, does not comply with the provisions of KRS Chapter 13A.

HOUSE COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT
SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES
Meeting of February 10, 1994

The Senate Committee on Agriculture and Natural Resources and the House Committee on Natural Resources and Environment met Thursday, February 10, 1994, and submits the following report:

The committees determined that the following administrative regulations comply with KRS Chapter 13A;

Department of Fish and Wildlife Resources
301 KAR 2:220

Natural Resources and Environmental Protection Cabinet

401 KAR 30:010
401 KAR 31:010
401 KAR 31:020
401 KAR 31:030
401 KAR 31:040
401 KAR 31:060
401 KAR 31:120
401 KAR 31:160
401 KAR 31:170
401 KAR 32:010
401 KAR 32:020
401 KAR 32:030
401 KAR 32:050
401 KAR 34:020
401 KAR 34:050
401 KAR 34:070
401 KAR 34:080
401 KAR 34:120
401 KAR 34:190
401 KAR 34:200
401 KAR 34:210
401 KAR 34:220
401 KAR 34:230
401 KAR 34:240
401 KAR 34:275
401 KAR 34:280
401 KAR 34:285
401 KAR 35:010
401 KAR 35:020
401 KAR 35:050
401 KAR 35:060
401 KAR 35:070
401 KAR 35:080
401 KAR 35:190
401 KAR 35:200
401 KAR 35:210
401 KAR 35:220
401 KAR 35:230
401 KAR 35:240
401 KAR 35:250
401 KAR 35:120
401 KAR 35:275
401 KAR 35:280
401 KAR 35:285
401 KAR 36:020
401 KAR 36:025
401 KAR 36:030
401 KAR 36:050
401 KAR 37:010
401 KAR 37:030
401 KAR 37:040
401 KAR 37:050
401 KAR 38:010
401 KAR 38:020
401 KAR 38:040
401 KAR 38:050
401 KAR 38:060
401 KAR 38:090
401 KAR 38:170
401 KAR 38:180
401 KAR 38:210
401 KAR 38:240
401 KAR 38:250
401 KAR 38:260
401 KAR 38:270

Administrative regulations 401 KAR 5:036 and 402 KAR 2:030 relating to the protection of groundwater were deferred until the next meeting.

The joint committee meeting adjourned February 10, 1994, at 4:40 p.m.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates I2

The Locator Index lists all regulations published in VOLUME 20 of the Administrative Register from July, 1993 through June, 1994. It also lists the page number on which each regulation is published, the effective date of the regulation after it has completed the review process, and other action which may affect the regulation. NOTE: The regulations listed under VOLUME 19 are those regulations that were originally published in the Volume 19 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1993 bound Volumes were published.

KRS Index I16

The KRS Index is a cross-reference of statutes to which regulations relate. These statute numbers are derived from the RELATES TO line of each regulation submitted for publication in VOLUME 20 of the Administrative Register.

Subject Index I30

The Subject Index is a general index of regulations published in VOLUME 20 of the Administrative Register, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

VOLUME 19

EMERGENCY REGULATIONS: (Note: Emergency regulations expire 120 days from publication or upon replacement or repeal, whichever occurs first)

Regulation Number	20 Ky.R Page No.	Effective Date
302 KAR 20:040E	2596	4-30-93
Expires		9-29-93
302 KAR 20:055E	2600	4-30-93
Expires		9-29-93
302 KAR 20:065E	2602	4-30-93
Expires		9-29-93
302 KAR 20:070E	2604	4-30-93
Expires		9-29-93

ORDINARY REGULATIONS:

Regulation Number	20 Ky.R Page No.	Effective Date
201 KAR 20:235	2755	(See Volume 20)
603 KAR 5:230		
Amended	2684	(See Volume 20)
704 KAR 7:120	2539	(See Volume 20)
704 KAR 20:120		
Amended	2316	6-7-93
707 KAR 1:061	2540	(See Volume 20)
707 KAR 1:160	2541	(See Volume 20)
707 KAR 1:170	2543	(See Volume 20)
707 KAR 1:180	2545	(See Volume 20)
707 KAR 1:190	2551	(See Volume 20)
707 KAR 1:200	2554	(See Volume 20)
707 KAR 1:210	2558	(See Volume 20)
707 KAR 1:220	2561	(See Volume 20)
707 KAR 1:230	2564	(See Volume 20)
707 KAR 1:240	2569	(See Volume 20)
707 KAR 1:250	2572	(See Volume 20)
707 KAR 1:260	2574	(See Volume 20)
803 KAR 2:310		
Amended	2736	(See Volume 20)
805 KAR 7:030		
Amended	2740	8-25-93
902 KAR 8:040	2760	(See Volume 20)
902 KAR 8:050	2761	(See Volume 20)
902 KAR 8:060	2763	(See Volume 20)
902 KAR 8:070	2765	(See Volume 20)
902 KAR 8:080	2768	(See Volume 20)
902 KAR 8:090	2770	(See Volume 20)
902 KAR 8:100	2771	(See Volume 20)
902 KAR 8:110	2773	9-3-93
902 KAR 8:120	2774	(See Volume 20)
902 KAR 8:130	2777	9-3-93
902 KAR 8:140	2778	9-3-93
902 KAR 20:004	659	
Amended	2745	(See Volume 20)
908 KAR 2:070	2779	(See Volume 20)

*Statement of Consideration Not Filed by Deadline; Regulation Expired (KRS 13A.280(2))

VOLUME 20

EMERGENCY REGULATIONS: (Note: Emergency regulations expire 120 days from publication or upon replacement or repeal, whichever occurs first)

Regulation Number	20 Ky.R Page No.	Effective Date
2 KAR 2:010E	483	8-12-93
Replaced	668	10-13-93
Resubmitted	1756	12-6-93
Expired		2-4-94
Resubmitted	2528	2-15-94
2 KAR 2:020E	1756	12-6-93
Expired		2-4-94
Resubmitted	2528	2-15-94
2 KAR 2:030E	1756	12-6-93
Expired		2-4-94
Resubmitted	2528	2-15-94
9 KAR 1:040E	736	9-9-93
Replaced	1567	12-6-93
11 KAR 3:001E	915	10-4-93
Replaced	1777	1-10-94
31 KAR 5:020E	736	9-15-93
Replaced	869	12-6-93
32 KAR 2:160E	1550	10-22-93
Expires		3-31-93
101 KAR 2:100E	483	8-3-93
Replaced	1568	12-6-93
101 KAR 3:010E	488	8-3-93
Replaced	1573	12-6-93
201 KAR 20:240E	1551	10-22-93
Replaced	2046	1-10-94
301 KAR 2:044E	492	7-30-93
Replaced	596	10-27-93
301 KAR 2:220E	1552	10-27-93
Replaced	1670	2-10-94
301 KAR 2:260E	494	7-30-93
Replaced	679	10-27-93
301 KAR 3:030E	494	7-30-93
Replaced	952	10-27-93
302 KAR 15:010E	4	5-18-93
Expired	1029	10-29-93
401 KAR 42:060E	2530	2-15-94
401 KAR 42:070E	2530	2-15-94
401 KAR 42:080E	2531	2-15-94
415 KAR 1:115E	495	8-13-93
Replaced	1615	12-17-93
501 KAR 6:020E	277	6-24-93
Resubmitted	1758	12-1-93
501 KAR 6:060E	1557	10-19-93
Replaced	1375	1-10-94
501 KAR 6:080E	1759	12-1-93
501 KAR 6:120E	1558	10-19-93
Replaced	1378	1-10-94

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	20 Ky.R Page No.	Effective Date
601 KAR 1:040E	1560	10-22-93
Replaced	1381	2-10-94
601 KAR 1:101E	1562	10-22-93
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