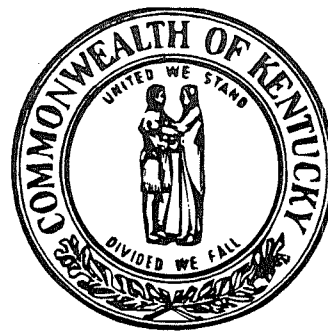


# ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION  
FRANKFORT, KENTUCKY

VOLUME 18, NUMBER 11  
FRIDAY, MAY 1, 1992

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MEETING NOTICE: The next meeting of the Administrative Regulation Review Subcommittee is **tentatively** scheduled on May 5 and 6, 1992. See **tentative** agenda on pages 3217-3129 in this Administrative Register.

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

#### **ADMINISTRATIVE REGISTER OF KENTUCKY**

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## **ADMINISTRATIVE REGISTER - 3127**

### **ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE TENTATIVE AGENDA - MAY 5, 1992 @ 2 P.M. Room 131, Capitol Annex**

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##### **Practice and Procedure**

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#### **FINANCE AND ADMINISTRATION**

##### **Kentucky Agricultural Finance Corporation**

200 KAR 18:020 & E. Guidelines for operating loan program. (Repeals 200 KAR 18:010.)

#### **GENERAL GOVERNMENT CABINET**

##### **Board of Accountancy**

201 KAR 1:001. Repeal of 201 KAR 1:005; 201 KAR 1:010; 201 KAR 1:025; 201 KAR 1:030; 201 KAR 1:035; 201 KAR 1:055; 201 KAR 1:070; and 201 KAR 1:075.

201 KAR 1:015. Meetings.

201 KAR 1:020. Members of board.

201 KAR 1:040. Procedures for conducting examination.

201 KAR 1:045. Examination subjects, grading and reexamination.

201 KAR 1:050. Certificate application.

201 KAR 1:065. Individual and firm permit fees.

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##### **Board of Pharmacy**

201 KAR 2:167. Facsimile prescription orders.

201 KAR 2:200. Nuclear pharmacy services.

##### **Board of Registration for Professional Engineers and Land Surveyors**

201 KAR 18:131 & E. Disciplinary and grievance hearing procedures. (Deferred from January)

#### **NATURAL RESOURCES AND ENVIRONMENTAL Department for Environmental Protection**

##### **General Administrative Procedures**

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401 KAR 30:031. Environmental performance standards.

##### **Division of Waste Management**

##### **Special Waste**

401 KAR 45:010. Definitions.

401 KAR 45:020. Types of special waste permits.

401 KAR 45:030. Obtaining a special waste site or facility permit.

401 KAR 45:040. Modification, transfer or revocation of special waste permits.

401 KAR 45:050. Public information procedures for special waste site or facility permits.

401 KAR 45:060. Special waste permit-by-rule.

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401 KAR 45:080. Financial requirements and bonds for special waste facilities.

401 KAR 45:090. Special waste operator certification.

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401 KAR 45:110. Technical and operating requirements for special waste landfills.

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401 KAR 45:135. Requirements for emergency and research, development, and demonstration permits.

401 KAR 45:140. Conditions applicable to all special waste permits.

401 KAR 45:160. Surface and groundwater monitoring and corrective action for special waste sites or facilities.

401 KAR 45:210. Designation of waste as special waste.

401 KAR 45:250. Special waste permit fees.

##### **Division for Air Quality**

##### **General Administrative Procedures**

401 KAR 50:010. Definitions and abbreviations of terms used in Title 401, Chapters 50, 51, 53, 55, 57, 59, 61, 63, and 65. (Amended After Hearing) (Deferred from April)

401 KAR 50:012. General applications. (Amended After Hearing) (Deferred from April)

401 KAR 50:047. Test procedures for capture efficiency. (Not Amended After Hearing) (Deferred from April)

##### **New Source Requirements; Nonattainment Areas**

401 KAR 51:001. Definitions and abbreviations of terms used in Title 401, Chapter 51. (Amended After Hearing) (Deferred from April)

401 KAR 51:017. Prevention of significant deterioration of air quality. (Not Amended After Hearing) (Deferred from April)

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401 KAR 59:001. Definitions and abbreviations of terms used in Title 401, Chapter 59. (Amended After Hearing) (Deferred from April)

401 KAR 59:185. New solvent metal cleaning equipment. (Amended After Hearing) (Deferred from April)

401 KAR 59:190. New insulation of magnet wire operations. (Amended After Hearing) (Deferred from April)

## ADMINISTRATIVE REGISTER - 3128

- 401 KAR 59:210. New fabric, vinyl and paper surface coating operations. (Amended After Hearing) (Deferred from April)
- 401 KAR 59:212. New graphic arts facilities using rotogravure and flexography. (Amended After Hearing) (Deferred from April)
- 401 KAR 59:214. New factory surface coating operations of flat wood paneling. (Amended After Hearing) (Deferred from April)
- 401 KAR 59:225. New miscellaneous metal parts and products surface coating operations. (Amended After Hearing) (Deferred from April)
- 401 KAR 59:230. New synthesized pharmaceutical product manufacturing operations. (Amended After Hearing) (Deferred from April)
- 401 KAR 59:240. New perchloroethylene dry cleaning systems. (Amended After Hearing) (Deferred from April)
- 401 KAR 59:315. Specific new sources. (Not Amended After Hearing) (Deferred from April)

### Existing Source Standards

- 401 KAR 61:001. Definitions and abbreviations of terms used in Title 401, Chapter 61. (Amended After Hearing) (Deferred from April)
- 401 KAR 61:050. Existing storage vessels for petroleum liquids. (Not Amended After Hearing) (Deferred from April)
- 401 KAR 61:090. Existing automobiles and light-duty truck surface coating operations. (Amended After Hearing) (Deferred from April)
- 401 KAR 61:095. Existing solvent metal cleaning equipment. (Not Amended After Hearing) (Deferred from April)
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- 401 KAR 61:120. Existing fabric, vinyl and paper surface coating operations. (Not Amended After Hearing) (Deferred from April)
- 401 KAR 61:122. Existing graphic arts facilities using rotogravure and flexography. (Amended After Hearing) (Deferred from April)
- 401 KAR 61:124. Existing factory surface coating operations of flat wood paneling. (Not Amended After Hearing) (Deferred from April)
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- 401 KAR 61:130. Existing coil surface coating operations. (Not Amended After Hearing) (Deferred from April)
- 401 KAR 61:132. Existing miscellaneous metal parts and products surface coating operations. (Amended After Hearing) (Deferred from April)
- 401 KAR 61:137. Leaks from existing petroleum refinery equipment. (Not Amended After Hearing) (Deferred from April)
- 401 KAR 61:150. Existing synthesized pharmaceutical product manufacturing operations. (Not Amended After Hearing) (Deferred from April)
- 401 KAR 61:155. Existing pneumatic rubber tire manufacturing plants. (Not Amended After Hearing) (Deferred from April)
- 401 KAR 61:160. Existing perchloroethylene dry cleaning systems. (Not Amended After Hearing) (Deferred from April)
- 401 KAR 61:175. Leaks from existing synthetic organic chemical and polymer manufacturing equipment. (Not Amended After Hearing) (Deferred from April)

### General Standards of Performance

- 401 KAR 63:001. Definitions and abbreviations of terms used in Title 401, Chapter 63. (Amended After Hearing) (Deferred from April)
- 401 KAR 63:025. Asphalt paving operations. (Not Amended After Hearing) (Deferred from April)

### Department for Surface Mining and Reclamation and Enforcement

#### Permits

- 405 KAR 8:030 & E. Surface coal mining permits.
- 405 KAR 8:040 & E. Underground coal mining permits.

#### Performance standards for Surface Mining Activities

- 405 KAR 16:180 & E. Protection of fish, wildlife, and related environmental values.

#### Performance standards for Underground Mining Activities

- 405 KAR 18:180 & E. Protection of fish, wildlife, and related environmental values.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

TENTATIVE AGENDA - MAY 6, 1992 @ 10 A.M.

Room 131, Capitol Annex

### CORRECTIONS CABINET

#### Office of the Secretary

- 501 KAR 6:030. Kentucky State Reformatory.
- 501 KAR 6:150 & E. Eastern Kentucky Correcional Complex.

### EDUCATION AND HUMANITIES CABINET

Department of Education

#### Pupil Transportation

- 702 KAR 5:010. Responsibilities of division.
- 702 KAR 5:030. Superintendents' responsibilities.

### WORKFORCE AND DEVELOPMENT CABINET

Department for Adult and Technical Education

#### Management of the Kentucky Tech System

- 780 KAR 2:070. Veterans' preference procedure.
- 780 KAR 2:150. Kentucky tech regional business and industry council.

### LABOR CABINET

#### Labor standards; Wages and Hours

- 803 KAR 1:063. Trading time.

### PUBLIC PROTECTION AND REGULATION CABINET

Public Service Commission

#### Utilities

- 807 KAR 5:066. Water. (Not Am. After Hearing) (Deferred from February)

## ADMINISTRATIVE REGISTER - 3129

### Department of Housing, Buildings and Construction

#### Kentucky Building Code

815 KAR 7:025. Kentucky Building Code. (Repeals 815 KAR 7:020.)

#### Plumbing

815 KAR 20:030. License application; qualifications for examination, examination requirements, expiration, renewal, revival or reinstatement of licenses.

815 KAR 20:050. Installation permits.

### CABINET FOR HUMAN RESOURCES

#### Department for Health Services

#### Emergency Medical Technicians

902 KAR 13:050. Training, examination, certification and recertification. (Repeals 902 KAR 13:040.)

#### Food and Cosmetics

902 KAR 45:005. Retail food code.

#### Department for Social Insurance

#### Public Assistance

904 KAR 2:006. Technical requirements; AFDC.

#### Department for Social Services

#### Community Action Agencies

905 KAR 6:060. CSBG audit specifications.

905 KAR 6:070. Program state plan for CSBG.

## 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  
302 KAR 16:080E

This administrative regulation establishes the procedures pursuant to 302 KAR Chapter 16 to establish the criteria for obtaining a permit to operate an amusement ride or attraction in the Commonwealth of Kentucky designated bungee ("bungee") or similar apparatus. In order to permit the Department of Agriculture, Division of Weights and Measures to undertake immediate action, it is necessary to promulgate this emergency regulation immediately. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be filed with the Regulations Compiler no later than April 10, 1992.

BRERETON C. JONES, Governor  
ED LOGSDON, Commissioner

GENERAL GOVERNMENT CABINET  
Department of Agriculture  
Division of Weights and Measures

302 KAR 16:080E. Designated bungee (bungee) or similar apparatus.

RELATES TO: KRS 247.232, 247.234  
STATUTORY AUTHORITY: KRS 246.040, 247.232, 247.234, 247.236, 247.990

EFFECTIVE: April 7, 1992

NECESSITY AND FUNCTION: To establish the criteria for obtaining a permit to operate an amusement ride or attraction in the Commonwealth of Kentucky: designated bungee ("bungee") or similar apparatus.

Section 1. Establishes the following inspection criteria for bungee jumping operations open to the general public. The regulation does not apply to bungee jumping operations that are for demonstration/exhibition purposes, or deemed not open to the general public.

Section 2. Scope. This criteria specifies and gives guidance on the site and site approval, the design, testing of equipment, the management of the operation, the operating procedures, the emergency provisions and procedures. In this criteria the term "bungee (bungee) jumping" includes and refers to permanent and mobile jumping facilities and operations. Each time a mobile operation moves to a new location or each time a mobile operation dismantles and reassembles on the same location shall be considered a new "set-up" for application and inspection purposes.

Section 3. Definitions. The definitions as applied to amusement ride and attractions revised statute and applicable regulation and the following shall apply:

- (1) Air bag. A device which cradles the body and which uses an air release breather system to dissipate the energy due to a fall, thereby allowing the person to land without an abrupt stop. Bungee and bungee shall or similar item or material will be considered the same throughout this regulation.
- (2) Bungee cord. The elastic rope to which the jumper is attached.
- (3) Bungee jumping. When a person free falls from a height and the descent is limited by attachment to the bungee cord.
- (4) Bungee jump site. The area designated for the bungee jump operation by the owner or operator and approved by the Kentucky Department of Agriculture.
- (5) Carabineer. A shaped metal device with a gate used to connect sections of the bungee cord, jump rigging, equipment of safety gear. Carabineers used for life supporting activities must be of the locking design.

(6) Catapulting, launching, negative or reverse jumping. The practice of stretching the bungee cord while attached to the jumper who is held on the ground then released and propelled into the air.

(7) Dynamic loading. The load placed on the bungee cord, rigging, harness, etc. by the weight of the jumper plush and the G forces involved.

(8) G force. The unit of force equal to the gravity exerted on a body at rest.

(9) Harness. An assembly to be worn by a jumper and to be attached to a bungee cord. It is designed to prevent the wearer from becoming detached from the bungee system.

(10) Lift. Device or similar equipment, any device utilized to transport customers, general public or employee to work area or jump launch area.

(11) Military specification (Mil-Spec) cord. Preloaded or pre-stretched rubber cords originally developed for military use. These cords are made in conformance with military specifications and are often referred to as "Mil-Spec". These cords are usually cotton or nylon sheathed. There are some nonmilitary sheathed cords in use that may meet the specifications. This type of cord is usually made of three (3) to five (5) sheathed cords contained in one (1) outer sheathing.

(12) New Zealand cord. All rubber cords made of synthetic or natural rubber using continuous loops or strands. These types were developed in New Zealand. These type cords do not usually utilize any sheathing, and are configured as one (1) large cord made of several hundred small rubber strands.

(13) OSHA standards. Occupational Safety and Health Administration 29 CFR 1910, or 1926, latest edition.

(14) Platform. Launch area where jumper will be assembled and depart from.

(15) Safe working load (SWL). The maximum rated load which can be safely handled by equipment or a component of the rigging under specified conditions, expressed in pounds.

(16) Safety factor. The ratio obtained by dividing the breaking load of any piece of equipment by its working load.

(17) Safety harness (safety belt). An assembly worn by a jump master, etc. it is designed to be attached to a safety line to stop the wearer from falling.

(18) Safety line. A line used to connect the safety harness or belt to an anchorage point or rail in situations where there is a risk of a fall.

(19) Sandbagging. The practice of a jumper holding onto any object (including another person) while jumping, for the purpose of exerting more force on the bungee cord in order to stretch it further, and then releasing the object at the bottom of the jump causing the jumper to rebound with more force than could be created by the jumper's weight alone.

(20) Stunt jumping. The combining of any other activity with bungee jumping with disregard for safety clearances as outlined in this criteria.

(21) Tandem, multiple, or double jumping. The practice of two (2) or more harnessed together while jumping simultaneously from the same platform.

(22) Ultimate tensile strength. Achieved when the applied load reaches a maximum prior to failure, expressed in pounds.

Section 4. Operating Approval. (1) The owner/operator shall be issued a permit under KRS 247.234 and applicable KARs (302 KAR 16:010 through 16:060) from the Kentucky Department of Agriculture.

(a) For permanent and mobile installations the permit of operation shall be renewed annually.

(b) For mobile operations inspection fee will be charged at each "set-up".

(2) Site plan and equipment design and construction.

(a) A report shall be submitted to the construction or "set-up"

which shall contain site plans, safety zones, drawings, specifications and certification of equipment and structures, and operating manuals.

(b) The department may require a registered engineer's report that the design and construction of the structures, equipment, access ways, operating areas, and intended method of operations meet applicable engineering standards and local codes.

(c) The owner/operator shall provide a certificate of insurance to the department that an insurance policy exists covering any spectator or patron in the amount required by law.

Section 5. Permanent Platform. (1) The safety working load (SWL) shall be determined by the maximum weight on the platform at any one (1) time, with a safety factor of not less than five (5), to include any dynamic loads from the jumping operation.

(2) Where the platform is not an integral part of the structure to which they are attached, shall have a safety factor of at least five (5) over the total design load, to include any dynamic loads from the jumping operation.

(3) Where the platform is not an integral part of the structure, these platforms will have a back-up safety at all times with a safety factor of at least five (5).

(4) On either type of platform, a balance load must be maintained during all operations.

(5) The platform shall have a slip-resistant floor surface. The platform shall be constructed of an open mesh type steel to insure jump master has visual site of jumper at all times during the jump operation from jump until recovery.

(6) The platform shall have anchor points for safety harness belt lanyards, designed and placed to best suit the operator's need.

(7) The platform shall be constructed to have sufficient working space, for the intended number of persons, as specified in the site manual.

(8) There shall be a self-closing gate with an automatic positive lock system across the jump point when a jumper is not present at the jump point.

(9) Access and platform walkways, stairways, ladders, handrails, etc. shall meet minimum OSHA standards and Kentucky Building Code when and where applicable.

(10) All shackles shall be safety-wired.

(11) The system for recovering the jumper shall be operated by either the jump operator or jump master.

(12) There shall be an alternative method of jumper recovery should the main recovery system fail to recover the jumper.

(13) In a human powered retrieval system or in a friction lowering system, an eleven (11) mm or larger rock climbing rope shall be used.

(14) In a human powered retrieval system where a jumper is pulled back up to the jump platform, a locking mechanism (for example, and ascender or jumper) shall be used to stop and hold the jumper in one (1) place once the applied force on the retrieval rope is removed.

(15) In a friction lowering system there shall be a "dead man switch" or locking mechanism that will stop the lowering action of the system should a situation arise where the person in charge of lowering the jumper becomes unconscious or unable to perform the lowering duties safely.

(16) All bungee cords shall be attached to the anchor point at all times the cord is in the connection area.

Section 6. Bungee Cord(s). (1) The minimum factor of safety (FS) for any configuration bungee cord shall be not less than five (5). The maximum dynamic load possible for a jumper to exert on a bungee cord shall be no greater than one-fifth (1/5) or twenty (20) percent of that cord's minimum breaking strength. Minimum breaking strength shall be no less than that recommended by the manufacturer.

(2) The maximum G force allowable to a jumper using waist and chest harness is four and five-tenths (4.5) Gs. The maximum G force allowable to a jumper using an ankle harness is three and five-tenths (3.5) Gs.

(3) In a multiple cord design (Mil-Spec) the cords shall be entirely enclosed in a protective sheath.

(4) In a single cord system the binding shall hold the cord threads in the designed positions. The binding shall have the same character-

istics as the cords itself.

(5) Bungee cord design, manufacturing, and testing shall meet the following specifications:

(a) All bungee cord manufacturers shall perform conclusive ultimate tensile strength testing on a representative amount of all manufactured bungee cords with stress to failure of the bungee samples. The bungee cord sample must have been constructed using the manufacturer's standard methods which shall include bungee cord end connections. All tests shall be performed or supervised by an independent testing laboratory or a certified engineer. Test results shall be readily available, upon request. The ultimate tensile strength is reached when the applied load reaches a maximum before failure.

(b) A load verses elongation curve, resulting from the aforementioned test shall be used to calculate the maximum G force exerted by the cord on a jumper within the proper weight range. Documentation of these calculations shall be readily available upon request.

(c) All bungee cord manufacturers shall provide specifications on maximum allowable usage of bungee cords expressed in number of jumps.

(d) All bungee cord manufacturers shall provide specifications on maximum deterioration or damage to cords allowed. This may include but is not limited to hours of ultraviolet light exposure, percentage of broken threads, evidence of thread wear, etc.

(6) Bungee cords shall be removed from use and destroyed when:

(a) They exhibit deterioration or damage;

(b) They do not react according to specifications;

(c) They have reached the maximum usage expressed in number of jumps as specified by the manufacturer;

(d) They exhibit any abnormalities as specified by the manufacturer.

(7) Bungee cords shall be considered destroyed when they are cut into lengths not greater than five (5) feet.

(8) All operators shall have an audible system for recording the number of jumps on each individual cord in use. This data shall be readily available to the manufacturer, any jumper, and any regulating authority. This recording system shall be documented in the site manual:

(a) Cord manufacturer;

(b) Cord lot;

(c) Cord serial number;

(d) Total allowable jump per manufacturer specifications;

(e) Record name of jumper to include address and phone number;

(f) Jump date and time.

(9) Any material such as "webbing" used in either of the two (2) end attachment points of a bungee cord regardless of whether it is designed as a single or multiple cord system shall have a strength of at least three (3) times the ultimate tensile of the cord.

(10) All end attachment points subject to wear are to be retired and destroyed when that cord is retired and destroyed.

(11) The unloaded length of the bungee cord plus the rigging system shall be less than one-half (1/2) the designed extended length.

Section 7. Jumper Harness and Hardware. (1) All harness, webbing, bindings, ropes, and hardware shall meet or exceed the standards as set by Union International Alpinism Association (UIAA) or, the requirements of ANSI A10.14-1975, latest edition.

(2) A jumper harness shall be either a full body harness, a sit harness with shoulder straps, or an ankle harness. Harnesses shall be specifically designed and manufactured for mountaineering or bungee jumping.

(3) Harnesses shall be available to fit the range of patron sizes accepted for jumping.

(4) There shall be a redundant connection (back-up) between the harnesses and the cord(s).

(5) All load supporting slings or webbing shall be flat tubular mountaineering webbing or its equivalent. Minimum breaking strength shall be 6,000 pounds. Slings or webbing shall be formed by sewing, or properly tied with a "water knot" with taped ends.

(6) Carabineers shall be the steel crew gate type with a minimum breaking strength of 6,000 pounds. All carabineers shall be designed and constructed using the standards for mountaineering gear.

(7) All ropes, pulleys, and shackles used to raise, lower, or hold the jumper shall have a minimum breaking strength of 6,000 pounds. All pulleys shall be compatible with the rope.

(8) All anchors shall meet or exceed the following:

(a) Where a single anchor is used to attach the bungee cord to the platform, it shall have a factor of safety of twenty (20).

(b) Where two (2) anchors are used to attach the bungee cord to the platform, each shall have a safety factor of five (5).

(c) Where the anchor(s) is made of wire rope, it shall have swagged ends with the thimble eyes.

(d) Where the anchor(s) is made of "webbing" it shall be manufactured by a company that normally supplies these anchors to crane and rigging companies.

(9) Test of all jumper harnesses and hardware have to be available to the inspector.

(10) All items to be serial numbered.

Section 8. Equipment Inspection and Testing. (1) All bungee cords shall be inspected by the jump master. Frequency of inspection shall be stated in the operations manual. As a minimum the cord(s) shall be inspected prior to opening the site each day, and any other inspections as specified by the bungee cord manufacturer.

(2) All jump rigging lowering system, platform, anchors, and safety gear shall be regularly inspected for damage or wear, by the jump master. Frequency of inspection shall be stated in the operations manual. As a minimum the equipment shall be inspected prior to opening the site each day, and any other inspections as specified by the equipment manufacturers.

(3) All harnesses and harness rigging shall be inspected for damage or wear before use by each jumper.

(4) Hardware subject to abnormal loadings, being impacted against hard surfaces, or having surface damage, shall be replaced.

(5) Ropes, webbing, and slings subject to abnormal shock load shall be replaced.

(6) Any items of equipment, rigging, or safety gear that are found to be substandard shall be replaced immediately. If a replacement is not available, jumping shall cease immediately, until a proper replacement is available.

(7) Each item shall have its own permanent individual identification.

(a) The application of this identification shall not harm the material of the item.

(b) The identification shall be clearly visible to the operators during daily operations.

(c) The identification shall be recorded on the equipment log sheet.

(d) Recovery time between reusage on each bungee cord after each use will be marked on cord and/or entered in log book by serial number.

#### Section 9. (1) Jump Area.

(a) The jump space is defined using dimensions in the lateral (perpendicular), and longitudinal (parallel) directions with respect to the jumper's direction of launch. The following is used to design this space:

1. Maximum system length - the maximum stretched length of a bungee cord system including static line length.

2. Average cord length - the average of the unstretched (static) bungee cord system length and the maximum system length.

(b) The jump space is defined in two (2) parts: top jump space and bottom jump space. The top jump is directly above the bottom jump space. The jump space is longitudinally and laterally centered under the jump point.

(c) The bottom jump space is a box-shaped volume extending from ground level upward to an altitude lying below the jump point by a distance equivalent to fifty (50) percent of the maximum system length. The longitudinal dimension of this volume (length) is equivalent to 200 percent of the unstretched, static length of the bungee cord system.

(d) The top jump space is a pyramid-shaped volume. The four (4) base points of this pyramid shape are coincident with the topmost four (4) points of the bottom jump space. The top point of this pyramid shape is coincident with the jump point. (See Annex 1)

(e) The jump space shall be free of obstructions with the exceptions of the water or air bag.

(2) Over land.

(a) The jump area shall be fenced or other barriers provided. The fence or barriers shall be designed to prevent people and animals from entering the jump area.

(b) The jump area shall be free of spectators at all times.

(c) The jump area shall be free of any equipment or staff when a jumper is being prepared on the jump platform and until the jumper is stable after the jump.

(d) If the jumper is lowered for recover, a clean, smooth, nonabrasive surface shall be provided for the jumper and cord(s). This recovery area shall be at least ten (10) feet by ten (10) feet.

(e) A place for the jumper to sit and recover shall be provided close to, but outside the landing area.

(f) An air bag certified for a fall from the platform height shall be in place centered under the jumper.

(g) There shall be adequate clearance between the jumper at full extension and the surface of the air bag.

(h) Adequate storage shall be provided on site to protect equipment from damage. The storage shall be secured against unauthorized entry.

(3) Over water.

(a) The jump space/landing area shall be free of other vessels, floating and submerged objects and the public, and when in open water shall be defined by the deployment of buoys. A sign of appropriate size which reads "BUNGY JUMPING KEEP CLEAR" shall be fixed to the four (4) sides of the buoy line.

(b) Minimum water depth shall be nine (9) feet.

(c) The recovery vessel shall:

1. Be properly registered and/or certified by appropriate authorities.

2. Be positioned accurately and remain in a constant position for the recovery.

3. Have a landing pad size of at least five (5) feet by five (5) feet, within and lower than the sides of the vessel.

4. Be able to be maneuvered in the range of water conditions expected and will enable staff to pick up a jumper or other person who has fallen into the water.

5. Have a minimum of two (2) operators: one (1) pilot the vessel and at least one (1) other to assist jumper recovery. At least one (1) jumper recovery assistant shall be certified life guard.

(d) Where the landing area is part of a constructed swimming pool complex or is specially constructed for bungee jumping the following shall apply:

1. The pool size shall meet the requirements for the jump area size.

2. The minimum water depth shall be nine (9) feet.

3. Rescue equipment shall be available.

4. The jump space and landing area shall be fenced.

5. Only the operators and participants of the bungee jump shall be within the jump space and landing area.

Section 10. Site Manual. (1) Each site shall have an operating manual, referred to as the site manual, for the safe operation of the site. A copy of the manual and any amendments shall be held at each site, and shall be freely available to the staff. As a minimum, the manual shall include:

(a) A site plan view of the site with all components in place, fencing and the jump zone defined.

(b) Job descriptions/position duties and responsibilities.

(c) Personnel qualifications - required and actual.

(d) Staff training procedures and documentation.

(e) Inspection/maintenance procedures - to include inspection frequency, inspection standards, follow-up actions.

(f) Equipment descriptions/certifications/test documentation.

(g) Disaster/emergency plans procedures.

(h) Accident/incident reporting procedures.

(i) Examples of forms to be used.

(j) Examples of logs to be kept.

(k) Daily preopening inspection/maintenance procedures.

(l) Jumper restrictions - age, weight, medical, physical and mental condition.

- (m) No jumper below the age of eighteen (18).
  - (n) No signed certificate allowed for permission for under the age of eighteen (18).
  - (o) Jumper interview and acceptance procedures.
  - (p) Jumper preparation procedures.
  - (q) Jump procedures.
  - (r) Recovery procedures.
  - (s) Close-down procedures.
  - (t) State maximum weather conditions for safe operation.
- (2) Any amendments to the site manual shall be approved in writing by the Kentucky Department of Agriculture, Amusement Rides and Attractions Inspection Section before implementation.

Section 11. Operations. (1) There shall be an operating public address system on site.

(2) There shall be a telephone communication link to emergency medical and rescue services within a reasonable distance.

(3) A sign shall be posted listing the medical, weight, and age restrictions for jumpers. The sign shall be clearly visible to intending jumpers. Letters not less than one-half (1/2) inch.

(4) Symbol not less than three and one-half (3 1/2) inches across at any point required for person(s) not able to read the English language.

(5) KRS 247.236, Operation and Construction of Amusement Rides and Attractions, and applicable KARs will be complied with.

(a) Jumper jump area will be secured (enclosed with a mesh type fence constructed of steel, not less than five (5) feet four (4) inches in height with no opening less than two (2) inches except at gate hinge points and at locking catch and these areas only large enough for operation. Landing zone operator must clear the area during jump. Assign position or position will be marked for operator during jump.

(b) Floor will be constructed of steel where no solid material - material of steel to be mesh with no opening less than one (1) inch not greater than two and one-half (2 1/2) inch opening.

(c) The jumpers shall be instructed and prepared in a place separated from the jump point.

(d) Safety type ring to frame to connect to jumper while being prepared for jump at all times.

(e) Approved scales to be used in weighing jumper when fully prepared for jump (Kentucky Department of Agriculture, Division of Weights and Measures inspection of weighing device report must be posted.)

(f) Adjustments for the weight of each jumper shall be made by the jump masters selection of bungee cord(s) and/or adjustment of the length of the rigging.

(g) The jump master shall stop the jumping operations when the weather conditions affect the safe operation of the site.

1. Wind speed and direction indicator with readout will be at jump platform.

2. Ceases operation instruction will be posted at each site indicating limitation due to operation height and wind speeds or other factors due to weather.

(h) The mobile platform for jumping shall be a constant height above the ground or surface.

(i) All staff members shall be easily identifiable from the public or jumpers, by means of uniforms or similar clothing colors, etc.

(j) All operations and passengers on mobile platforms shall wear a safety belt/harness and lanyard attached to the anchor points, at all times the platform is elevated.

(k) The jumper, on a mobile platform shall wear a safety lanyard attached to the anchor points until jump height is reached.

(l) Bungee "catapulting", "negative jumping", "reverse jumping" or "launching" is prohibited.

(m) "Tandem", "double" or "multiple" jumping is prohibited.

(n) "Sandbagging" is prohibited.

Section 12. Unacceptable Operation. (1) Mobile or fixed type cranes not designed, manufactured, tested nor intended to primarily handle personnel.

(2) Lighter than air type aircraft or aircraft not regulated by the Federal Aviation Administration such as hot air balloon, blimp, helicopter or other craft not specified that somehow have escaped to be regulated by Federal Aviation Administration.

ED LOGSDON, Commissioner

APPROVED BY AGENCY: April 6, 1992

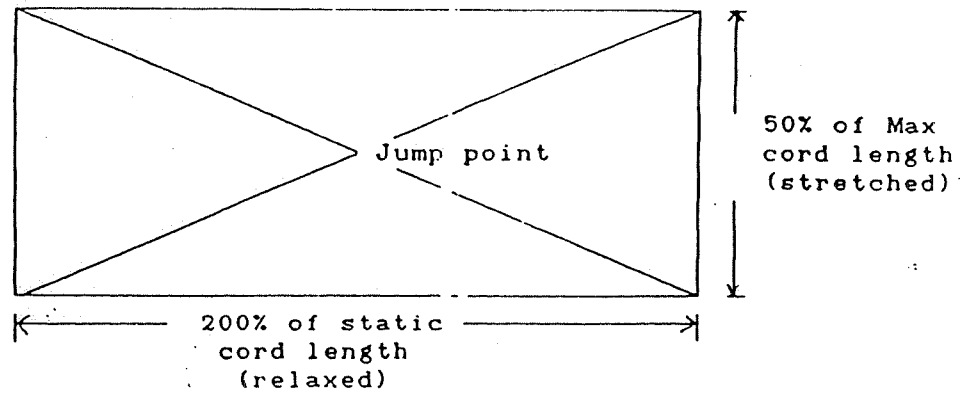
FILED WITH LRC: April 7, 1992 at 2 p.m.

(See JUMP SPACE DIAGRAM on next page)

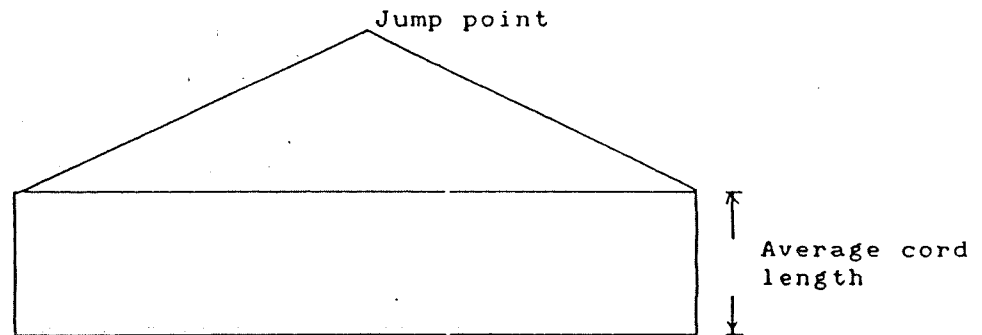
ANNEX 1

JUMP SPACE DIAGRAM

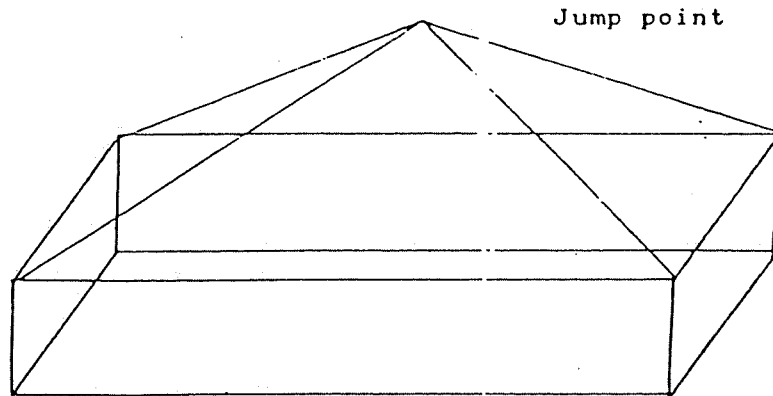
TOP VIEW



SIDE VIEW



OBLIQUE VIEW



$$\text{Average cord length} = \frac{\text{stretched length} + \text{relaxed length}}{2}$$

Cord length = length of bungy cord + length of any rigging from jumper harness to anchor point.



STATEMENT OF EMERGENCY  
405 KAR 8:030E

This emergency administrative regulation requires applications for coal mining permits submitted on or after November 17, 1992 to contain information on fish and wildlife resources in the permit area and adjacent area, and requires a plan to protect these resources and, where practicable, to enhance them. The scope and level of detail of the required information on fish and wildlife resources must be sufficient to design the required protection and enhancement plan, and will be determined on a permit-by-permit basis by the cabinet, in consultation with the Kentucky Department of Fish and Wildlife Resources and the U.S. Fish and Wildlife Service. Site-specific information is required in certain circumstances. These are new requirements that closely match the corresponding federal requirements. This emergency regulation and the companion ordinary regulation are being filed in lieu of proposed amendments filed with the Legislative Research Commission on July 15, 1991 and recently withdrawn. The withdrawn amendments were considerably more detailed because they included uniformly applicable requirements based on agency consultation already completed, rather than permit-by-permit consultation. This emergency administrative regulation also contains amendments, not related to fish and wildlife, that were filed with LRC on July 15, 1991 and recently withdrawn, on which public comments were received and a statement of consideration and amended regulation were filed on September 13, 1991. The most significant of these amendments requires permittees to submit updated information on the permittee's officers, partners, directors, and principal shareholders when changes occur. It is necessary to promulgate this emergency administrative regulation to comply with a federal mandate regarding fish and wildlife requirements. Federal requirements for fish and wildlife information and protection and enhancement plans in mining permit applications were suspended from August 1980 to February 1985 as a result of a federal court action. Kentucky has been on formal notice pursuant to 30 CFR 732.17 since February 1985 that it must adopt corresponding requirements. The federal fish and wildlife rules, both for permitting and performance standards, were significantly revised in December 1987 and Kentucky was given until June 1988 to submit corresponding regulations. After further discussions, Kentucky agreed to have regulations by September 1991. On January 3, 1992 the Federal Office of Surface Mining Reclamation and Enforcement notified Kentucky that because of the lack of fish and wildlife regulations it has approved the state's annual funding grant for administration and enforcement only until March 31, 1992, and is considering several possible actions if fish and wildlife regulations are not in place by that date. These possible actions include: 1) imposing restrictive grant conditions; 2) reducing the percentage of federal funding support for the Kentucky program; and 3) imposing federal protection of fish and wildlife resources under the authority of 30 CFR Part 733. This emergency regulation is necessary to meet the March 31, 1992 timetable. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on March 6, 1992.

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

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Department for Surface Mining  
Reclamation and Enforcement

**405 KAR 8:030E. Surface coal mining permits.**

RELATES TO: KRS 350.060, 350.465, 7 CFR Part 657, 30 CFR Parts 77.216-1, 77.216-2, 730-733, 735, 773.13(a), 778-780, 785.17(b), (d), 917, 40 CFR Parts 136, 434, 16 USC 1276(a), 1531 et seq., 30 USC 1253, 1255, 1257, 1258, 1267

STATUTORY AUTHORITY: KRS Chapter 13A, 350.020, 350.028, 350.060, 350.465, 7 CFR Part 657, 30 CFR Parts 77.216-1, 77.216-2, 730-733, 735, 773.13(a), 778-780, 785.17(b), (d), 917, 40 CFR Parts 136, 434, 16 USC 1276(a), 1531 et seq., 30 USC 1253, 1255, 1257,

1258, 1267

EFFECTIVE: March 18, 1992

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations pertaining to permits for surface mining activities. This regulation specifies certain information to be shown by the applicant related to legal and compliance status, environmental resources, and his mining and reclamation plan. This regulation further specifies certain showings to be made by the applicant to obtain a permit.

Section 1. General. (1) This regulation applies to any person who applies for a permit to conduct surface mining activities.

(2) The requirements set forth in this regulation specifically for applications for permits to conduct surface mining activities are in addition to the requirements applicable to all applications for permits to conduct surface coal mining and reclamation operations as set forth in 405 KAR 8:010.

(3) This regulation sets forth information required to be contained in applications for permits to conduct surface mining activities, including:

- (a) Legal, financial, compliance, and related information;
- (b) Environmental resources information; and
- (c) Mining and reclamation plan information.

~~[(4)(a) The following forms, which are required to be submitted by applicants, are hereby incorporated by reference:]~~

- ~~[1. Preliminary Application, SMP-03, revised August 3, 1984;]~~
- ~~[2. Application for a Comprehensive Mining and Reclamation Permit, SMP-01-R, November, 1985;]~~
- ~~[3. Application for Mining Permit Revision, SMP-02-REV, December, 1987;]~~
- ~~[4. Application for Renewal of a Comprehensive Mining and Reclamation Permit, SMP-01-N1, September, 1987;]~~
- ~~[5. Application for Coal Marketing Reclamation Deferment, SMP-09, October, 1984;]~~
- ~~[6. Notification of Operator Change, SMP-11, August, 1990;]~~
- ~~[7. Notification of Change in Corporate Permittee and/or Corporate Name, SMP-10, December, 1987; and]~~
- ~~[8. Application for Transfer, Assignment or Sale of Permit Rights, SMP-08, October, 1982;]~~
- ~~[(b) The forms incorporated by reference in paragraph (a) of this subsection may be reviewed or obtained at the Department for Surface Mining Reclamation and Enforcement, #2 Hudson Hollow, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

Section 2. Identification of Interests. An application shall contain the following information, except that the submission of a Social Security Number is voluntary:

(1) A statement as to whether the applicant is a corporation, partnership, single proprietorship, association, or other business entity;

(2) The name, address, telephone number and, as applicable, Social Security Number and employer identification number of the:

- (a) Applicant;
- (b) Applicant's resident agent; and
- (c) Person who will pay the abandoned mine land reclamation fee.

(3) For each person who owns or controls the applicant [under the definition of "owned or controlled" and "owns or controls" in 405 KAR 7:020, as applicable]:

- (a) The person's name, address, Social Security Number, and employer identification number;
- (b) The person's ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure;
- (c) The title of the person's position, date position was assumed, and when submitted under 405 KAR 8:010, Section 18(5) date of departure from the position;
- (d) Each additional name and identifying number, including employer identification number, federal or state permit number, and MSHA number with date of issuance, under which the person owns or controls, or previously owned or controlled, a surface coal mining and reclamation operation in the United States within the five (5)

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years preceding the date of the application; and

(e) The application number or other identifier of, and the regulatory authority for, any other pending surface coal mining operation permit application filed by the person in any state in the United States.

(4) For any surface coal mining operation owned or controlled by either the applicant or by any person who owns or controls the applicant ~~[under the definition of "owned or controlled" and "owns and controls" in 405 KAR 7:020]~~, the operation's:

(a) Name, address, identifying numbers, including employer identification number, federal or state permit number, and MSHA number, the date of issuance of the MSHA number, and the regulatory authority; and

(b) Ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure.

(5) The names and addresses of:

(a) Every legal or equitable owner of record of the property to be mined ~~[(see the definition of "property to be mined" in 405 KAR 7:020)]~~;

(b) The holders of record of any leasehold interest in the property to be mined; and

(c) Any purchaser of record, under a real estate contract, of the property to be mined.

~~[(6) A statement of any current or previous coal mining permits in the United States held by the applicant during the five (5) years preceding the application and by any person identified in subsection (2)(e) of this section, and of any pending permit application to conduct surface coal mining and reclamation operations in the United States. The information shall be listed by permit or application number and identify the regulatory authority for each of these coal mining operations.]~~

~~[(6) [(7)] The names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area.~~

~~[(7) [(8)] The name of the proposed mine and all MSHA identification numbers that have been assigned for the mine and all mine associated structures that require MSHA approval.~~

~~[(8) [(9)] Proof, such as a power of attorney or a resolution of the board of directors, that the individual signing the application has the power to represent the applicant in the permit matter.~~

~~[(9) [(10)] A statement of all lands, interests in lands, options, or pending bids on interests held or made by the applicant for lands which are contiguous to the area to be covered by the permit.~~

~~[(10) [(11)] After an applicant has been notified that his or her application has been approved, but before the permit is issued, the applicant shall, as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under subsections (1) through (4) of this section.~~

~~[(11) The permittee shall, in writing, inform the cabinet of any change of the permittee's address immediately if changed at any point prior to final bond release.~~

~~[(12) The permittee shall submit updates of the following information in writing to the cabinet within thirty (30) days of the effective date of any change. Updates shall be submitted for any changes that occur at any point prior to final bond release. Failure to submit updated information shall constitute a violation of KRS Chapter 350 only upon the permittee's refusal or failure to timely submit, as determined by the cabinet, the information to the cabinet upon request. The cabinet may suspend permits pending compliance with this subsection:~~

~~[(a) The names and addresses of every officer, partner, director, or person performing a function similar to a director of the permittee;~~

~~[(b) The names and addresses of principal shareholders; and~~

~~[(c) Whether the permittee or other persons specified in this subsection are subject to any of the provisions of KRS 350.130(3).]~~

~~[(12) The applicant shall submit the information required by this section and Section 3 of this regulation on the appropriate forms, incorporated by reference in Section 1(4) of this regulation.]~~

Section 3. Violation Information. Each application shall contain the following information:

(1) A statement of whether the applicant or ~~[.]~~ any subsidiary, affiliate, or persons controlled by or under common control with the applicant has:

(a) Had a coal mining permit of the United States or any state suspended or revoked in the five (5) years preceding the date of submission of the application; or

(b) Forfeited a coal mining performance bond or similar security deposited in lieu of bond.

(2) If any suspension, revocation, or forfeiture as described in subsection (1) of this section has occurred, the application shall contain a statement of the facts involved, including:

(a) Identification number and date of issuance of the permit, and date and amount of bond or similar security;

(b) Identification of the authority that suspended or revoked the permit or forfeited the bond and the stated reasons for that action;

(c) The current status of the permit, bond, or similar security involved;

(d) The date, location, and type of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forfeiture; and

(e) The current status of these proceedings.

(3) For any violation of a provision of SMCRA, federal regulations enacted pursuant to SMCRA, KRS Chapter 350 and regulations adopted pursuant thereto, any other state's laws or regulations under SMCRA, any federal law, rule, or regulation pertaining to air or water environmental protection, or any Kentucky or other state's law, rule, or regulation enacted pursuant to federal law, rule, or regulation pertaining to air or water environmental protection incurred in connection with any surface coal mining operation, a list of all violation notices received by the applicant during the three (3) year period preceding the application date, and a list of all unabated cessation orders and unabated air and water quality violation notices received prior to the date of the application by any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant. For each violation notice or cessation order reported, the lists shall include the following information, as applicable:

(a) Any identifying numbers for the operation, including the federal or state permit number and MSHA number, the dates of issuance of the violation notice and MSHA number, the name of the person to whom the violation notice was issued, and the name of the issuing regulatory authority, department, or agency;

(b) A brief description of the particular violation alleged in the notice;

(c) The final resolution of each violation notice, if any;

(d) For each violation notice that has not been finally resolved:

1. The date, location, and type of any administrative or judicial proceedings initiated concerning the violation, including, but not limited to, proceedings initiated by any person identified in this subsection to obtain administrative or judicial review of the violation; and

2. The current status of the proceedings and of the violation notice; and

3. The actions, if any, taken or being taken by any person identified in this subsection to abate the violation.

(4) After an applicant has been notified that his or her application has been approved, but before the permit is issued, the applicant shall, as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under subsections

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(1) through (3) of this section.

(5) Upon request by a small operator ~~(as defined in KRS 250.450(4)(d))~~, the cabinet shall provide to the small operator, with regard to persons under subsection (1) of this section which are identified by the small operator, the compliance information required by this section regarding suspension and revocation of permits and forfeiture of bonds under KRS Chapter 350, and information pertaining to violations of KRS Chapter 350 and regulations promulgated thereunder.

**Section 4. Right of Entry and Right to Surface Mine.** (1) Each application shall contain a description of the documents upon which the applicant bases his or her legal right to enter and begin surface mining activities in the permit area and whether that right is the subject of pending litigation. The description shall identify those documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant.

(2) If [Where] the private mineral estate to be mined has been severed from the private surface estate, the application shall contain: [also provide for lands within the permit area, a copy of the document of conveyance that grants or reserves the right to extract the coal by surface mining methods.]

(a) A copy of the written consent of the surface owner for the extraction of coal by surface mining methods; or

(b) A copy of the conveyance that expressly grants or reserves the right to extract coal by surface mining methods; or

(c) If the conveyance does not expressly grant the right to extract the coal by surface mining methods, a copy of the original instrument of severance upon which the applicant bases his right to extract coal by surface mining methods and documentation that under applicable state law, the applicant has the legal authority to extract the coal by those methods.

(3) Nothing in this section shall be construed to afford the cabinet the authority to adjudicate property title disputes.

**Section 5. Relationship to Areas Designated Unsuitable for Mining.** (1) Each application shall contain a statement of available information on whether the proposed permit area is within an area designated unsuitable for surface mining activities under 405 KAR Chapter 24 or under study for designation in an administrative proceeding under that chapter.

(2) If an applicant claims the exemption in 405 KAR 8:010, Section 14(4)(b), the application shall contain information supporting the applicant's assertion that it made substantial legal and financial commitments before January 4, 1977, concerning the proposed surface mining activities.

(3) If an applicant proposes to conduct surface mining activities within 300 feet of an occupied dwelling, the application shall contain the waiver of the owner of the dwelling as required in 405 KAR 24:040, Section 2(5).

(4) If the applicant proposes to conduct surface mining activities within 100 feet of a public road, the requirements of 405 KAR 24:040, Section 2(6) shall be met.

**Section 6. Permit Term Information.** (1) Each application shall state the anticipated or actual starting and termination date of each phase of the surface mining activities and the anticipated number of acres of land to be affected for each phase of mining and over the total life of the permit.

(2) If the applicant proposes to conduct the surface mining activities in excess of five (5) years, the application shall contain the information needed for the showing required under 405 KAR 8:010, Section 17(1).

**Section 7. Personal Injury and Property Damage Insurance Information.** Each permit application shall contain a certificate of liability insurance according to 405 KAR 10:030, Section 4.

**Section 8. Identification of Other Licenses and Permits.** Each application shall contain a list of all other licenses and permits needed by the applicant to conduct the proposed surface mining activities. This list shall identify each license and permit by:

(1) Type of permit or license;

(2) Name and address of issuing authority;

(3) Identification numbers of applications for those permits or licenses or, if issued, the identification numbers of the permits or licenses; and

(4) If a decision has been made, the date of approval or disapproval by each issuing authority.

**Section 9. Identification of Location of Public Office for Filing of Application.** Each application shall identify, by name and address, the appropriate regional office of the cabinet where the applicant will file a copy of the entire application for public inspection under 405 KAR 8:010, Section 8(8).

**Section 10. Newspaper Advertisement and Proof of Publication.** A copy of the newspaper advertisement of the application for a permit, major revision, amendment, transfer, or renewal of a permit and proof of publication of the advertisement, which is acceptable to the cabinet, shall be filed with the cabinet and made a part of the application, not later than fifteen (15) days after the last date of publication required under 405 KAR 8:010, Section 8(2).

**Section 11. Environmental Resources Information.** (1) Each permit application shall include descriptions of the existing environmental resources within the proposed permit area and adjacent areas as required by Sections 11 through 23 of this regulation. The descriptions required by this regulation may, where appropriate, be based upon published texts or other public documents together with reasonable extrapolations from specific data available from existing permit areas or other appropriate areas.

(2)(a) Each application shall describe and identify the nature of cultural, historic, and archaeological resources listed or eligible for listing on the National Register of Historic Places and known archaeological sights within the proposed permit area and adjacent areas. The description shall be based on all available information, including, but not limited to, information from the state Historic Preservation Officer and from local archaeological, historical, and cultural preservation agencies.

(b) The cabinet may require the applicant to identify and evaluate important historic and archaeological resources that may be eligible for listing on the National Register of Historic Places, through collection of additional information, field investigations, or other appropriate analyses.

**Section 12. General Requirements for Baseline Geologic and Hydrologic Information.** (1) The application shall contain baseline geologic and hydrologic information which has been collected, analyzed, and submitted in the detail and manner acceptable to the cabinet, and which shall be sufficient to:

(a) Identify and describe protective measures pursuant to Section 32(1) of this regulation which will be implemented during the mining and reclamation process to assure protection of the hydrologic balance, or to demonstrate that protection of the hydrologic balance can be assured without the design and installation of protective measures; and to design necessary protective measures pursuant to Section 32(2) of this regulation;

(b) Determine the probable hydrologic consequences of the

mining and reclamation operations upon the hydrologic balance in the permit area and adjacent area pursuant to Section 32(3) of this regulation so that an assessment can be made by the cabinet pursuant to 405 KAR 8:010, Section 14(3) of the probable cumulative impacts of all anticipated mining on the hydrologic balance in the cumulative impact area;

(c) Determine pursuant to 405 KAR 8:010, Section 14(2) and (3) whether reclamation as required by 405 KAR can be accomplished and whether the proposed operation has been designed to prevent material damage to the hydrologic balance; and

(d) Design surface and groundwater monitoring systems pursuant to Section 32(4) of this regulation for the during-mining and postmining time period which, together with the baseline data collected under Sections 14(1) and 15(1) of this regulation, will demonstrate whether the mining operation is meeting applicable effluent limitations and stream standards and protecting the hydrologic balance.

(2)(a) Geologic and hydrologic information pertaining to the area outside the permit and adjacent area but within the cumulative impact assessment area shall be provided to the applicant by the cabinet:

1. If this information is needed in preparing the cumulative impact assessment; and

2. If this information is available from an appropriate federal or state agency.

(b) If this information is needed by the cabinet for conducting the cumulative impact assessment and is not available from a federal or state agency, the applicant may gather and submit this information to the cabinet as part of the permit application.

(3) Interpolation, modeling, correlation or other statistical methods, and other data extrapolation techniques may be used if the applicant can demonstrate to the satisfaction of the cabinet that the data extrapolation techniques are valid and that information obtained through the techniques meets the requirements of subsection (1) of this section.

(4) All water quality analyses performed to meet the requirements of this chapter shall be conducted according to the methodology in the fourteenth edition of "Standard Methods for the Examination of Water and Wastewater," or the methodology in 40 CFR Parts 136 and 434. All water quality sampling shall be conducted according to either methodology listed above when feasible.

Section 13. Baseline Geologic Information. (1) The application shall contain baseline geologic information collected from the permit area which shall meet the requirements of Section 12(1) of this regulation and shall include at a minimum:

(a) The results of samples obtained from continuous cores; drill cuttings; channel cuttings from fresh, unweathered, rock outcrops; or other rock or soil material which has been collected using acceptable sampling techniques.

1. The vertical extent of sampling shall include those strata from the surface down to and including the stratum immediately below the lowest coal seam to be mined; and

2. Where aquifers which are located within the permit area underlie the lowest coal seam to be mined and these aquifers may be adversely affected by the mining operation, the vertical extent of sampling shall also include those strata from the lowest coal seam to be mined down to and including the aquifers.

3. The area and vertical density of sampling shall, at a minimum, be sufficient to determine the distribution of strata which have a potential to produce acid drainage and to determine the area and vertical extent of aquifers which may be adversely affected.

4. If the vertical extent, and the area and vertical density of sampling specified in subparagraphs 1 through 3 of this paragraph are not sufficient to locate suitable strata for use as a topsoil substitute, or for other required design or analysis, additional sampling shall be conducted as necessary to furnish adequate

geologic information.

(b) Chemical analyses including, but not limited to, maximum potential acidity and neutralization potential of each overburden stratum and the stratum immediately below the lowest coal seam to be mined, to identify those strata which have a potential to produce acid or toxic drainage.

(c) Chemical analyses of the coal seam to be mined to determine the potential to produce acid or toxic drainage, including the parameters of total sulfur and pyritic sulfur; except that the cabinet shall not require an analysis for pyritic sulfur if the applicant can demonstrate to the satisfaction of the cabinet that an analysis for total sulfur provides adequate information to assure protection of the hydrologic balance.

(d) Collection of geologic information from the permit area as required in this subsection may be waived in whole or in part if:

1. The applicant can demonstrate to the satisfaction of the cabinet through geologic correlation or other procedures that information collected from outside the permit area is representative of the permit area and is sufficient to meet the requirements of Section 12(1) of this regulation; or

2. Other information equivalent to that required by this subsection is available to the cabinet in a satisfactory form and is made a part of the permit application; and

3. The cabinet provides a written statement granting a waiver.

(2) The application shall contain a description of the geology of the proposed permit area and adjacent area which shall meet the requirements of Section 12(1) of this regulation and be based on the information required in subsection (1) of this section or other appropriate geologic information. The description shall include, at a minimum, geologic logs, cross-sections, fence diagrams, or other appropriate illustrations and written descriptions depicting:

(a) Within the permit area:

1. The structural geology and lithology of overburden strata and the stratum immediately below the lowest coal seam to be mined;

2. The thickness and chemical characteristics of each overburden stratum and the stratum immediately below the lowest coal seam to be mined; and

3. Where aquifers may be adversely affected by the mining operation, the structural geology, lithology, thickness, and area extent of the aquifers; and structural geology and lithology of strata, and thickness of each stratum, from the surface down to the aquifers.

(b) Within the adjacent area, the approximate area extent and approximate thickness of aquifers which may be adversely affected by the mining operation.

(3) If determined by the cabinet to be necessary to assure adequate reclamation and protection of the hydrologic balance, the cabinet may require geologic information and description in addition to that required by subsections (1) and (2) of this section including, but not limited to, leaching tests of material from strata which may be disturbed by the operation to determine the potential for the operation to produce drainage with elevated levels of acidity, sulfate, and total dissolved solids, and the collection of information to greater depths within the proposed permit area or the collection of information for areas outside the proposed permit area.

Section 14. Baseline Ground Water Information. (1) The application shall contain baseline groundwater information for the permit area and adjacent area which shall be collected and submitted in a manner acceptable to the cabinet and shall be adequate to meet the requirements of Section 12(1) of this regulation.

(2) Groundwater information shall include an inventory of wells, springs, underground mines, or other similar groundwater supply facilities which are currently being used, have been used in the past, or have a potential to be used for domestic, agricultural, industrial, or other beneficial purpose. The inventory shall include the location,

ownership, type of usage, and where possible, other relevant information such as the depth and diameter of wells and approximate rate of usage, pumpage or discharge from wells, springs, and other groundwater supply facilities.

(3) Groundwater information shall include seasonal groundwater quantity and quality data collected from monitoring wells, springs, underground mines, or other appropriate groundwater monitoring facilities, at a sufficient number of monitoring locations with adequate area distribution to meet the requirements of Section 12(1) of this regulation. Seasonal groundwater quantity and quality data shall be provided for each water transmitting zone above, and potentially impacted water transmitting zone below, the lowest coal seam to be mined including at a minimum:

(a) Groundwater levels; and  
(b) Total dissolved solids, or specific conductance corrected to twenty-five (25) degrees C; pH; dissolved iron; dissolved manganese; acidity; alkalinity; and sulfate. For data collected prior to August 13, 1985, total iron and total manganese may be substituted for dissolved iron and dissolved manganese.

(4) The groundwater information described in subsection (3) of this section shall be required in whole or in part for coal seams if the coal seams to be mined are serving as water supply sources or are otherwise significant in protecting the hydrologic balance.

(5) If additional information is needed to assess the need for protective measures, to design protective measures, to determine the probable hydrologic consequences of mining, or to conduct the cumulative impact assessment, the cabinet may require groundwater information in addition to that described in subsections (2), (3), and (4) of this section including, but not limited to, information pertaining to aquifer storage, yield, discharge, recharge capacity, and additional water quality parameters.

Section 15. Baseline Surface Water Information. (1) The application shall contain baseline surface water information for the permit area and adjacent area which shall be collected and submitted in a manner acceptable to the cabinet and shall be adequate to meet the requirements of Section 12(1) of this regulation.

(2) Surface water information shall include an inventory of all streams, lakes, impoundments or other surface water bodies in the permit and adjacent area which are currently being used for domestic, agricultural, industrial, or other beneficial purpose. The inventory shall include the name of the surface water body which is being used as a water supply source; the location, drainage area, ownership, and type of usage for the withdrawal; and where possible other relevant information such as the rate of withdrawal and seasonal variation.

(3) Surface water information shall include:

(a) The name, location, and ownership where appropriate, of all streams, lakes, impoundments, and other surface water bodies which receive run-off from watersheds which will be disturbed by the operation; and

(b) The location and description of any existing facilities located in watersheds which will be disturbed by the mining operation which may contribute to surface water pollution, such as existing or abandoned mining operations, oil wells, logging operations, or other similar facilities, including the location of any discharges which may be flowing from the facilities.

(4) Surface water information shall include seasonal quantity and quality data collected from a sufficient number of watersheds which will be disturbed by the operation with adequate area distribution to meet the requirements of Section 12(1) of this regulation and include at a minimum:

(a) Flow rates; and  
(b) Total dissolved solids, or specific conductance corrected to twenty-five (25) degrees C; total suspended solids; pH; total iron; total manganese; acidity; alkalinity; and sulfate.

(5) If additional information is needed to assess the need for protective measures, to design protective measures, to determine the probable hydrologic consequences of mining, or to conduct the cumulative impact assessment, the cabinet may require surface water information in addition to that described in subsections (2), (3), and (4) of this section including, but not limited to, information pertaining to flood flows and additional water quality parameters.

Section 16. Alternative Water Supply Information. (1) The application shall identify the extent to which the proposed surface mining activities may proximately result in contamination, diminution, or interruption of an underground or surface source of water within the proposed permit area or adjacent area which is used for domestic, agricultural, industrial, or other beneficial use.

(2) If contamination, diminution, or interruption of a surface or groundwater source may result, then the application shall identify and describe the adequacy and suitability of the alternative sources of water supply that could be developed for existing premining uses and approved postmining land uses.

Section 17. Climatological Information. (1) When requested by the cabinet, the application shall contain a statement of the climatological factors that are representative of the proposed permit area, including:

(a) The average seasonal precipitation;  
(b) The average direction and velocity of prevailing winds; and  
(c) Seasonal temperature ranges.  
(2) The cabinet may request additional data as deemed necessary to ensure compliance with the requirements of this chapter.

Section 18. Soil Resources Information. (1) If soil survey information for the proposed permit area is available from SCS, the application shall include this information as a part of the description of premining land use capability and productivity required by Section 22(1)(b) of this regulation.

(2) Where the applicant proposes to use selected overburden materials as a supplement or substitute for topsoil, the application shall provide results of analyses, trials, and tests as required under 405 KAR 16:050, Section 2(5).

Section 19. Vegetation Information. (1) The permit application shall, as required by the cabinet, contain a map that delineates existing vegetative types and a description of the plant communities within the proposed permit area and within any proposed reference area. This description shall include information adequate to predict the potential for reestablishing vegetation.

(2) When a map or aerial photograph is required, sufficient adjacent areas shall be included to allow evaluation of vegetation as important habitat for fish and wildlife.

Section 20. Fish and Wildlife Resources Information. (1) Each application shall include fish and wildlife resource information for the permit area and adjacent area. The scope and level of detail for this information shall be determined by the cabinet in consultation with the Kentucky Department of Fish and Wildlife Resources and the U.S. Department of the Interior, Fish and Wildlife Service, and shall be sufficient to design the protection and enhancement plan required under Section 36 of this regulation.

(2) Site-specific resource information necessary to address the respective species or habitats shall be required when the permit area or adjacent area is likely to include:

(a) Listed or proposed endangered or threatened species of plants or animals or their critical habitats listed by the Secretary of the Interior under the Endangered Species Act of 1973, as amended (16 USC Sec. 1531 et seq.), or those species or habitats protected by similar state statutes;



(b) Habitats of unusually high value for fish and wildlife such as important streams, wetlands, riparian areas, cliffs supporting raptors, areas offering special shelter or protection, migration routes, or reproduction and wintering areas; or

(c) Other species or habitats identified through agency consultation as requiring special protection under state or federal law.

(3) Wetland delineations shall be conducted in accordance with the "Corps of Engineers Wetlands Delineation Manual", U.S. Army Corps of Engineers, (January, 1987), as modified by U.S. Army Corps of Engineers Regulatory Guidance Letter No. 90-7 (September 26, 1990). The modifications to this material include replacement of Sections 1 and 2 of Appendix C with the "National Lists of Plant Species that Occur in Wetlands and Biological Reports and Summary", Fish and Wildlife Service, U.S. Department of the Interior (May, 1988); and, in Appendix D, Section 2, use of the "List of Hydric Soils of the United States, All Kentucky Counties", Soil Conservation Service (SCS), U.S. Department of Agriculture (December, 1991). This document, and related material, is incorporated by reference. It may be obtained from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Telephone (703) 487-4650. It may also be reviewed, copied, or obtained at the Department for Surface Mining Reclamation and Enforcement, #2 Hudson Hollow, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(4) Upon request, the cabinet shall provide the resource information required under this section to the U.S. Department of the Interior, Fish and Wildlife Service regional or field office for their review. This information shall be provided within ten (10) days of receipt of the request from the service.

(5) This section shall apply to applications for permits, amendments and revisions submitted to the cabinet on or after November 17, 1992, and shall apply to those applications for amendments and revisions as follows:

(a) Fish and wildlife resource information shall be required for amendments and revisions that:

1. Propose extension into a wetland;
2. Propose significant disturbance in a new watershed in which the permit area or adjacent area includes an important stream;
3. Seek to obtain a stream buffer zone variance under 405 KAR 16:060, Section 11, or seek to modify an existing stream buffer zone variance;
4. Propose extension of the permit boundary that involves a new surface disturbance of five (5) acres or more; or
5. Involve new permit or adjacent areas likely to contain, or that could reasonably be expected to contain, a state or federal endangered or threatened species or its critical habitat.

(b) For other amendments and revisions, a determination of whether fish and wildlife information is necessary, and the scope of information needed, shall be made on a case-by-case basis. [Permit applications shall not be required under this section to contain a study of fish and wildlife unless and until federal regulations requiring a study have been promulgated and this regulation has been amended as necessary to be consistent with the corresponding federal regulations.]

Section 21. Prime Farmland Investigation. (1) The applicant shall before making application investigate the proposed permit area to determine whether lands within the area may be prime farmland.

(2) Land shall not be considered prime farmland where the applicant can demonstrate, to the satisfaction of the cabinet, one (1) of the following:

- (a) The land has not been historically used as cropland;
- (b) The slope of the land is ten (10) percent or greater;
- (c) Other relevant factors exist, which would preclude the soils from being defined as prime farmland according to 7 CFR 657, such

as a very rocky surface, or the land is flooded during the growing season more often than once in two (2) years, and the flooding has reduced crop yields; or

(d) On the basis of a soil survey of lands within the permit area, there are no soil map units that have been designated prime farmland by the U.S. SCS.

(3) If the investigation establishes that the lands are not prime farmland, the applicant shall submit with the permit application a request for a negative determination and results of the investigation which show that the land for which the negative determination is being sought meets one (1) of the criteria of subsection (2) of this section.

(4) If the investigation indicates that lands within the proposed permit area may be prime farmlands, the applicant shall contact the U.S. SCS to determine if a soil survey exists for those lands and whether the applicable soil map units have been designated as prime farmlands. If no soil survey has been made for the lands within the proposed permit area, the applicant shall request the SCS to conduct a soil survey.

(a) If [When] a soil survey of lands within the proposed permit area contains soil map units which have been designated as prime farmlands, the applicant shall submit an application, in accordance with 405 KAR 8:050, Section 3 for the designated land.

(b) If [When] a soil survey for lands within the proposed permit area contains no soil map units which have been designated as prime farmland after review by the U.S. SCS, the applicant shall submit with the permit application a request for negative determination under subsection (2)(d) of this section for the nondesignated land.

(5) The cabinet shall decide to grant or deny a negative determination based upon documentation provided by the applicant and any other pertinent information, such as cropping history, available to the cabinet from other sources.

(6) The cabinet shall consult with the SCS in deciding on a request for negative determination under subsection (2)(c) of this section.

(7) The cabinet shall examine any records on crop history available from the Agriculture Stabilization and Conservation Service when deciding on a request for negative determination under subsection (2)(a) of this section.

Section 22. Land-use Information. (1) The application shall contain a statement of the condition, capability, and productivity of the land within the proposed permit area, including:

(a) A map and supporting narrative of the uses of the land existing when the application is filed. If the premining use of the land was changed within five (5) years before the date of application, the historic use of the land shall also be described.

(b) A narrative of land use capability and productivity, which analyzes the land-use description in conjunction with other environmental resources information required under this regulation. The narrative shall provide analyses of:

1. The capability of the land before any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, vegetative cover and the hydrology of the proposed permit area; and

2. The productivity of the proposed permit area before mining, expressed as average yield of food, fiber, forage, or wood products from the lands obtained under high levels of management. The productivity shall be determined by yield data or estimates for similar sites based on current data from the U.S. Department of Agriculture, state agricultural universities or appropriate state natural resource or agricultural agencies.

(2) The application shall state whether the proposed permit area has been previously mined, and, if so, the following information, if available:

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- (a) The type of mining method used;
- (b) The coal seams or other mineral strata mined;
- (c) The extent of coal or other minerals removed;
- (d) The approximate dates of past mining; and
- (e) The uses of the land preceding mining.

(3) The application shall contain a description of the existing land uses and local government land use classifications, if any, of the proposed permit area and adjacent areas.

(4) The application shall contain a description identifying the extent to which cities, towns, and municipalities, or parts thereof, are located within the proposed permit area.

Section 23. Maps and Drawings. (1) The permit application shall include a map or maps showing:

(a) The boundaries of all subareas which are proposed to be affected over the estimated total life of the proposed surface mining activities, with a description of the size, sequence, and timing of the surface mining operations for which it is anticipated that additional permits will be sought;

(b) Any land within the proposed permit area and adjacent area which is within the boundaries of any units of the National System of Trails or the Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act (16 USC 1276(a)), or which is within the boundaries of a wild river established pursuant to KRS Chapter 146;

(c) The boundaries of any public park and locations of any cultural or historical resources listed on or eligible for listing on the National Register of Historic Places and known archaeological sites within the permit area and adjacent areas;

(d) The locations of water supply intakes for current users of surface water within a hydrologic area defined by the cabinet, and those surface waters which will receive discharges from affected areas in the proposed permit area;

(e) All boundaries of lands and names of present owners of record of those lands, both surface and subsurface, included in or contiguous to the permit area;

(f) The boundaries of land within the proposed permit area upon which the applicant has the legal right to enter and begin surface mining activities;

(g) The location of surface and subsurface manmade features within, passing through, or passing over the proposed permit area, including, but not limited to, major electric transmission lines, pipelines, and agricultural drainage tile fields;

(h) The location and boundaries of any proposed reference areas for determining the success of revegetation for the permit area;

(i) The location of all buildings on and within 1,000 feet of the proposed permit area, with identification of the current use of the buildings;

(j) Each public road located in or within 100 feet of the proposed permit area;

(k) Each cemetery that is located in or within 100 feet of the proposed permit area;

(l) Other relevant information required by the cabinet.

(2) The application shall include drawings, cross sections, and maps showing:

(a) Elevations and locations of test borings and core samplings;

(b) Elevations and locations of monitoring stations or other sampling points in the permit area and adjacent areas used to gather data on water quality and quantity, fish and wildlife, and air quality, if required, in preparation of the application, or which will be used for this [such] data gathering during the term of the permit;

(c) Nature, depth, and thickness of the coal seams to be mined, any coal or rider seams above the seam to be mined, each stratum of the overburden, and the stratum immediately below the lowest coal seam to be mined, for the permit area;

(d) All coal crop lines and the strike and dip of the coal to be mined within the proposed permit area;

(e) Location and extent of known workings of active, inactive, or abandoned underground mines, including mine openings to the surface within the proposed permit area and adjacent areas;

(f) Location and extent of subsurface water, if encountered, within the proposed permit area or adjacent areas;

(g) Location of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drainage patterns, and irrigation ditches within the proposed permit area and adjacent areas;

(h) Location and extent of existing or previously surface-mined areas within the proposed permit area;

(i) Location, and depth if available, of gas and oil wells within the proposed permit area and water wells in the permit area and adjacent areas;

(j) Location and dimensions of existing areas of spoil, waste, and noncoal waste disposal, dams, embankments, other impoundments, and water treatment and air pollution control facilities within the proposed permit area;

(k) Sufficient slope measurements to adequately represent the existing land surface configuration of the proposed permit area, measured and recorded according to the following:

1. Each measurement shall consist of an angle of inclination along the prevailing slope extending 100 linear feet above and below or beyond the coal outcrop or the area to be disturbed or, where this is impractical, at locations and in a manner as specified by the cabinet.

2. Where the area has been previously mined, the measurements shall extend at least 100 feet beyond the limits of mining disturbances, or any other distance determined by the cabinet to be representative of the premining configuration of the land.

3. Slope measurements shall take in account natural variations in slope, to provide accurate representation of the range of natural slopes and reflect geomorphic differences of the area to be disturbed.

(3) The permit application shall include the map information specified in Sections 22(1)(a), 24(3), 24(4)(c), 24(4)(h), 27(1), 28(1), 31, 32, 33, 34, and 38 of this regulation, and 405 KAR 8:010, Section 5(6).

(4) Maps, drawings, and cross-sections included in a permit application which are required by this section shall be prepared by or under the direction of and certified by a qualified registered professional engineer, and shall be updated as required by the cabinet. The qualified registered professional engineer shall not be required to certify true ownership of property.

Section 24. Mining and Reclamation Plan; General Requirements.

(1) Each application shall contain a detailed mining and reclamation plan (MRP) for the proposed permit area as set forth in this section through Section 38 of this regulation, showing how the applicant will comply with KRS Chapter 350 and 405 KAR Chapters 16 through 20.

(2) Each application shall contain a description of the mining operations proposed to be conducted within the proposed permit area, including, at a minimum, the following:

(a) A narrative description of the type and method of coal mining procedures and proposed engineering techniques, anticipated annual and total production of coal, by tonnage, and the major equipment to be used for all aspects of those operations; and

(b) A narrative explaining the construction, modification, use, maintenance, and removal of the following facilities (unless retention of the facilities is to be approved as necessary for postmining land use as specified in 405 KAR 16:210):

1. Dams, embankments, and other impoundments;

2. Overburden and topsoil handling and storage areas and structures;

3. Coal removal, handling, storage, cleaning, and transportation

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areas and structures;

4. Spoil, coal processing waste, and noncoal waste removal, handling, storage, transportation, and disposal areas and structures;

5. Mine facilities; and

6. Water and air pollution control facilities.

(3) Each application shall contain plans and maps of the proposed permit area and adjacent areas as follows:

(a) The plans and maps shall show the lands proposed to be affected throughout the operation and any change in a facility or feature to be caused by the proposed operations, if the facility or feature was shown under Section 23 of this regulation.

(b) The following shall be shown for the proposed permit area:

1. Buildings, utility corridors and facilities to be used;

2. The area of land to be affected within the proposed permit area, according to the sequence of mining and reclamation;

3. Each area of land for which a performance bond or other equivalent guarantee will be posted under 405 KAR Chapter 10;

4. Each coal storage, cleaning and loading area;

5. Each topsoil, spoil, coal waste, and noncoal waste storage area;

6. Each water diversion, collection, conveyance, treatment, storage, and discharge facility to be used;

7. Each air pollution collection and control facility;

8. Each source of waste and each waste disposal facility relating to coal processing or pollution control;

9. Each facility to be used to protect and enhance fish and wildlife and related environmental values;

10. Each explosive storage and handling facility; and

11. Location of each sedimentation pond, permanent water impoundment, coal processing waste bank, and coal processing waste dam and embankment, in accordance with Section 34 of this regulation, and fill area for the disposal of excess spoil in accordance with Section 27 of this regulation.

(c) Plans, maps, and drawings required under this section shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer.

(4) Each plan shall contain the following information for the proposed permit area:

(a) A projected timetable for the completion of each major step in the mining and reclamation plan;

(b) A detailed estimate of the cost of reclamation of the proposed operations required to be covered by a performance bond under 405 KAR Chapter 10, with supporting calculations for the estimates;

(c) A plan for backfilling, soil stabilization, compacting, and grading, with contour maps or cross-sections that show the anticipated final surface configuration of the proposed permit area, in accordance with 405 KAR 16:190;

(d) A plan for removal, storage, and redistribution of topsoil, subsoil, and other material to meet the requirements of 405 KAR 16:050 including a demonstration of suitability of any proposed topsoil substitutes or supplements;

(e) A plan for revegetation as required in 405 KAR 16:200, including, but not limited to, descriptions of the: schedule of revegetation; species and amounts per acre of seeds and seedlings to be used; methods to be used in planting and seeding; mulching techniques; irrigation, if appropriate; pest and disease control measures, if any; and measures proposed to be used to determine the success of revegetation as required in 405 KAR 16:200, Section 6; and a soil testing plan for evaluation of the results of topsoil handling and reclamation procedures related to revegetation;

(f) A description of the measures to be used to maximize the use and conservation of the coal resource as required in 405 KAR 16:010, Section 2;

(g) A description of measures to be employed to ensure that all debris, acid-forming and toxic-forming materials, and materials

constituting a fire hazard are disposed of in accordance with 405 KAR 16:150, and 405 KAR 16:190, Section 3, and a description of the contingency plans which have been developed to preclude sustained combustion of the materials;

(h) A description, including appropriate maps and drawings, of the measures to be used to seal or manage mine openings, and to plug, case, or manage exploration holes, other bore holes, wells, and other openings within the proposed permit area, in accordance with 405 KAR 16:040; and

(i) A description of steps to be taken to comply with the requirements of the Clean Air Act (42 USC 7401 et seq.), the Clean Water Act (33 USC 1251 et seq.), and other applicable air and water quality laws and regulations and health and safety standards. This description shall, at a minimum, consist of identification of permits or approvals required by these laws and regulations which the applicant either has obtained, has applied for, or intends to apply for.

Section 25. MRP; Existing Structures. (1) Each application shall contain a description of each existing structure proposed to be used in connection with or to facilitate the surface coal mining and reclamation operation. The description shall include:

(a) Location;

(b) Plans of the structure which describe its current condition;

(c) Approximate dates on which construction of the existing structure was begun and completed; and

(d) A showing, including relevant monitoring data or other evidence, whether the structure meets the performance standards of 405 KAR Chapters 16 through 20 or, if the structure does not meet those performance standards, a showing whether the structure meets the performance standards of the interim performance standards of 405 KAR Chapter 1.

(2) Each application shall contain a compliance plan for each existing structure proposed to be modified or reconstructed for use in connection with or to facilitate the surface coal mining and reclamation operation. The compliance plan shall include:

(a) Design specifications for the modification or reconstruction of the structure to meet the performance standards of 405 KAR Chapters 16 through 20;

(b) A construction schedule which shows dates for beginning and completing interim steps and final reconstruction;

(c) Provisions for monitoring the structure as required by the cabinet to ensure that the performance standards of 405 KAR Chapters 16 through 20 are met; and

(d) A showing that the risk of harm to the environment or to public health or safety will not be significant during the period of modification or reconstruction.

Section 26. MRP; Blasting. (1) Each application shall contain a blasting plan for the proposed permit area explaining how the applicant intends to comply with the requirements of 405 KAR 16:120. This plan shall include, at a minimum, information setting forth the limitations the permittee will meet with regard to ground vibration and airblast, the bases for the ground vibration and airblast limitations, and the methods to be applied in controlling the adverse effects of blasting operations.

(2) Each application shall contain a description of the systems to be used to monitor compliance with the standards for ground vibration and airblast including identification of the types, capabilities, and sensitivities of blast monitoring equipment and identification of the monitoring procedures and locations.

(3) Blasting operations within 500 feet of active underground mines require approval of the cabinet, MSHA, and the Kentucky Department of Mines and Minerals.

Section 27. MRP; Disposal of Excess Spoil. (1) Each application



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shall contain descriptions, including appropriate maps and cross-section drawings, of the proposed disposal site and design of the spoil disposal structures according to 405 KAR 16:130. These plans shall describe the geotechnical investigation, design, construction, operation, maintenance, and removal if appropriate, of the site and structures.

(2) Each application shall contain the results of a geotechnical investigation of the proposed disposal site, including the following:

(a) The character of bedrock and any adverse geologic conditions in the disposal area;

(b) A survey identifying all springs, seepage, and groundwater flow observed or anticipated during wet periods in the area of the disposal site;

(c) An assessment of the potential effects of subsidence of the subsurface strata due to past and future mining operations;

(d) A technical description of the rock materials to be utilized in the construction of those disposal structures containing rock chimney cores or underlain by a rock drainage blanket; and

(e) A stability analysis including, but not limited to, strength parameters, pore pressures and long-term seepage conditions. These data shall be accompanied by a description of all engineering design assumptions and calculations and the alternatives considered in selecting the specific design specifications and methods.

(3) If, under 405 KAR 16:130, Section 1(4), rock toe buttresses or key way cuts are required, the application shall include the following:

(a) The number, location, and depth of borings or test pits which shall be determined with respect to the size of the spoil disposal structure and subsurface conditions; and

(b) Engineering specifications utilized to design the rock toe buttresses or key way cuts which shall be determined in accordance with subsection (2)(e) of this section.

**Section 28. MRP; Transportation Facilities.** (1) Each application shall contain a transportation facilities plan including a description of each road, conveyor, or rail system to be constructed, used, or maintained within the proposed permit area. The description shall include a map, appropriate cross-sections, and the following:

(a) Specifications for each road width, road gradient, road surface, road cut, fill embankment, culvert, bridge, drainage ditch, and drainage structure.

(b) A report of appropriate geotechnical analysis, where approval of the cabinet is required for alternative specifications, or for steep cut slopes under 405 KAR 16:220.

(c) A description of measures to be taken to obtain approval of the cabinet for alteration or relocation of a natural drainageway under 405 KAR 16:220.

(d) A description of measures, other than use of a rock headwall, to be taken to protect the inlet end of a ditch relief culvert, for approval by the cabinet under 405 KAR 16:220.

(2) Each plan shall contain a general description of each road, conveyor, or rail system to be constructed, used, or maintained within the proposed permit area.

**Section 29. MRP; Surface Mining Near Underground Mining.** For surface mining activities within the proposed permit area to be conducted within 500 feet of an underground mine, the application shall describe the measures to be used to comply with 405 KAR 16:010, Section 3.

**Section 30. MRP; Protection of Public Parks and Historic Places.** (1) For any publicly-owned parks or any places listed on the National Register of Historic Places that may be adversely affected by the proposed operations, each plan shall describe the measures to be used to prevent adverse impact; or, if valid existing rights exist or joint

agency approval is to be obtained under 405 KAR 24:040, Section 2(4), to minimize adverse impacts.

(2) The cabinet may require the applicant to protect historic or archaeological properties listed or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. These measures need not be completed prior to permit issuance, but shall be completed before the properties are affected by surface mining activities.

**Section 31. MRP; Protection of Public Roads.** Each application shall describe, with appropriate maps and drawings, the measures to be used to ensure that the interests of the public and landowners affected are protected if, under 405 KAR 24:040, Section 2(6), the applicant seeks to have the cabinet approve:

(1) Conducting the proposed surface mining activities within 100 feet of the right-of-way line of any public road, except where mine access or haul roads join that right-of-way; or

(2) Relocating a public road.

**Section 32. MRP; Protection of the Hydrologic Balance.** (1) Each application shall contain a description, as set forth in this subsection, of the measures to be taken to minimize disturbances to the hydrologic balance within the permit area and adjacent area and to prevent material damage to the hydrologic balance outside the permit area.

(a) The description shall be based upon the baseline geologic, hydrologic, and other information required by Sections 12 through 16 of this regulation and other appropriate information, shall be specific to local hydrologic conditions, and shall be prepared in a manner and detail acceptable to the cabinet.

(b) The description shall identify the protective measures to be taken to enable the operation to meet, at a minimum, each of the hydrologic requirements referenced in this paragraph, or shall demonstrate to the satisfaction of the cabinet that protective measures are not necessary for the operation to meet the requirements:

1. Meet applicable water quality statutes, regulations, standards, and effluent limitations as required by 405 KAR 16:060, Section 1(3);

2. Avoid acid or toxic drainage as required by 405 KAR 16:060, Sections 4, 5, and 6;

3. Control the discharge of sediment to streams located outside the permit area as required by 405 KAR 16:060, Section 2;

4. Control the drainage and discharge of water within the permit area as required by 405 KAR 16:060, Sections 1(4), 3, 9, and 12, and 405 KAR 16:080;

5. Restore the approximate premining recharge capacity of the permit area as required by 405 KAR 16:060, Section 5; and

6. Protect or replace the water supply of present users as required by 405 KAR 16:060, Section 8.

(c) The cabinet may require that the description include protective measures in addition to those identified under paragraph (b) of this subsection, if the cabinet determines that additional measures are needed to protect the hydrologic balance in accordance with 405 KAR 16:060.

(2) Each application shall include the design of any necessary protective measures identified under subsection (1) of this section. The design shall be prepared in a manner and detail acceptable to the cabinet including, as appropriate, calculations, maps, drawings, and written explanations as necessary to document the design.

(3) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations for the permit area and adjacent area.

(a) The determination shall be based upon the baseline geologic, hydrologic, and other information required by Sections 12 through 16 of this regulation and other appropriate information, and may include information statistically representative of the site.

(b) The determination shall be completed according to the

parameters and in the detail required by the cabinet to enable the cabinet to prepare a cumulative impact assessment, and shall take into account the anticipated effects of protective measures required by this chapter.

(c) For surface water systems, the determination shall, at a minimum, include probable impacts on:

1. Peak discharge rates, emphasizing the potential for flooding;
2. Settleable solids at peak discharge;
3. Low-flow discharge rates, emphasizing the potential for water supply diminution;
4. Suspended solids at low flow;
5. pH, at low flow, emphasizing the potential for acid drainage conditions, including depressed levels of alkalinity and elevated levels of iron, manganese, acidity, sulfate, and total dissolved solids or specific conductance, which are generally associated with acid drainage conditions.

(d) For groundwater systems, the determination shall, at a minimum, include probable impacts on:

1. Water quantity, emphasizing water levels and the potential for water supply diminution for existing users, and dewatering of aquifers which are not currently being used for water supply but have the potential to be developed as a water supply source.
2. pH, emphasizing the potential for acid drainage conditions, including depressed levels of alkalinity and elevated levels of iron, manganese, acidity, sulfate, and total dissolved solids or specific conductance, which are generally associated with acid drainage conditions.

(e) An application for a major revision to a permit shall be reviewed by the cabinet to determine whether a new or updated determination of the probable hydrologic consequences shall be required.

(4)(a) The application shall include a plan for the collection, recording, and reporting of groundwater and surface water quantity and quality data to monitor the effects of the mining and reclamation operations on the hydrologic balance, according to 405 KAR 16:110.

(b) The monitoring plan shall be based on the geologic and hydrologic baseline information, the mining and reclamation plan, and the determination of probable hydrologic consequences; and shall:

1. Identify the quantity and quality parameters to be monitored, sampling frequency, and monitoring site locations; and
2. Describe how the data may be used to determine the impacts of the operation on the hydrologic balance.

(5) An application for a major revision to a permit shall be reviewed by the cabinet to determine whether a new or updated cumulative hydrologic impact assessment shall be made.

Section 33. MRP; Diversions. Each application shall contain descriptions, including maps and cross-sections, of stream channel diversions and other diversions to be constructed within the proposed permit area to achieve compliance with 405 KAR 16:080.

Section 34. MRP; Impoundments and Embankments. (1) General. Each application shall include detailed design plans for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area. Each plan shall:

- (a) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer;
- (b) Contain a description, map, and appropriate cross-sections and drawings of the structure and its location;
- (c) Contain all hydrologic and geologic information and computations necessary to demonstrate compliance with the design and performance standards of 405 KAR Chapter 16; and all information utilized by the applicant to determine the probable hydrologic consequences of the mining operations under Section 32(3) of this

regulation;

(d) Contain an assessment of the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred;

(e) Include any geotechnical investigation, design, and construction requirements for the structure;

(f) Describe the operation and maintenance requirements for each structure; and

(g) Describe the timetable and plans to remove each structure, if appropriate.

(2) Sedimentation ponds.

(a) Sedimentation ponds, whether temporary or permanent, shall be designed in compliance with the requirements of 405 KAR 16:090. Any sedimentation pond or earthen structure which will remain on the proposed permit area as a permanent water impoundment shall also be designed to comply with the requirements of 405 KAR 16:100.

(b) Each plan shall, at a minimum, comply with the requirements of the MSHA, 30 CFR 77.216-1 and 77.216-2.

(3) Permanent and temporary impoundments. Permanent and temporary impoundments shall be designed to comply with the requirements of 405 KAR 16:100. Each plan shall comply with the requirements of the MSHA, 30 CFR 77.216-1 and 77.216-2.

(4) Coal processing waste banks. Coal processing waste banks shall be designed to comply with the requirements of 405 KAR 16:140.

(5) Coal processing waste dams and embankments. Coal processing waste dams and embankments shall be designed to comply with the requirements of 405 KAR 16:160. Each plan shall comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2, and shall contain the results of a geotechnical investigation of the proposed dam or embankment foundation area, to determine the structural competence of the foundation which will support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or engineering geologist, according to the following:

(a) The number, location, and depth of borings and test pits shall be determined using current prudent engineering practice for the size of the dam or embankment, quantity or material to be impounded, and subsurface conditions.

(b) The character of the overburden and bedrock, the proposed abutment sites, and any adverse geotechnical conditions which may affect the particular dam, embankment, or reservoir site shall be considered.

(c) All springs, seepage, and groundwater flow observed or anticipated during wet periods in the area of the proposed dam or embankment shall be identified on each plan.

(d) Consideration shall be given to the possibility of mud flows, rock-debris falls, or other landslides into the dam, embankment, or impounded material.

(6) If the structure is to be twenty (20) feet or higher or is to impound more than twenty (20) acre-feet, each plan under subsections (2), (3), and (5) of this section shall include a stability analysis of each structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures, and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

Section 35. MRP; Air Pollution Control. For all surface mining activities the application shall contain an air pollution control plan which includes the following:

(1) An air quality monitoring program, if required by the cabinet, to provide sufficient data to evaluate the effectiveness of the fugitive dust control practices under subsection (2) of this section to comply

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with applicable federal and state air quality standards; and

(2) A plan for fugitive dust control practices, as required under 405 KAR 16:170.

### Section 36. MRP; Fish and Wildlife Protection and Enhancement.

(1) Each application shall include a description of how, to the extent possible using the best technology currently available, the permittee will minimize disturbances and adverse impacts on fish and wildlife and related environmental values, including compliance with the Endangered Species Act, during the surface coal mining and reclamation operations, and how enhancement of these resources will be achieved where practicable.

(2) This description shall:

(a) Apply, at a minimum, to species and habitats identified under Section 20 of this regulation;

(b) Include protective measures that will be used during the active mining phase of operation. Protective measures may include the establishment of buffer zones, the selective location and special design of haul roads and powerlines, and the monitoring of surface water quality and quantity; and

(c) Include enhancement measures that will be used during the reclamation and postmining phase of operation to develop aquatic and terrestrial habitat. Enhancement measures may include restoration of streams and other wetlands, retention of ponds and impoundments, establishment of vegetation for wildlife food and cover, and the replacement of perches and nest boxes. If the plan does not include enhancement measures, a statement shall be given explaining why enhancement is not practicable.

(3) Upon request, the cabinet shall provide the protection and enhancement plan required under this section to the U.S. Department of the Interior, Fish and Wildlife Service regional or field office for their review. This information shall be provided within ten (10) days of receipt of the request from the service.

(4) This section shall apply to applications for permits, amendments and revisions submitted to the cabinet on or after November 17, 1992, and shall apply to those applications for amendments and revisions as follows:

(a) A fish and wildlife protection and enhancement plan shall be required for amendments and revisions that:

1. Propose extension into a wetland;

2. Propose significant disturbance in a new watershed in which the permit area or adjacent area includes an important stream;

3. Seek to obtain a stream buffer zone variance under 405 KAR 16:060, Section 11, or seek to modify an existing stream buffer zone variance;

4. Propose extension of the permit boundary that involves a new surface disturbance of five (5) acres or more; or

5. Involve new permit or adjacent areas likely to contain, or that could reasonably be expected to contain, a state or federal endangered or threatened species or its critical habitat.

(b) For other amendments and revisions, a determination of whether a protection and enhancement plan is necessary shall be made on a case-by-case basis. [Permit applications shall not be required under this section to contain a fish and wildlife plan unless and until federal regulations requiring a plan have been promulgated and this regulation has been amended as necessary to be consistent with the corresponding federal regulations.]

Section 37. MRP; Postmining Land Use. (1) Each plan shall contain a description of the proposed land use or uses following reclamation of the land within the proposed permit area, including:

(a) A discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans; [-This description shall explain:]

(b) A discussion of [(a)] how the proposed postmining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use, including but not necessarily limited to management practices to be conducted during the liability period for the commercial forest land, cropland (including hayland), and pastureland land uses;

(c) If [(b)] Where a land use different from the premining land use is proposed, all supporting documentation required [submitted] for approval of the proposed alternative use under 405 KAR 16:210;

(d) A discussion of [(e)] the consideration which has been given to making all of the proposed surface mining activities consistent with surface owner plans and applicable state and local land use plans and programs; and

[(d) Where grazing is the proposed postmining land use, the detailed management practices necessary to properly implement the postmining use for grazing.]

(e) [(2) The description shall be accompanied by] A copy of the comments concerning the proposed use from [by] the legal or equitable owner of record of the surface of the proposed permit area and the state and local government agencies, if any, which would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation.

(2) [(2)] Approval of the initial postmining land use plan pursuant to this section, shall not preclude subsequent consideration and approval of a revised postmining land use plan in accordance with the applicable requirements of 405 KAR Chapters 7 through 24.

[Section 38. MRP; Transportation on Public Roads. The application shall include or be accompanied by a public roads transportation plan and map (at least the scale and detail of the separate county maps published by the Kentucky Transportation Cabinet) which shall set forth the portions of the public road system, if any, over which the applicant proposes to transport coal extracted in the surface coal mining operation.]

[(1) The plan shall specify the legal weight limits for each portion of any public road or bridge over which the applicant proposes to transport coal.]

[(2) The plan shall include any proposal by the applicant to obtain a special permit pursuant to KRS 189.271 to exceed the weight limits on any road or bridge.]

[(2) The plan shall contain a certification by a duly authorized official of the Kentucky Transportation Cabinet attesting the accuracy of the plan in regard to the locations and identities of roads and bridges on the public road system and the accuracy of the specifications of weight limits on the roads and bridges.]

PHILLIP J. SHEPHERD, Secretary

JUDITH A. VILLINES, Commissioner

APPROVED BY AGENCY: March 9, 1992

FILED WITH LRC: March 18, 1992 at 8 a.m.

### STATEMENT OF EMERGENCY 405 KAR 8:040E

This emergency administrative regulation requires applications for coal mining permits submitted on or after November 17, 1992 to contain information on fish and wildlife resources in the permit area and adjacent area, and requires a plan to protect these resources and, where practicable, to enhance them. The scope and level of detail of the required information on fish and wildlife resources must be sufficient to design the required protection and enhancement plan, and will be determined on a permit-by-permit basis by the cabinet, in consultation with the Kentucky Department of Fish and Wildlife Resources and the U.S. Fish and Wildlife Service. Site-specific

information is required in certain circumstances. These are new requirements that closely match the corresponding federal requirements. This emergency regulation and the companion ordinary regulation are being filed in lieu of proposed amendments filed with the Legislative Research Commission on July 15, 1991 and recently withdrawn. The withdrawn amendments were considerably more detailed because they included uniformly applicable requirements based on agency consultation already completed, rather than permit-by-permit consultation. This emergency administrative regulation and the companion ordinary administrative regulation also contain amendments, not related to fish and wildlife, that were filed with LRC on July 15, 1991 and recently withdrawn, on which public comments were received and a statement of consideration and amended regulation were filed on September 13, 1991. The most significant of these amendments requires permittees to submit updated information on the permittee's officers, partners, directors, and principal shareholders when changes occur. It is necessary to promulgate this emergency administrative regulation to comply with a federal mandate regarding fish and wildlife requirements. Federal requirements for fish and wildlife information and protection and enhancement plans in mining permit applications were suspended from August 1980 to February 1985 as a result of a federal court action. Kentucky has been on formal notice pursuant to 30 CFR 732.17 since February 1985 that it must adopt corresponding requirements. The federal fish and wildlife rules, both for permitting and performance standards, were significantly revised in December 1987 and Kentucky was given until June 1988 to submit corresponding regulations. After further discussions, Kentucky agreed to have regulations by September 1991. On January 3, 1992 the Federal Office of Surface Mining Reclamation and Enforcement notified Kentucky that because of the lack of fish and wildlife regulations it has approved the state's annual funding grant for administration and enforcement only until March 31, 1992, and is considering several possible actions if fish and wildlife regulations are not in place by that date. These possible actions include: 1) imposing restrictive grant conditions; 2) reducing the percentage of federal funding support for the Kentucky program; and 3) imposing federal protection of fish and wildlife resources under the authority of 30 CFR Part 733. This emergency regulation is necessary to meet the March 31, 1992 timetable. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on March 6, 1992.

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

**NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET**  
Department for Surface Mining  
Reclamation and Enforcement

**405 KAR 8:040E. Underground coal mining permits.**

RELATES TO: KRS 350.060, 350.151, 7 CFR Part 657, 30 CFR Parts 77.216-1, 77.216-2, 730-733, 735, 773.13(a), 778, 783, 784, 785.17(b), (d), 917, 40 CFR Parts 136, 434, 16 USC 1276(a), 1531 et seq., 30 USC 1253, 1255, 1257, 1258, 1266, 1267

STATUTORY AUTHORITY: KRS Chapter 13A, 350.020, 350.028, 350.060, 350.151, 350.465, 7 CFR Part 657, 30 CFR Parts 77.216-1, 77.216-2, 730-733, 735, 773.13(a), 778, 783, 784, 785.17(b), (d), 917, 40 CFR Parts 136, 434, 16 USC 1276(a), 1531 et seq., 30 USC 1253, 1255, 1257, 1258, 1266, 1267

EFFECTIVE: March 18, 1992

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations pertaining to permits for underground mining activities. This regulation recognizes the distinct differences between surface mining activities and underground mining activities. This regulation specifies certain information to be shown by the applicant related to legal and compliance status, environmental resources, and his mining and reclamation plan. This regulation further specifies certain showings to be made by the applicant to obtain a permit.

**Section 1. General. (1) Applicability.**

(a) This regulation applies to any person who applies for a permit to conduct underground mining activities.

(b) The requirements set forth in this regulation specifically for applications for permits to conduct underground mining activities, are in addition to the requirements applicable to all applications for permits to conduct surface coal mining and reclamation operations as set forth in 405 KAR 8:010.

(c) This regulation sets forth information required to be contained in applications for permits to conduct underground mining activities, including:

1. Legal, financial, compliance, and related information;
2. Environmental resources information; and
3. Mining and reclamation plan information.

(2) The permit applicant shall provide to the cabinet in the application all the information required by this regulation.

~~{(2)(a) The following forms, which are required to be submitted by applicants, are hereby incorporated by reference:}~~

- ~~{1. Preliminary Application, SMP 03, revised August 3, 1984;}~~
- ~~{2. Application for a Comprehensive Mining and Reclamation Permit, SMP 01-P, November, 1985;}~~
- ~~{3. Application for Mining Permit Revision, SMP 02-REV, December, 1987;}~~
- ~~{4. Application for Renewal of a Comprehensive Mining and Reclamation Permit, SMP 01-N1, September, 1987;}~~
- ~~{5. Application for Coal Marketing Reclamation Deferment, SMP 09, October, 1984;}~~
- ~~{6. Notification of Operator Change, SMP 11, August, 1990;}~~
- ~~{7. Notification of Change in Corporate Permittee and/or Corporate Name, SMP 10, December, 1987; and}~~
- ~~{8. Application for Transfer, Assignment or Sale of Permit Rights, SMP 08, October, 1982;}~~

~~{(b) The forms incorporated by reference in paragraph (a) of this subsection may be reviewed or obtained at the Department for Surface Mining Reclamation and Enforcement, #2 Hudson Hollow, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.}~~

**Section 2. Identification of Interests.** An application shall contain the following information, except that the submission of a Social Security Number is voluntary:

(1) A statement as to whether the applicant is a corporation, partnership, single proprietorship, association, or other business entity;

(2) The name, address, telephone number and, as applicable, Social Security Number and employer identification number of the:

- (a) Applicant;
- (b) Applicant's resident agent; and
- (c) Person who will pay the abandoned mine land reclamation

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fee.

(3) For each person who owns or controls the applicant ~~[under the definition of "owned or controlled" and "owns or controls" in 405 KAR 7:020, as applicable]:~~

(a) The person's name, address, Social Security Number, and employer identification number;

(b) The person's ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure;

(c) The title of the person's position, date position was assumed, and when submitted under 405 KAR 8:010, Section 18(5) date of departure from the position;

(d) Each additional name and identifying number, including employer identification number, federal or state permit number, and MSHA number with date of issuance, under which the person owns or controls, or previously owned or controlled, a surface coal mining and reclamation operation in the United States within the five (5) years preceding the date of the application; and

(e) The application number or other identifier of, and the regulatory authority for, any other pending surface coal mining operation permit application filed by the person in any state in the United States.

(4) For any surface coal mining operation owned or controlled by either the applicant or by any person who owns or controls the applicant ~~[under the definition of "owned or controlled" and "owns or controls" in 405 KAR 7:020], the operation's:~~

(a) Name, address, identifying numbers, including employer identification number, federal or state permit number, and MSHA number, the date of issuance of the MSHA number, and the regulatory authority; and

(b) Ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure.

(5) The names and addresses of:

(a) Every legal or equitable owner of record of the areas to be affected by surface operations and facilities and every legal or equitable owner of record of the coal to be mined;

(b) The holders of record of any leasehold interest in areas to be affected by surface operations or facilities and the holders of record of any leasehold interest in the coal to be mined; and

(c) Any purchaser of record under a real estate contract of areas to be affected by surface operations and facilities and any purchaser of record under a real estate contract of the coal to be mined.

~~[(6) A statement of any current or previous coal mining permits in the United States held by the applicant during the five (5) years preceding the application, and by any person identified in subsection (3)(c) of this section and of any pending permit application to conduct surface coal mining and reclamation operations in the United States. The information shall be listed by permit or application number and identify the regulatory authority for each of these coal mining operations.]~~

~~[(6) [(7)] The names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area.~~

~~[(7) [(8)] The name of the proposed mine and all MSHA identification numbers that have been assigned for the mine and all mine associated structures that require MSHA approval.~~

~~[(8) [(9)] Proof, such as a power of attorney or resolution of the board of directors, that the individual signing the application has the power to represent the applicant in the permit matter.~~

~~[(9) [(10)] A statement of all lands, interests in lands, options, or pending bids on interests held or made by the applicant for lands which are contiguous to the area to be covered by the permit.~~

~~[(10) [(11)] After an applicant has been notified that his or her application has been approved, but before the permit is issued, the applicant shall, as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under subsections (1) through (4) of this section.~~

~~[(11) The permittee shall, in writing, inform the cabinet of any change of the permittee's address immediately if changed at any point prior to final bond release.~~

~~[(12) The permittee shall submit updates of the following information in writing to the cabinet within thirty (30) days of the effective date of any change. Updates shall be submitted for any changes that occur at any point prior to final bond release. Failure to submit updated information shall constitute a violation of KRS Chapter 350 only upon the permittee's refusal or failure to timely submit, as determined by the cabinet, the information to the cabinet upon request. The cabinet may suspend permits pending compliance with this subsection:]~~

~~[(a) The names and addresses of every officer, partner, director, or person performing a function similar to a director of the permittee;~~

~~[(b) The names and addresses of principal shareholders; and~~

~~[(c) Whether the permittee or other persons specified in this subsection are subject to any of the provisions of KRS 350.130(3).]~~

~~[(12) The applicant shall submit the information required by this section and Section 3 of this regulation on the appropriate forms, incorporated by reference in Section 1(3) of this regulation.]~~

Section 3. Violation Information. Each application shall contain the following information:

(1) A statement of whether the applicant or ~~[-]~~ any subsidiary, affiliate, or persons controlled by or under common control with the applicant has:

(a) Had a coal mining permit of the United States or any state suspended or revoked in the five (5) years preceding the date of submission of the application; or

(b) Forfeited a coal mining performance bond or similar security deposited in lieu of bond.

(2) If any suspension, revocation, or forfeiture, as described in subsection (1) of this section, has occurred, the application shall contain a statement of the facts involved, including:

(a) Identification number and date of issuance of the permit, and date and amount of bond or similar security;

(b) Identification of the authority that suspended or revoked the permit or forfeited the bond and the stated reasons for that action;

(c) The current status of the permit, bond, or similar security involved;

(d) The date, location, and type of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forfeiture; and

(e) The current status of these proceedings.

(3) For any violation of a provision of SMCRA, federal regulations enacted pursuant to SMCRA, KRS Chapter 350 and regulations adopted pursuant thereto, any other state's laws or regulations under SMCRA, any federal law, rule, or regulation pertaining to air or water environmental protection, or any Kentucky or other state's law, rule, or regulation enacted pursuant to federal law, rule, or regulation pertaining to air or water environmental protection incurred in

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connection with any surface coal mining operation, a list of all violation notices received by the applicant during the three (3) year period preceding the application date, and a list of all unabated cessation orders and unabated air and water quality violation notices received prior to the date of the application by any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant. For each violation notice or cessation order reported, the lists shall include the following information, as applicable:

(a) Any identifying numbers for the operation, including the federal or state permit number and MSHA number, the dates of issuance of the violation notice and MSHA number, the name of the person to whom the violation notice was issued, and the name of the issuing regulatory authority, department, or agency;

(b) A brief description of the particular violation alleged in the notice;

(c) The final resolution of each violation notice, if any;

(d) For each violation notice that has not been finally resolved:

1. The date, location, and type of any administrative or judicial proceedings initiated concerning the violation, including, but not limited to, proceedings initiated by any person identified in this subsection to obtain administrative or judicial review of the violation; and

2. The current status of the proceedings and of the violation notice; and

3. The actions, if any, taken or being taken by any person identified in this subsection to abate the violation.

(4) After an applicant has been notified that his or her application has been approved, but before the permit is issued, the applicant shall, as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under subsections (1) through (3) of this section.

(5) Upon request by a small operator [~~as defined in KRS 350.450(4)(d).~~], the cabinet shall provide to the small operator, with regard to persons under subsection (1) of this section which are identified by the small operator, the compliance information required by this section regarding suspension and revocation of permits and forfeiture of bonds under KRS Chapter 350, and information pertaining to violations of KRS Chapter 350 and regulations promulgated thereunder.

Section 4. Right of Entry and Right to Mine. (1) Each application shall contain a description of the documents upon which the applicant bases his or her legal right to enter and begin underground mining activities in the permit area and whether that right is the subject of pending litigation. The description shall identify those documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant.

(2) For underground mining activities where the associated surface operations involve the surface mining of coal and the private mineral estate to be mined has been severed from the private surface estate, the application shall contain [~~also provide~~], for lands to be affected by those operations within the permit area: [~~a copy of the document of conveyance that grants or reserves the right to extract the coal by surface mining methods.~~]

(a) A copy of the written consent of the surface owner for the extraction of coal by surface mining methods; or

(b) A copy of the conveyance that expressly grants or reserves

the right to extract coal by surface mining methods; or

(c) If the conveyance does not expressly grant the right to extract the coal by surface mining methods, a copy of the original instrument of severance upon which the applicant bases his right to extract coal by surface mining methods and documentation that under applicable state law, the applicant has the legal authority to extract the coal by those methods.

(3) Nothing in this section shall be construed to afford the cabinet the authority to adjudicate property title disputes.

Section 5. Relationship to Areas Designated Unsuitable for Mining. (1) Each application shall contain a statement of available information on whether the proposed permit area is within an area designated unsuitable for underground mining activities under 405 KAR Chapter 24, or designated unsuitable for surface mining activities if the proposed underground mining activities also involve surface mining of coal, or under study for designation in an administrative proceeding initiated under that chapter.

(2) If an applicant claims the exemption in 405 KAR 8:010, Section 14(4)(b), the application shall contain information supporting the applicant's assertion that it made substantial legal and financial commitments before January 4, 1977, concerning the proposed underground mining activities.

(3) If an applicant proposes to conduct or locate surface operations or facilities within 300 feet of an occupied dwelling, the application shall include the waiver of the owner of the dwelling as required in 405 KAR 24:040, Section 2(5).

(4) If the applicant proposes to conduct or locate surface operations or facilities within 100 feet of a public road, the requirements of 405 KAR 24:040, Section 2(6) shall be met.

Section 6. Permit Term Information. (1) Each application shall state the anticipated or actual starting and termination date of each phase of the underground mining activities and the anticipated number of acres of surface lands to be affected, and the horizontal and vertical extent of proposed underground mine workings including the surface acreage overlying the underground workings, for each phase of mining and over the total life of the permit.

(2) If the applicant proposes to conduct the underground mining activities in excess of five (5) years, the application shall contain the information needed for the showing required under 405 KAR 8:010, Section 17(1).

Section 7. Personal Injury and Property Damage Insurance Information. Each application shall contain a certificate of liability insurance according to 405 KAR 10:030, Section 4.

Section 8. Identification of Other Licenses and Permits. Each application shall contain a list of all other licenses and permits needed by the applicant to conduct the proposed underground mining activities. This list shall identify each license and permit by:

(1) Type of permit or license;

(2) Name and address of issuing authority;

(3) Identification numbers of applications for those permits or licenses or, if issued, the identification numbers of the permits or licenses; and

(4) If a decision has been made, the date of approval or disapproval by each issuing authority.



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Section 9. Identification of Location of Public Office for Filing of Application. Each application shall identify, by name and address, the appropriate regional office of the cabinet where the applicant will file a copy of the entire application for public inspection under 405 KAR 8:010, Section 8(8).

Section 10. Newspaper Advertisement and Proof of Publication. A copy of the newspaper advertisement of the application for a permit, major revision, amendment, transfer, or renewal of a permit and proof of publication of the advertisement, which is acceptable to the cabinet, shall be filed with the cabinet and made a part of the application not later than fifteen (15) days after the last date of publication required under 405 KAR 8:010, Section 8(2).

Section 11. Environmental Resource Information. (1) Each permit application shall include a description of the existing environmental resources either within the areas affected by proposed surface operations and facilities, or within the proposed permit area and adjacent areas, as required by Sections 11 through 23 of this regulation. The descriptions required by this regulation may, where appropriate, be based upon published texts or other public documents together with reasonable extrapolations from specific data available from existing permit areas or other appropriate areas.

(2)(a) Each application shall describe and identify the nature of cultural, historic, and archaeological resources listed or eligible for listing on the National Register of Historic Places and known archaeological sites within the proposed permit area and adjacent areas. The description shall be based on all available information, including, but not limited to, information from the state Historic Preservation Officer and from local archaeological, historical, and cultural preservation agencies.

(b) The cabinet may require the applicant to identify and evaluate important historic and archaeological resources that may be eligible for listing on the National Register of Historic Places, through collection of additional information, field investigations, or other appropriate analyses.

Section 12. General Requirements for Baseline Geologic and Hydrologic Information. (1) The application shall contain baseline geologic and hydrologic information which has been collected, analyzed, and submitted in the detail and manner acceptable to the cabinet, and which shall be sufficient to:

(a) Identify and describe protective measures pursuant to Section 32(1) of this regulation which will be implemented during the mining and reclamation process to assure protection of the hydrologic balance, or to demonstrate that protection of the hydrologic balance can be assured without the design and installation of protective measures; and to design necessary protective measures pursuant to Section 32(2) of this regulation.

(b) Determine the probable hydrologic consequences of the mining and reclamation operations upon the hydrologic balance in the permit area and adjacent area pursuant to Section 32(3) of this regulation so that an assessment can be made by the cabinet pursuant to 405 KAR 8:010, Section 14(3) of the probable cumulative impacts of all anticipated mining on the hydrologic balance in the cumulative impact area;

(c) Determine pursuant to 405 KAR 8:010, Section 14(2) and (3) whether reclamation as required by 405 KAR can be accomplished and whether the proposed operation has been designed to prevent

material damage to the hydrologic balance; and

(d) Design surface and groundwater monitoring systems pursuant to Section 32(4) of this regulation for the during-mining and postmining time period which, together with the baseline data collected under Sections 14(1) and 15(1) of this regulation, will demonstrate whether the mining operation is meeting applicable effluent limitations and stream standards and protecting the hydrologic balance.

(2)(a) Geologic and hydrologic information pertaining to the area outside the permit and adjacent area but within the cumulative impact assessment area shall be provided to the applicant by the cabinet:

1. If this information is needed in preparing the cumulative impact assessment; and

2. If this information is available from an appropriate federal or state agency.

(b) If this information is needed by the cabinet for conducting the cumulative impact assessment and is not available from a federal or state agency, the applicant may gather and submit this information to the cabinet as part of the permit application.

(3) Interpolation, modeling, correlation or other statistical methods, and other data extrapolation techniques may be used if the applicant can demonstrate to the satisfaction of the cabinet that the data extrapolation techniques are valid and that information obtained through the techniques meets the requirements of subsection (1) of this section.

(4) All water quality analyses performed to meet the requirements of this chapter shall be conducted according to the methodology in the fourteenth edition of "Standard Methods for the Examination of Water and Wastewater," or the methodology in 40 CFR Parts 136 and 434. All water quality sampling shall be conducted according to either methodology listed above when feasible.

Section 13. Baseline Geologic Information. (1) The application shall contain baseline geologic information collected from the permit area which shall meet the requirements of Section 12(1) of this regulation and shall include at a minimum:

(a) The results of samples obtained from continuous cores; drill cuttings; channel cuttings from fresh, unweathered, rock outcrops; or other rock or soil material which has been collected using acceptable sampling techniques.

1. For those areas where overburden will be removed, the vertical extent of sampling shall include those strata from the surface down to and including the stratum immediately below the lowest coal seam to be mined; and

2. For those areas overlying underground workings where overburden will not be removed, the vertical extent of sampling shall include those strata above and below the coal seam to be mined which may be impacted by the mining operation.

3. Where aquifers within the permit area are located above or below the coal seam to be mined and these aquifers may be adversely affected by the mining operation, the vertical extent of sampling shall also include the aquifer and those strata which lie between the coal seam and the aquifer.

4. The areal and vertical density of sampling shall, at a minimum, be sufficient to determine the distribution of strata which have a potential to produce acid drainage and to determine the areal and vertical extent of aquifers which may be adversely affected.

5. If the vertical extent, and the areal and vertical density of sampling specified in subparagraphs 1 through 4 of this paragraph are not sufficient to locate suitable strata for use as a topsoil

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substitute, to determine the potential for subsidence, or for other required design or analysis, additional sampling shall be conducted as necessary to furnish adequate geologic information.

(b)1. To identify strata which have a potential to produce acid or toxic drainage for areas where overburden will be removed, chemical analyses including, but not limited to, maximum potential acidity and neutralization potential of each overburden stratum and the stratum immediately below the lowest coal seam to be mined; and

2. To identify strata which have a potential to produce acid or toxic drainage for areas overlying underground workings where overburden will not be removed, chemical analyses including, but not limited to, maximum potential acidity and neutralization potential of the strata immediately above and below the coal seam to be mined.

(c) Chemical analyses of the coal seam to be mined to determine the potential to produce acid or toxic drainage, including the parameters of total sulfur and pyritic sulfur; except that the cabinet shall not require an analysis for pyritic sulfur if the applicant can demonstrate to the satisfaction of the cabinet that an analysis for total sulfur provides adequate information to assure protection of the hydrologic balance.

(d) For standard room and pillar mining operations, the engineering properties of clays or soft rock such as clay shale, if any, located immediately above and below each coal seam to be mined.

(e) Collection of geologic information from the permit area as required in this subsection may be waived in whole or in part if:

1. The applicant can demonstrate to the satisfaction of the cabinet through geologic correlation or other procedures that information collected from outside the permit area is representative of the permit area and is sufficient to meet the requirements of Section 12(1) of this regulation; or

2. Other information equivalent to that required by this subsection is available to the cabinet in a satisfactory form and is made a part of the permit application; and

3. The cabinet provides a written statement granting a waiver.

(2) The application shall contain a description of the geology of the proposed permit area and adjacent area which shall meet the requirements of Section 12(1) of this regulation and be based on the information required in subsection (1) of this section or other appropriate geologic information. The description shall include, at a minimum, geologic logs, cross-sections, fence diagrams, or other appropriate illustrations and written descriptions depicting:

(a) Within the permit area:

1. The structural geology and lithology of overburden strata and the stratum immediately below the lowest coal seam to be mined for those areas where overburden will be removed; and the structural geology and lithology of strata which may be impacted by the mining operation for those areas overlying underground workings where overburden will not be removed.

2. The thickness and chemical characteristics of each overburden stratum and the stratum immediately below the lowest coal seam to be mined for those areas where overburden will be removed; or the thickness and chemical characteristics of each stratum which may be impacted by the mining operation for those areas overlying underground workings where overburden will not be removed.

3. Where aquifers may be adversely affected by the mining operation, the structural geology, lithology, thickness, and areal extent of the aquifers; and structural geology and lithology of strata, and thickness of each stratum, whether located above or below the coal seam to be mined, which lie between the coal seam and the aquifers.

4. For standard room and pillar mining operations, the thickness and engineering properties of clays or soft rock such as clay shale, if any, located immediately above and below each coal seam to be mined.

(b) Within the adjacent area, the approximate areal extent and approximate thickness of aquifers which may be adversely affected by the mining operation.

(3) If determined by the cabinet to be necessary to assure adequate reclamation and protection of the hydrologic balance, the cabinet may require geologic information and description in addition to that required by subsections (1) and (2) of this section including, but not limited to, leaching tests of material from strata which may be disturbed by the operation to determine the potential for the operation to produce drainage with elevated levels of acidity, sulfate, and total dissolved solids, and the collection of information to greater depths within the proposed permit area or the collection of information for areas outside the proposed permit area.

Section 14. Baseline Groundwater Information. (1) The application shall contain baseline groundwater information for the permit area and adjacent area which shall be collected and submitted in a manner acceptable to the cabinet and shall be adequate to meet the requirements of Section 12(1) of this regulation.

(2) Groundwater information shall include an inventory of wells, springs, underground mines, or other similar groundwater supply facilities which are currently being used, have been used in the past, or have a potential to be used for domestic, agricultural, industrial, or other beneficial purpose. The inventory shall include the location, ownership, type of usage, and where possible, other relevant information such as the depth and diameter of wells and approximate rate of usage, pumpage or discharge from wells, springs, and other groundwater supply facilities.

(3) Groundwater information shall include seasonal groundwater quantity and quality data collected from monitoring wells, springs, underground mines, or other appropriate groundwater monitoring facilities, at a sufficient number of monitoring locations with adequate areal distribution to meet the requirements of Section 12(1) of this regulation. Seasonal groundwater quantity and quality data shall be provided for each water transmitting zone above, and potentially impacted water transmitting zone below, the lowest coal seam to be mined including at a minimum:

(a) Groundwater levels; and

(b) Total dissolved solids, or specific conductance corrected to twenty-five (25) degrees C; pH; dissolved iron; dissolved manganese; acidity; alkalinity; and sulfate. For data collected prior to August 13, 1985, total iron and total manganese may be substituted for dissolved iron and dissolved manganese.

(4) The groundwater information described in subsection (3) of this section shall be required in whole or in part for coal seams if the coal seams to be mined are serving as water supply sources or are otherwise significant in protecting the hydrologic balance.

(5) If additional information is needed to assess the need for protective measures, to design protective measures, to determine the probable hydrologic consequences of mining, or to conduct the cumulative impact assessment, the cabinet may require groundwater information in addition to that described in subsections (2), (3), and (4) of this section including, but not limited to, information pertaining to aquifer storage, yield, discharge, recharge capacity, and additional water quality parameters.



Section 15. Baseline Surface Water Information. (1) The application shall contain baseline surface water information for the permit area and adjacent area which shall be collected and submitted in a manner acceptable to the cabinet and shall be adequate to meet the requirements of Section 12(1) of this regulation.

(2) Surface water information shall include an inventory of all streams, lakes, impoundments or other surface water bodies in the permit and adjacent area which are currently being used for domestic, agricultural, industrial, or other beneficial purpose. The inventory shall include the name of the surface water body which is being used as a water supply source; the location, drainage area, ownership, and type of usage for the withdrawal; and where possible other relevant information such as the rate of withdrawal and seasonal variation.

(3) Surface water information shall include:

(a) The name, location, and ownership where appropriate, of all streams, lakes, impoundments, and other surface water bodies which receive run-off from watersheds which will be disturbed by the operation; and

(b) The location and description of any existing facilities located in watersheds which will be disturbed by the mining operation which may contribute to surface water pollution, such as existing or abandoned mining operations, oil wells, logging operations, or other similar facilities, including the location of any discharges which may be flowing from the facilities.

(4) Surface water information shall include seasonal quantity and quality data collected from a sufficient number of watersheds which will be disturbed by the operation with adequate areal distribution to meet the requirements of Section 12(1) of this regulation and include at a minimum:

(a) Flow rates; and

(b) Total dissolved solids, or specific conductance corrected to twenty-five (25) degrees C; total suspended solids; pH; total iron; total manganese; acidity; alkalinity; and sulfate.

(5) If additional information is needed to assess the need for protective measures, to design protective measures, to determine the probable hydrologic consequences of mining, or to conduct the cumulative impact assessment, the cabinet may require surface water information in addition to that described in subsections (2), (3), and (4) of this section including, but not limited to, information pertaining to flood flows and additional water quality parameters.

Section 16. Alternative Water Supply Information. If contamination, diminution, or interruption of an underground or surface source of water (for domestic, agricultural, industrial, or other legitimate use) within the proposed permit area or adjacent area may result from underground mining activities, then the applicant may identify, in the permit application, the alternative sources of water supply that could be developed to replace the existing sources.

Section 17. Climatological Information. (1) When requested by the cabinet, the application shall contain a statement of the climatological factors that are representative of the proposed permit area, including:

(a) The average seasonal precipitation;

(b) The average direction and velocity of prevailing winds; and

(c) Seasonal temperature ranges.

(2) The cabinet may request additional data as deemed necessary to ensure compliance with the requirements of this chapter.

Section 18. Soil Resources Information. (1) If soil survey

information for the proposed permit area is available from SCS, the application shall include this information as a part of the description of premining land use capability and productivity required by Section 22(1)(b) of this regulation.

(2) Where the applicant proposes to use selected overburden materials as a supplement or substitute for topsoil, the application shall provide results of the analyses, trials and tests required under 405 KAR 18:050, Section 2(5).

Section 19. Vegetation Information. (1) The permit application shall, as required by the cabinet, contain a map that delineates existing vegetative types and a description of the plant communities within the area affected by surface operations and facilities and within any proposed reference area. This description shall include information adequate to predict the potential for reestablishing vegetation.

(2) When a map or aerial photograph is required, sufficient adjacent areas shall be included to allow evaluation of vegetation as important habitat for fish and wildlife.

Section 20. Fish and Wildlife Resources Information. (1) Each application shall include fish and wildlife resource information for the permit area and adjacent area. The scope and level of detail for this information shall be determined by the cabinet in consultation with the Kentucky Department of Fish and Wildlife Resources and the U.S. Department of the Interior, Fish and Wildlife Service, and shall be sufficient to design the protection and enhancement plan required under Section 36 of this regulation.

(2) Site-specific resource information necessary to address the respective species or habitats shall be required when the permit area or adjacent area is likely to include:

(a) Listed or proposed endangered or threatened species of plants or animals or their critical habitats listed by the Secretary of the Interior under the Endangered Species Act of 1973, as amended (16 USC Sec. 1531 et seq.), or those species or habitats protected by similar state statutes;

(b) Habitats of unusually high value for fish and wildlife such as important streams, wetlands, riparian areas, cliffs supporting raptors, areas offering special shelter or protection, migration routes, or reproduction and wintering areas; or

(c) Other species or habitats identified through agency consultation as requiring special protection under state or federal law.

(3) Wetland delineations shall be conducted in accordance with the "Corps of Engineers Wetlands Delineation Manual", U.S. Army Corps of Engineers, (January, 1987), as modified by U.S. Army Corps of Engineers Regulatory Guidance Letter No. 90-7 (September 26, 1990). The modifications to this material include replacement of Sections 1 and 2 of Appendix C with the "National Lists of Plant Species that Occur in Wetlands and Biological Reports and Summary", Fish and Wildlife Service, U.S. Department of the Interior (May, 1988); and, in Appendix D, Section 2, use of the "List of Hydric Soils of the United States, All Kentucky Counties", Soil Conservation Service (SCS), U.S. Department of Agriculture (December, 1991). This document, and related material, is incorporated by reference. It may be obtained from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Telephone (703) 487-4650. It may also be reviewed, copied, or obtained at the Department for Surface Mining Reclamation and Enforcement, #2 Hudson Hollow, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(4) Upon request, the cabinet shall provide the resource information required under this section to the U.S. Department of the Interior, Fish and Wildlife Service regional or field office for their review. This information shall be provided within ten (10) days of receipt of the request from the service.

(5) This section shall apply to applications for permits, amendments and revisions submitted to the cabinet on or after November 17, 1992, and shall apply to those applications for amendments and revisions as follows:

(a) Fish and wildlife resource information shall be required for amendments and revisions that:

1. Propose extension into a wetland;
2. Propose significant disturbance in a new watershed in which the permit area or adjacent area includes an important stream;
3. Seek to obtain a stream buffer zone variance under 405 KAR 16:060, Section 11, or seek to modify an existing stream buffer zone variance;
4. Propose extension of the permit boundary that involves a new surface disturbance of five (5) acres or more;
5. Involve new permit or adjacent areas likely to contain, or that could reasonably be expected to contain, a state or federal endangered or threatened species or its critical habitat; or
6. Propose extension of the coal extraction area associated with an underground mine that may by subsidence or other means impact a wetland, important stream, or stream that contains, or could reasonably be expected to contain, a state or federal endangered or threatened species or its critical habitat.

(b) For other amendments and revisions, a determination of whether fish and wildlife information is necessary, and the scope of information needed, shall be made on a case-by-case basis. [Permit applications shall not be required under this section to contain a study of fish and wildlife unless and until federal regulations requiring a study have been promulgated and this regulation has been amended as necessary to be consistent with the corresponding federal regulations.]

Section 21. Prime Farmland Investigation. (1) The applicant shall conduct a preapplication investigation of the area proposed to be affected by surface operations or facilities to determine whether lands within the area may be prime farmland.

(2) Land shall not be considered prime farmland where the applicant can demonstrate, to the satisfaction of the cabinet, one (1) or more of the following:

- (a) The land has not been historically used as cropland;
- (b) The slope of the land is ten (10) percent or greater;
- (c) Other relevant factors exist which would preclude the soils from being defined as prime farmland according to 7 CFR 657, such as a very rocky surface, or the land is frequently flooded during the growing season more often than once in two (2) years and the flooding has reduced crop yields; or
- (d) On the basis of a soil survey of the lands within the permit area there are no soil map units that have been designated prime farmland by the U.S. SCS.

(3) If the investigation establishes that the lands are not prime farmland, the applicant shall submit with the permit application a request for a negative determination and results of the investigation which show that the land for which the negative determination is being sought meets one (1) or more of the criteria in subsection (2) of this section.

(4) If the investigation indicates that lands within the proposed area to be affected by surface operations and facilities may be prime farmlands, the applicant shall contact the U.S. SCS to determine if these lands have a soil survey and whether the applicable soil map units have been designated prime farmlands. If no soil survey has been made for these lands, the applicant shall request the SCS to conduct a soil survey.

(a) If [When] a soil survey as required by this section contains soil map units which have been designated as prime farmlands, the applicant shall submit an application, in accordance with 405 KAR 8:050, Section 3 for the designated land.

(b) If [When] a soil survey as required by this section contains no soil map units which have been designated as prime farmland, after review by the U.S. SCS, the applicant shall submit with the permit application a request for negative determination under subsection (2)(d) of this section for the nondesignated land.

(5) The cabinet shall decide to grant or deny a negative determination based upon documentation provided by the applicant and any other pertinent information, such as cropping history, available to the cabinet from other sources.

(6) The cabinet shall consult with the SCS in deciding on a request for negative determination under subsection (2)(c) of this section.

(7) The cabinet shall examine any records on crop history available from the Agriculture Stabilization and Conservation Service when deciding on a request for negative determination under subsection (2)(a) of this section.

Section 22. Land-use Information. (1) The application shall contain a statement of the condition, capability and productivity of the land which will be affected by surface operations and facilities within the proposed permit area, including:

(a) A map and supporting narrative of the uses of the land existing when the application is filed. If the premining use of the land was changed within five (5) years before the date of application, the historic use of the land shall also be described.

(b) A narrative of land capability and productivity, which analyzes the land-use description in conjunction with other environmental resources information required under this regulation. The narrative shall provide analyses of:

1. The capability of the land before any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, vegetative cover, and the hydrology of the area proposed to be affected by surface operations or facilities; and
2. The productivity of the area proposed to be affected by surface operations and facilities before mining, expressed as average yield of food, fiber, forage, or wood products from the lands obtained under high levels of management. The productivity shall be determined by yield data or estimates for similar sites based on current data from the U.S. Department of Agriculture, state agricultural universities or appropriate state natural resources or agricultural agencies.

(2) The application shall state whether the proposed permit area has been previously mined, and, if so, the following information, if available:

- (a) The type of mining method used;
- (b) The coal seams or other mineral strata mined;
- (c) The extent of coal or other minerals removed;
- (d) The approximate dates of past mining; and
- (e) The uses of the land preceding mining.

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(3) The application shall contain a description of the existing land uses and local government land use classifications, if any, of the proposed permit area and adjacent areas.

(4) The application shall contain a description identifying the extent to which cities, towns, and municipalities, or parts thereof, are located within the proposed permit area.

Section 23. Maps and Drawings. (1) The permit application shall include maps showing:

(a) The boundaries of all subareas which are proposed to be affected over the estimated total life of the underground mining activities, with a description of size, sequence and timing of the underground mining activities for which it is anticipated that additional permits will be sought;

(b) Any land within the proposed permit area and adjacent area which is within the boundaries of any units of the National System of Trails or the Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act (16 USC 1276(a)), or which is within the boundaries of a wild river established pursuant to KRS Chapter 146;

(c) The boundaries of any public park and locations of any cultural or historical resources listed on or eligible for listing on the National Register of Historic Places and known archaeological sites within the permit area and adjacent areas;

(d) The locations of water supply intakes for current users of surface waters within a hydrologic area defined by the cabinet, and those surface waters which will receive discharges from affected areas in the proposed permit area;

(e) All boundaries of lands and names of present owners of record of those lands, both surface and subsurface, included in or contiguous to the permit area;

(f) The boundaries of land within the proposed permit area upon which, or under which, the applicant has the legal right to conduct underground mining activities. In addition, the map shall indicate the boundaries of that portion of the permit area which the applicant has the legal right to enter upon the surface to conduct surface operations.

(g) The location of surface and subsurface manmade features within, passing through, or passing over the proposed permit area, including, but not limited to, major electric transmission lines, pipelines, and agricultural drainage tile fields;

(h) The location and boundaries of any proposed reference areas for determining the success of revegetation for the permit area;

(i) The location of all buildings in and within 1000 feet of the proposed permit area, with identification of the current use of the buildings;

(j) Each public road located in or within 100 feet of the proposed permit area;

(k) Each cemetery that is located in or within 100 feet of the proposed permit area;

(l) Other relevant information required by the cabinet.

(2) The application shall include drawings, cross-sections, and maps showing:

(a) Elevations and locations of test borings and core samplings;

(b) Elevations and locations of monitoring stations or other sampling points in the permit area and adjacent areas used to gather data on water quality and quantity, fish and wildlife, and air quality, if required, in preparation of the application or which will be used for this ~~such~~ data gathering during the term of the permit;

(c) All coal crop lines and the strike and dip of the coal to be mined within the proposed permit area;

(d) Location and extent of known workings of active, inactive, or abandoned underground mines, including mine openings to the surface within the proposed permit area and adjacent areas;

(e) Location and extent of subsurface water, if encountered, within the proposed permit area or adjacent areas;

(f) Location of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drainage patterns, and irrigation ditches within the proposed permit area and adjacent areas;

(g) Location, and depth if available, of gas and oil wells within the proposed permit area and water wells in the permit area and adjacent areas;

(h) Location and dimensions of existing coal refuse disposal areas and dams, or other impoundments within the proposed permit area;

(i) Sufficient slope measurements to adequately represent the existing land surface configuration of the area to be affected by surface operations and facilities, measured and recorded according to the following:

1. Each measurement shall consist of an angle of inclination along the prevailing slope extending 100 linear feet above and below or beyond the coal outcrop or the area to be disturbed or, where this is impractical, at locations and in a manner as specified by the cabinet.

2. Where the area has been previously mined, the measurements shall extend at least 100 feet beyond the limits of mining disturbances, or any other distance determined by the cabinet to be representative of the premining configuration of the land.

3. Slope measurements shall take into account natural variations in slope, to provide accurate representation of the range of natural slopes and reflect geomorphic differences of the area to be disturbed.

(3) The permit application shall include the map information specified in Sections 22(1)(a), 24(3), 24(4)(c), 24(4)(h), 26, 27(1), 28, 31, 32, 33, 34, and 38 of this regulation and 405 KAR 8:010, Section 5(6).

(4) Maps, drawings and cross-sections included in a permit application and required by this section shall be prepared by, or under the direction of and certified by a qualified registered professional engineer, and shall be updated as required by the cabinet. The qualified registered professional engineer shall not be required to certify the true ownership of property.

Section 24. Mining and Reclamation Plan; General Requirements.

(1) Each application shall contain a detailed mining and reclamation plan (MRP) for the proposed permit area as set forth in this section through Section 39 of this regulation, showing how the applicant will comply with KRS Chapter 350 and 405 KAR Chapters 16 through 20.

(2) Each application shall contain a description of the mining operations proposed to be conducted within the proposed permit area, including, at a minimum, the following:

(a) A narrative description of the type and method of coal mining procedures and proposed engineering techniques, anticipated annual and total production of coal, by tonnage, and the major equipment to be used for all aspects of those operations; and

(b) A narrative explaining the construction, modification, use, maintenance, and removal of the following facilities (unless retention of the facility is to be approved as necessary for postmining land use as specified in 405 KAR 18:220):

1. Dams, embankments, and other impoundments;

2. Overburden and topsoil handling and storage areas and structures;

3. Coal removal, handling, storage, cleaning, and transportation areas and structures;

4. Spoil, coal processing waste, mine development waste, and noncoal waste removal, handling, storage, transportation, and disposal areas and structures;

5. Mine facilities; and

6. Water pollution control facilities.

(3) Each application shall contain plans and maps of the proposed permit area and adjacent areas as follows:

(a) The plans, maps and drawings shall show the underground mining activities to be conducted, the lands to be affected throughout the operation, and any change in a facility or feature to be caused by the proposed operations, if the facility or feature was shown under Section 23 of this regulation.

(b) The following shall be shown for the proposed permit area:

1. Buildings, utility corridors, and facilities to be used;

2. The area of land to be affected within the proposed permit area, according to the sequence of mining and reclamation;

3. Each area of land for which a performance bond or other equivalent guarantee will be posted under 405 KAR Chapter 10;

4. Each coal storage, cleaning and loading area;

5. Each topsoil, spoil, coal preparation waste, underground development waste, and noncoal waste storage area;

6. Each water diversion, collection, conveyance, treatment, storage and discharge facility to be used;

7. Each source of waste and each waste disposal facility relating to coal processing or pollution control;

8. Each facility to be used to protect and enhance fish and wildlife related environmental values;

9. Each explosive storage and handling facility;

10. Location of each sedimentation pond, permanent water impoundment, coal processing waste bank, and coal processing waste dam and embankment, in accordance with Section 34 of this regulation, and each disposal area for underground development waste and excess spoil, in accordance with Section 28 of this regulation;

11. Cross-sections, at locations as required by the cabinet, of the anticipated final surface configuration to be achieved for the affected areas;

12. Location of each water and any subsidence monitoring point;

13. Location of each facility that will remain on the proposed permit area as a permanent feature, after the completion of underground mining activities.

(c) Plans, maps and drawings required under this section shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer.

(4) Each plan shall contain the following information for the proposed permit area:

(a) A projected timetable for the completion of each major step in the mining and reclamation plan;

(b) A detailed estimate of the cost of the reclamation of the proposed operations required to be covered by a performance bond under 405 KAR Chapter 10, with supporting calculations for the estimates;

(c) A plan for backfilling, soil stabilization, compacting and grading, with contour maps or cross-sections that show the anticipated final surface configuration of the proposed permit area, in

accordance with 405 KAR 18:190;

(d) A plan for removal, storage, and redistribution of topsoil, subsoil, and other material to meet the requirements of 405 KAR 18:050 including a demonstration of suitability of any proposed topsoil substitutes or supplements;

(e) A plan for revegetation as required in 405 KAR 18:200, including, but not limited to, descriptions of the: schedule of revegetation; species and amounts per acre of seeds and seedlings to be used; methods to be used in planting and seeding; mulching techniques; irrigation, if appropriate, and pest and disease control measures, if any; measures proposed to be used to determine the success of revegetation as required in 405 KAR 18:200, Section 6; and a soil testing plan for evaluation of the results of topsoil handling and reclamation procedures related to revegetation;

(f) A description of the measures to be used to maximize the use and conservation of the coal resource as required in 405 KAR 18:010, Section 2;

(g) A description of measures to be employed to ensure that all debris, acid-forming and toxic-forming materials, and materials constituting a fire hazard are disposed of in accordance with 405 KAR 18:150 and 405 KAR 18:190, Section 3 and a description of the contingency plans which have been developed to preclude sustained combustion of the materials;

(h) A description, including appropriate drawings and maps, of the measures to be used to seal or manage mine openings, and to plug, case or manage exploration holes, other bore holes, wells and other openings within the proposed permit area, in accordance with 405 KAR 18:040; and

(i) A description of steps to be taken to comply with the requirements of the Clean Air Act (42 USC 7401 et seq.), the Clean Water Act (33 USC 1251 et seq.), and other applicable air and water quality laws and regulations and health and safety standards. This description shall, at a minimum, consist of identification of the permits or approvals required by these laws and regulations which the applicant has obtained, has applied for, or intends to apply for.

Section 25. MRP; Existing Structures. (1) Each application shall contain a description of each existing structure proposed to be used in connection with or to facilitate the surface coal mining and reclamation operation. The description shall include:

(a) Location;

(b) Plans of the structure which describe its current condition;

(c) Approximate dates on which construction of the existing structure was begun and completed; and

(d) A showing, including relevant monitoring data or other evidence, whether the structure meets the performance standards of 405 KAR Chapters 16 through 20, or if the structure does not meet those performance standards, a showing whether the structure meets the interim performance standards of 405 KAR Chapter 3.

(2) Each application shall contain a compliance plan for each existing structure proposed to be modified or reconstructed for use in connection with or to facilitate the surface coal mining and reclamation operation. The compliance plan shall include:

(a) Design specifications for the modification or reconstruction of the structure to meet the performance standards of 405 KAR Chapters 16 through 20;

(b) A construction schedule which shows dates for beginning and completing interim steps and final reconstruction;

(c) Provisions for monitoring the structure as required by the

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cabinet to ensure that the performance standards of 405 KAR Chapters 16 through 20 are met; and

(d) A showing that the risk of harm to the environment or to public health or safety will not be significant during the period of modification or reconstruction.

Section 26. MRP; Subsidence Control. (1) The application shall include a survey which shall show whether structures or renewable resource lands exist within the proposed permit area and adjacent areas and whether subsidence, if it occurred could cause material damage or diminution of reasonably foreseeable use of the structures or renewable resource lands.

(2) If the survey shows that no structures or renewable resource lands exist, or no material damage or diminution could be caused in the event of mine subsidence, and if the cabinet agrees with this conclusion, no further information need be provided in the application under this section.

(3) If the survey shows that structures or renewable resource lands exist, or that subsidence could cause material damage or diminution of value or foreseeable use of the land, or if the cabinet determines that damage or diminution could occur, the application shall include a subsidence control plan which shall contain the following information:

(a) A detailed description of the mining method and other measures to be taken which may affect subsidence, including:

1. The technique of coal removal, such as longwall mining, room and pillar with pillar removal, hydraulic mining or other methods; and
2. The extent, if any, to which planned and controlled subsidence is intended.

(b) A detailed description of the measures to be taken to prevent subsidence from causing material damage or lessening the value of reasonably foreseeable use of the surface, including:

1. The anticipated effects of planned subsidence, if any;
2. Measures, if any, to be taken in the mine to reduce the likelihood of subsidence, including measures such as backstowing or backfilling of voids; leaving support pillars of coal; and areas in which no coal removal is planned, including a description of the overlying area to be protected by leaving coal in place.

3. Measures to be taken on the surface to prevent material damage or lessening of the value or reasonably foreseeable use of the surface, including measures such as reinforcement of sensitive structures or features; installation of footers designed to reduce damage caused by movement; change of location of pipelines, utility lines or other features; relocation of movable improvements to sites outside the angle-of-draw; and monitoring, if any, to determine the commencement and degree of subsidence so that other appropriate measures can be taken to prevent or reduce material damage.

(c) A detailed description of the measures to be taken to mitigate the effects of any material damage or diminution of value or foreseeable use of lands which may occur, including one (1) or more of the following as required by 405 KAR 18:210, Section 3:

1. Restoration or rehabilitation of structures and features, including approximate land-surface contours, to premining condition;
2. Replacement of structures destroyed by subsidence;
3. Purchase of structures prior to mining and restoration of the land after subsidence to condition capable of supporting and suitable for the structures and foreseeable land uses;
4. Purchase of noncancellable insurance policies payable to the surface owner in the full amount of the possible material damage or

other comparable measures.

(d) A detailed description of measures to be taken to determine the degree of material damage or diminution of value or foreseeable use of the surface, including measures such as:

1. The results of presubsidence surveys of all structures and surface features which might be materially damaged by subsidence;
2. Monitoring, if any, proposed to measure deformations near specified structures or features or otherwise as appropriate for the operation.

Section 27. MRP; Return of Coal Processing Waste to Abandoned Underground Workings. (1) Each plan shall describe the design, operation and maintenance of any proposed use of abandoned underground workings for coal processing waste disposal, including flow diagrams and any other necessary drawings and maps, for the approval of the cabinet and MSHA under 405 KAR 18:140, Section 7.

(2) Each plan shall describe the source and quality of waste to be stowed, area to be backfilled, percent of the mine void to be filled, method of constructing underground retaining walls, influence of the backfilling operation on active underground mine operations, surface area to be supported by the backfill, and the anticipated occurrence of surface effects following backfilling.

(3) The applicant shall describe the source of the hydraulic transport mediums, method of dewatering the placed backfill, retainment of water underground, treatment of water if released to surface streams, and the effect on the hydrologic regime.

(4) The plan shall describe each permanent monitoring well to be located in the backfilled area, the stratum underlying the mined coal, and gradient from the backfilled area.

(5) The requirements of this section shall also apply to pneumatic backfilling operations, except where the operations are exempted by the cabinet from requirements specifying hydrologic monitoring.

Section 28. MRP; Underground Development Waste and Excess Spoil. Each plan shall contain descriptions, including appropriate maps and cross-section drawings, of the proposed disposal methods and sites for placing underground development waste and excess spoil according to 405 KAR 18:130, 405 KAR 18:140, and 405 KAR 18:160 as applicable. Each plan shall describe the geotechnical investigation, design, construction, operation, maintenance, and removal, if appropriate, of the structures and be prepared according to 405 KAR 8:030, Section 27 and the applicable requirements of this regulation.

Section 29. MRP; Transportation Facilities. (1) Each application shall contain a description of each road, conveyor, and rail system to be constructed, used, or maintained within the proposed permit area. The description shall include a map, appropriate cross-sections, and the following:

(a) Specifications for each road width, road gradient, road surface, road cut, fill embankment, culvert, bridge, drainage ditch, and drainage structure.

(b) A report of appropriate geotechnical analysis, where approval of the cabinet is required for alternative specifications or for steep cut slopes under 405 KAR 18:230.

(c) A description of each measure to be taken to obtain approval of the cabinet for alteration or relocation of a natural drainageway under 405 KAR 18:230.

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(d) A description of measures, other than use of a rock headwall, to be taken to protect the inlet end of a ditch relief culvert, for approval by the cabinet under 405 KAR 18:230.

(2) Each plan shall contain a general description of each road, conveyor, or rail system to be constructed, used, or maintained within the proposed permit area.

### Section 30. MRP; Protection of Public Parks and Historic Places.

(1) For any publicly-owned parks or any places listed on the National Register of Historic Places that may be adversely affected by the proposed operations, each plan shall describe the measures to be used to prevent adverse impact; or, if valid existing rights exist or joint agency approval is to be obtained under 405 KAR 24:040, Section 2(4), to minimize adverse impacts.

(2) The cabinet may require the applicant to protect historic or archaeological properties listed or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. These measures need not be completed prior to permit issuance, but shall be completed before the properties are affected by underground mining activities.

Section 31. MRP; Relocation or Use of Public Roads. Each application shall describe, with appropriate maps and drawings the measures to be used to ensure that the interests of the public and landowners affected are protected if, under 405 KAR 24:040, Section 2(6), the applicant seeks to have the cabinet approve:

(1) Conducting the proposed underground mining activities within 100 feet of the right-of-way line of any public road, except where mine access or haul roads join that right-of-way; or

(2) Relocating a public road.

Section 32. MRP; Protection of Hydrologic Balance. (1) Each application shall contain a description, as set forth in this subsection, of the measures to be taken to minimize disturbances to the hydrologic balance within the permit area and adjacent area and to prevent material damage to the hydrologic balance outside the permit area.

(a) The description shall be based upon the baseline geologic, hydrologic, and other information required by Sections 12 through 16 of this regulation and other appropriate information, shall be specific to local hydrologic conditions, and shall be prepared in a manner and detail acceptable to the cabinet.

(b) The description shall identify the protective measures to be taken to enable the operation to meet, at a minimum, each of the hydrologic requirements referenced in this paragraph, or shall demonstrate to the satisfaction of the cabinet that protective measures are not necessary for the operation to meet the requirements:

1. Meet applicable water quality statutes, regulations, standards, and effluent limitations as required by 405 KAR 18:060, Section 1(3);

2. Avoid acid or toxic drainage as required by 405 KAR 18:060, Sections 4, 5, and 6;

3. Control the discharge of sediment to streams located outside the permit area as required by 405 KAR 18:060, Section 2; and

4. Control the drainage and discharge of water within the permit area as required by 405 KAR 18:060, Sections 1(4), 3, 8 and 9, and 405 KAR 18:080.

(c) The cabinet may require that the description include protective measures in addition to those identified under paragraph (b) of this subsection, if the cabinet determines that additional measures are needed to protect the hydrologic balance in accordance with 405 KAR

18:060.

(2) Each application shall include the design of any necessary protective measures identified under subsection (1) of this section. The design shall be prepared in a manner and detail acceptable to the cabinet including, as appropriate, calculations, maps, drawings, and written explanations as necessary to document the design.

(3) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations for the permit area and adjacent area.

(a) The determination shall be based upon the baseline geologic, hydrologic, and other information required by Sections 12 through 16 of this regulation and other appropriate information, and may include information statistically representative of the site.

(b) The determination shall be completed according to the parameters and in the detail required by the cabinet to enable the cabinet to prepare a cumulative impact assessment, and shall take into account the anticipated effects of protective measures required by this chapter.

(c) For surface water systems, the determination shall, at a minimum, include probable impacts on:

1. Peak discharge rates, emphasizing the potential for flooding;

2. Settleable solids at peak discharge;

3. Low-flow discharge rates, emphasizing the potential for water supply diminution;

4. Suspended solids at low flow;

5. pH, at low flow, emphasizing the potential for acid drainage conditions, including depressed levels of alkalinity and elevated levels of iron, manganese, acidity, sulfate, and total dissolved solids or specific conductance, which are generally associated with acid drainage conditions.

(d) For groundwater systems, the determination shall, at a minimum, include probable impacts on:

1. Water quantity, emphasizing water levels and the potential for water supply diminution for existing users, and dewatering of aquifers which are not currently being used for water supply but have the potential to be developed as a water supply source.

2. pH, emphasizing the potential for acid drainage conditions, including depressed levels of alkalinity and elevated levels of iron, manganese, acidity, sulfate, and total dissolved solids or specific conductance, which are generally associated with acid drainage conditions.

(e) An application for a major revision to a permit shall be reviewed by the cabinet to determine whether a new or updated determination of the probable hydrologic consequences shall be required.

(4)(a) The application shall include a plan for the collection, recording, and reporting of groundwater and surface water quantity and quality data to monitor the effects of the mining and reclamation operations on the hydrologic balance, according to 405 KAR 18:110.

(b) The monitoring plan shall be based on the geologic and hydrologic baseline information, the mining and reclamation plan, and the determination of probable hydrologic consequences; and shall:

1. Identify the quantity and quality parameters to be monitored, sampling frequency, and monitoring site locations; and

2. Describe how the data may be used to determine the impacts of the operation on the hydrologic balance.

(5) An application for a major revision to a permit shall be reviewed by the cabinet to determine whether a new or updated cumulative hydrologic impact assessment shall be made.



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Section 33. MRP; Diversions. Each application shall contain descriptions, including maps and cross-sections, of stream channel diversions and other diversions to be constructed within the proposed permit area to achieve compliance with 405 KAR 18:080.

Section 34. MRP; Impoundments and Embankments. (1) General. Each application shall include detailed design plans for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area. Each design plan shall:

- (a) Be prepared by, or under the direction of, and certified by, a qualified registered professional engineer;
- (b) Contain a description, map, and appropriate cross-sections and drawings of the structure and its location;
- (c) Contain all hydrologic and geologic information and computations necessary to demonstrate compliance with the design and performance standards of 405 KAR Chapter 18; and all information utilized by the applicant to determine the probable hydrologic consequences of the mining operation under Section 32(3) of this regulation;
- (d) Contain an assessment of the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred;
- (e) Include any geotechnical investigation, design, and construction requirements for the structure;
- (f) Describe the operation and maintenance requirements for each structure; and
- (g) Describe the timetable and plans to remove each structure, if appropriate.

(2) Sedimentation ponds.

(a) Sedimentation ponds, whether temporary or permanent, shall be designed in compliance with the requirements of 405 KAR 18:090. Any sedimentation pond or earthen structure which will remain on the proposed permit area as a permanent water impoundment shall also be designed to comply with the requirements of 405 KAR 18:100.

(b) Each plan shall, at a minimum, comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2.

(3) Permanent and temporary impoundments. Permanent and temporary impoundments shall be designed to comply with the requirements of 405 KAR 18:100. Each plan shall comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2.

(4) Coal processing waste banks. Coal processing waste banks shall be designed to comply with the requirements of 405 KAR 18:140.

(5) Coal processing waste dams and embankments. Coal processing waste dams and embankments shall be designed to comply with the requirements of 405 KAR 18:160. Each plan shall comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2, and shall contain the results of a geotechnical investigation of the proposed dam or embankment foundation area, to determine the structural competence of the foundation which will support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or engineering geologist, according to the following:

(a) The number, location, and depth of borings and test pits shall be determined using current prudent engineering practice for the size of the dam or embankment, quantity of material to be impounded, and subsurface conditions.

(b) The character of the overburden and bedrock, the proposed

abutment sites, and any adverse geotechnical conditions which may affect the particular dam, embankment, or reservoir site shall be considered.

(c) All springs, seepage, and groundwater flow observed or anticipated during wet periods in the area of the proposed dam or embankment shall be identified on each plan.

(d) Consideration shall be given to the possibility of mud flows, rock-debris falls, or other landslides into the dam, embankment, or impounded material.

(6) If the structure is to be twenty (20) feet or higher or is to impound more than twenty (20) acre-feet, each plan under subsections (2), (3), and (5) of this section shall include a stability analysis of each structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures, and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

Section 35. MRP; Air Pollution Control. For all surface operations associated with underground mining activities, the application shall contain an air pollution control plan which includes the following:

(1) An air quality monitoring program, if required by the cabinet, to provide sufficient data to evaluate the effectiveness of the fugitive dust control practices, under subsection (2) of this section to comply with applicable federal and state air quality standards; and

(2) A plan for fugitive dust control practices, as required under 405 KAR 18:170.

Section 36. MRP; Fish and Wildlife Protection and Enhancement.

(1) Each application shall include a description of how, to the extent possible using the best technology currently available, the permittee will minimize disturbances and adverse impacts on fish and wildlife and related environmental values, including compliance with the Endangered Species Act, during the surface coal mining and reclamation operations, and how enhancement of these resources will be achieved where practicable.

(2) This description shall:

(a) Apply, at a minimum, to species and habitats identified under Section 20 of this regulation;

(b) Include protective measures that will be used during the active mining phase of operation. Protective measures may include the establishment of buffer zones, the selective location and special design of haul roads and powerlines, and the monitoring of surface water quality and quantity; and

(c) Include enhancement measures that will be used during the reclamation and postmining phase of operation to develop aquatic and terrestrial habitat. Enhancement measures may include restoration of streams and other wetlands, retention of ponds and impoundments, establishment of vegetation for wildlife food and cover, and the replacement of perches and nest boxes. If the plan does not include enhancement measures, a statement shall be given explaining why enhancement is not practicable.

(3) Upon request, the cabinet shall provide the protection and enhancement plan required under this section to the U.S. Department of the Interior, Fish and Wildlife Service regional or field office for their review. This information shall be provided within ten (10) days of receipt of the request from the service.

(4) This section shall apply to applications for permits, amend-

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ments and revisions submitted to the cabinet on or after November 17, 1992, and shall apply to those applications for amendments and revisions as follows:

(a) A fish and wildlife protection and enhancement plan shall be required for amendments and revisions that:

1. Propose extension into a wetland;  
2. Propose significant disturbance in a new watershed in which the permit area or adjacent area includes an important stream;

3. Seek to obtain a stream buffer zone variance under 405 KAR 16:060, Section 11, or seek to modify an existing stream buffer zone variance;

4. Propose extension of the permit boundary that involves a new surface disturbance of five (5) acres or more;

5. Involve new permit or adjacent areas likely to contain, or that could reasonably be expected to contain, a state or federal endangered or threatened species or its critical habitat; or

6. Propose extension of the coal extraction area associated with an underground mine that may by subsidence or other means impact a wetland, important stream, or stream that contains, or could reasonably be expected to contain, a state or federal endangered or threatened species or its critical habitat.

(b) For other amendments and revisions, a determination of whether a protection and enhancement plan is necessary shall be made on a case-by-case basis. [Permit applications shall not be required under this section to contain a fish and wildlife plan unless and until federal regulations requiring a plan have been promulgated and this regulation has been amended as necessary to be consistent with the corresponding federal regulations.]

Section 37. MRP; Postmining Land Use. (1) Each plan shall contain a description of the proposed land use or uses [.] following reclamation of the land to be affected within the proposed permit area by surface operations and [or] facilities, including:

(a) A discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans; [~~This description shall explain:~~]

(b) A discussion of [(a)] how the proposed postmining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use, including but not necessarily limited to management practices to be conducted during the liability period for the commercial forest land, cropland (including hayland), and pastureland land uses;

(c) If [(b) Where] a land use different from the premining land use is proposed, all supporting documentation required [submitted] for approval of the proposed alternative use under 405 KAR 18:220;

(d) A discussion of [(e)] The consideration which has been given to making all of the proposed underground mining activities consistent with surface owner plans and applicable state and local land use plans and programs;

[(d) Where grazing is the proposed postmining land use, the detailed management practices necessary to properly implement the postmining use for grazing.]

(e) [(2) The description shall be accompanied by] A copy of the comments concerning the proposed use from the legal or equitable owner of record of the area [surface areas] to be affected by surface operations and [or] facilities [within the proposed permit area] and the state and local government agencies, if any, which would have to initiate, implement, approve, or authorize the proposed use of the

land following reclamation.

(2) [(3)] Approval of the initial postmining land use plan pursuant to this section shall not preclude subsequent consideration and approval of a revised postmining land use plan in accordance with the applicable requirements of 405 KAR Chapters 7 through 24.

[Section 38. MRP; Transportation on Public Roads. The application shall include or be accompanied by a transportation plan and map (at least the scale and detail of the separate county maps published by the Kentucky Transportation Cabinet) which shall set forth the portions of the public road system, if any, over which the applicant proposes to transport coal extracted in the underground mining activities.]

[(1) The plan shall specify the legal weight limits for each portion of any public road or bridge over which the applicant proposes to transport coal.]

[(2) The plan shall include any proposal by the applicant to obtain a special permit pursuant to KRS 189.271 to exceed the weight limits on any road or bridge.]

[(3) The plan shall contain a certification by a duly authorized official of the Kentucky Transportation Cabinet attesting the accuracy of the plan in regard to the locations and identities of roads and bridges on the public road system and the accuracy of the specifications of weight limits on the roads and bridges.]

Section 38. [39.] MRP; Blasting. (1) Each application shall contain a blasting plan for the proposed permit area explaining how the applicant intends to comply with the requirements of 405 KAR 18:120. This plan shall include, at a minimum, information setting forth the limitations the permittee will meet with regard to ground vibration and airblast, the bases for the ground vibration and airblast limitations, and the methods to be applied in controlling the adverse effects of blasting operations.

(2) Each application shall contain a description of the systems to be used to monitor compliance with the standards for ground vibration and airblast including the types, capabilities, and sensitivities of blast monitoring equipment and identification of the monitoring procedures and locations.

(3) Blasting operations within 500 feet of active underground mines require approval of the cabinet, MSHA, and the Kentucky Department of Mines and Minerals.

PHILLIP J. SHEPHERD, Secretary

JUDITH A. VILLINES, Commissioner

APPROVED BY AGENCY: March 9, 1992

FILED WITH LRC: March 18, 1992 at 8 a.m.

### STATEMENT OF EMERGENCY 405 KAR 16:180E

This emergency administrative regulation amends the existing performance standards for protection of fish, wildlife, and related environmental values by coal mining operations. Among other requirements, these amendments prohibit mining activities that are likely to jeopardize the continued existence of endangered or threatened species or likely to result in the destruction or adverse modification of designated critical habitats of such species; require the permittee to promptly notify the cabinet of any endangered or



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threatened species on the permit area of which the permittee becomes aware; and require the cabinet, upon notification, to consult with state and federal fish and wildlife agencies and to determine whether and under what conditions the permittee may proceed. This regulation as amended is virtually identical to the corresponding federal regulations. This emergency regulation and the companion ordinary regulation are being filed in lieu of proposed amendments filed with the Legislative Research Commission on July 15, 1991 and recently withdrawn, which were more detailed. It is necessary to promulgate this emergency administrative regulation to comply with a federal mandate regarding fish and wildlife requirements. Federal requirements for fish and wildlife information and protection and enhancement plans in mining permit applications were suspended from August 1980 to February 1985 as a result of a federal court action. Kentucky has been on formal notice pursuant to 30 CFR 732.17 since February 1985 that it must adopt corresponding requirements. The federal fish and wildlife rules, both for permitting and performance standards, were significantly revised in December 1987 and Kentucky was given until June 1988 to submit corresponding regulations. After further discussions, Kentucky agreed to have regulations by September 1991. On January 3, 1992 the Federal Office of Surface Mining Reclamation and Enforcement notified Kentucky that because of the lack of fish and wildlife regulations it has approved the state's annual funding grant for administration and enforcement only until March 31, 1992, and is considering several possible actions if fish and wildlife regulations are not in place by that date. These possible actions include: 1) imposing restrictive grant conditions; 2) reducing the percentage of federal funding support for the Kentucky program; and 3) imposing federal protection of fish and wildlife resources under the authority of 30 CFR Part 733. This emergency regulation is necessary to meet the March 31, 1992 timetable. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on March 6, 1992.

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

### NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Surface Mining Reclamation and Enforcement

#### 405 KAR 16:180E. Protection of fish, wildlife, and related environmental values.

RELATES TO: KRS 350.020, 350.028, 350.405, 350.435, 350.465, 30 CFR Parts 730-733, 735, 816.57, 816.97, 917, 16 USC 668 et seq., 1531 et seq., 30 USC 1253, 1255, 1265, 33 USC 1344

STATUTORY AUTHORITY: KRS Chapter 13A, 350.028, 350.465, 30 CFR Parts 730-733, 735, 816.57, 816.97, 917, 16 USC 668 et seq., 1531 et seq., 30 USC 1253, 1255, 1265, 33 USC 1344

EFFECTIVE: March 18, 1992

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations establishing performance standards for protection of people and property, land, water and other natural resources, and aesthetic values, during surface mining activities, and for restoration and reclamation of surface areas affected by mining activities. This regulation sets forth

specific requirements and measures for the protection of fish, wildlife, and related environmental values, and for the enhancement of those ~~[such]~~ resources where practicable.

Section 1. ~~General. [Protection of Fish, Wildlife, and Related Environmental Values.]~~ (1) ~~The~~ [Any] permittee shall, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts ~~[of the activities]~~ on fish, wildlife, and related environmental values, and shall achieve enhancement of those ~~[such]~~ resources where practicable.

(2) Each permittee shall:

(a) To the extent possible using the best technology currently available:

1. Ensure that electric powerlines and other transmission facilities, used for, or incidental to, surface mining activities on the permit area are designed and constructed to minimize electrocution hazards to raptors, except where the cabinet determines that these requirements are unnecessary;

2. Locate and operate haul and access roads so as to avoid or minimize impacts on important fish and wildlife species or other species protected by state or federal law;

3. Design fences, overland conveyors, and other potential barriers to permit passage of large mammals, except where the cabinet determines that the designs are unnecessary; and

4. Fence, cover, or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic-forming materials.

(b) Avoid disturbances to, enhance where practicable, restore, or replace, wetlands, and riparian vegetation along rivers and streams and bordering ponds and lakes; and

(c) Avoid disturbances to, enhance where practicable, or restore, habitats of unusually high value for fish and wildlife.

(3) This section shall apply to operations under permit applications that were subject to 405 KAR 8:030, Sections 20 and 36.

#### Section 2. Protection of Endangered and Threatened Species.

(1)(a) No surface mining activity shall be conducted which is likely to jeopardize the continued existence of an endangered or threatened species listed by the Secretary of the Interior or which is likely to result in the destruction or adverse modification of a designated critical habitat of those species in violation of the Endangered Species Act of 1973 as amended (16 USC Sec. 1531 et seq.). The permittee shall promptly report to the cabinet any state- or federally-listed endangered or threatened species within the permit area of which the permittee becomes aware. Upon notification, the cabinet shall consult with appropriate state and federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, the permittee may proceed.

(b) No surface mining activity shall be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nest, or any of its eggs. The permittee shall promptly report to the cabinet any golden or bald eagle nest within the permit area of which the permittee becomes aware. Upon notification, the cabinet shall consult with the U.S. Fish and Wildlife Service and also, where appropriate, the Kentucky Department of Fish and Wildlife Resources and, after consultation, shall identify whether, and under what conditions, the permittee may proceed.

(2) Nothing in this title shall authorize the taking of an endangered or threatened species or a bald or golden eagle, its nest, or any of its

eggs in violation of the Endangered Species Act of 1973 as amended (16 USC 1531 et seq.) or the Bald Eagle Protection Act as amended (16 USC 668 et seq.).

[(2) A permittee shall promptly report to the cabinet the presence in the permit area of any critical habitat of a threatened or endangered species listed by the Secretary of the Interior, any plant or animal listed by the Commonwealth of Kentucky as threatened or endangered or any bald or golden eagle, of which that person becomes aware and which was not previously reported to the cabinet by that person.]

[(3) A permittee shall ensure that the design and construction of electric power lines and other transmission facilities used for or incidental to the surface mining activities on the permit area are in accordance with the guidelines set forth in "Environmental Criteria for Electric Transmission System" (USDI, USDA (1970)), or in alternative guidance manuals approved by the cabinet. Distribution lines shall be designed and constructed in accordance with REA Bulletin 61-10, "Powerline Contacts by Eagles and Other Large Birds," or in alternative guidance manuals approved by the cabinet.]

[(4) Each permittee shall, to the extent possible using the best technology currently available:]

[(a) Locate and operate haul and access roads so as to avoid or minimize impacts to important fish and wildlife species or other species protected by state or federal law:]

[(b) Fence roadways where specified by the cabinet to guide locally important wildlife to roadway underpasses. No new barrier shall be created in known and important wildlife migration routes:]

[(c) Fence, cover, or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic forming materials:]

[(d) Restore, enhance where practicable or avoid disturbance to habitats of unusually high value for fish and wildlife:]

[(e) Restore, enhance where practicable, or maintain natural riparian vegetation on the banks of streams, lakes, and other wetland areas. Wetlands shall be preserved or created, rather than drained or otherwise permanently abolished:]

[(f) Afford protection to aquatic communities by avoiding stream channels as required in 405 KAR 16:060, Section 11 or restoring stream channels as required in 405 KAR 16:080, Section 2:]

[(g) Not use persistent pesticides on the area during surface mining and reclamation activities, unless approved by the cabinet:]

[(h) To the extent possible prevent, control, and suppress range, forest, and coal fires which are not approved by the cabinet as part of a management plan:]

Section 3. Reclamation Strategies and Wildlife Enhancement Techniques. (1) Where [(i) if] fish and wildlife [habitat] is to be a [primary or secondary] postmining land use, the permittee [operator] shall, in addition to the requirements of 405 KAR 16:200:

(a) [+-] Select plant species to be used on reclaimed areas[, based] on the basis of the following criteria: their proven nutritional value for fish or [and] wildlife; their use[s] as cover for fish or [and] wildlife; and their ability to support and enhance fish or [and] wildlife habitat after release of performance bonds; and

(b) Group and distribute plants [2. Distribute plant groupings to maximize benefit to fish and wildlife. Plants should be grouped and distributed] in a manner which optimizes edge effect, cover, and other benefits to [for] fish and wildlife.

(2) [(j)] Where cropland is to be the [alternative] postmining land

use, [on lands diverted from a fish and wildlife premining land use] and where appropriate for wildlife- and crop- management practices, the permittee shall intersperse the fields with trees, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals. [-and]

(3) [(k)] Where [the primary land use is to be] residential, public service, or industrial uses are to be the postmining land use, and where consistent with the approved postmining land use, the permittee shall [land use:] intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs, and trees useful as food and cover for wildlife [birds and small animals, unless such greenbelts are inconsistent with the approved postmining land use].

PHILLIP J. SHEPHERD, Secretary

JUDITH A. VILLINES, Commissioner

APPROVED BY AGENCY: March 9, 1992

FILED WITH LRC: March 18, 1992 at 8 a.m.

#### STATEMENT OF EMERGENCY

405 KAR 18:180E

This emergency administrative regulation amends the existing performance standards for protection of fish, wildlife, and related environmental values by coal mining operations. Among other requirements, these amendments prohibit mining activities that are likely to jeopardize the continued existence of endangered or threatened species or likely to result in the destruction or adverse modification of designated critical habitats of such species; require the permittee to promptly notify the cabinet of any endangered or threatened species on the permit area of which the permittee becomes aware; and require the cabinet, upon notification, to consult with state and federal fish and wildlife agencies and to determine whether and under what conditions the permittee may proceed. This regulation as amended is virtually identical to the corresponding federal regulations. This emergency regulation and the companion ordinary regulation are being filed in lieu of proposed amendments filed with the Legislative Research Commission on July 15, 1991 and recently withdrawn, which were more detailed. It is necessary to promulgate this emergency administrative regulation to comply with a federal mandate regarding fish and wildlife requirements. Federal requirements for fish and wildlife information and protection and enhancement plans in mining permit applications were suspended from August 1980 to February 1985 as a result of a federal court action. Kentucky has been on formal notice pursuant to 30 CFR 732.17 since February 1985 that it must adopt corresponding requirements. The federal fish and wildlife rules, both for permitting and performance standards, were significantly revised in December 1987 and Kentucky was given until June 1988 to submit corresponding regulations. After further discussions, Kentucky agreed to have regulations by September 1991. On January 3, 1992 the Federal Office of Surface Mining Reclamation and Enforcement notified Kentucky that because of the lack of fish and wildlife regulations it has approved the state's annual funding grant for administration and enforcement only until March 31, 1992, and is considering several possible actions if fish and wildlife regulations are not in place by that date. These possible actions include: 1) imposing restrictive grant conditions; 2) reducing the percentage of federal funding support for

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the Kentucky program; and 3) imposing federal protection of fish and wildlife resources under the authority of 30 CFR Part 733. This emergency regulation is necessary to meet the March 31, 1992 timetable. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on March 6, 1992.

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

### NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Surface Mining Reclamation and Enforcement

**405 KAR 18:180E. Protection of fish, wildlife, and related environmental values.**

RELATES TO: KRS 350.020, 350.028, 350.151, 350.405, 350.435, 350.465, 30 CFR Parts 730-733, 735, 817.57, 817.97, 917, 16 USC 668 et seq., 1531 et seq., 30 USC 1253, 1255, 1266, 33 USC 1344

STATUTORY AUTHORITY: KRS Chapter 13A, 350.028, 350.151, 350.465, 30 CFR Parts 730-733, 735, 817.57, 817.97, 917, 16 USC 668 et seq., 1531 et seq., 30 USC 1253, 1255, 1266, 33 USC 1344

EFFECTIVE: March 18, 1992

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations establishing performance standards for protection of people and property, land, water and other natural resources, and aesthetic values, during underground mining activities, and for restoration and reclamation of surface areas affected by underground mining activities. This regulation sets forth specific requirements and measures for the protection of fish, wildlife, and related environmental values, and for the enhancement of those [such] resources where practicable.

Section 1. General. [Protection of Fish, Wildlife, and Related Environmental Values:] (1) The [Any] permittee shall, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts [of the activities] on fish, wildlife, and related environmental values, and shall achieve enhancement of those [such] resources where practicable.

(2) Each permittee shall:

(a) To the extent possible using the best technology currently available:

1. Ensure that electric powerlines and other transmission facilities, used for, or incidental to, underground mining activities on the permit area are designed and constructed to minimize electrocution hazards to raptors, except where the cabinet determines that these requirements are unnecessary;

2. Locate and operate haul and access roads so as to avoid or minimize impacts on important fish and wildlife species or other species protected by state or federal law;

3. Design fences, overland conveyors, and other potential barriers to permit passage of large mammals, except where the cabinet determines that the designs are unnecessary; and

4. Fence, cover, or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic-forming materials.

(b) Avoid disturbances to, enhance where practicable, restore, or replace, wetlands, and riparian vegetation along rivers and streams and bordering ponds and lakes; and

(c) Avoid disturbances to, enhance where practicable, or restore, habitats of unusually high value for fish and wildlife.

(3) This section shall apply to operations under permit applications that were subject to 405 KAR 8:040, Sections 20 and 36.

### Section 2. Protection of Endangered and Threatened Species.

(1)(a) No underground mining activity shall be conducted which is likely to jeopardize the continued existence of an endangered or threatened species listed by the Secretary of the Interior or which is likely to result in the destruction or adverse modification of a designated critical habitat of those species in violation of the Endangered Species Act of 1973 as amended (16 USC Sec. 1531 et seq.). The permittee shall promptly report to the cabinet any state- or federally-listed endangered or threatened species within the permit area of which the permittee becomes aware. Upon notification, the cabinet shall consult with appropriate state and federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, the permittee may proceed.

(b) No underground mining activity shall be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nest, or any of its eggs. The permittee shall promptly report to the cabinet any golden or bald eagle nest within the permit area of which the permittee becomes aware. Upon notification, the cabinet shall consult with the U.S. Fish and Wildlife Service and also, where appropriate, the Kentucky Department of Fish and Wildlife Resources and, after consultation, shall identify whether, and under what conditions, the permittee may proceed.

(2) Nothing in this title shall authorize the taking of an endangered or threatened species or a bald or golden eagle, its nest, or any of its eggs in violation of the Endangered Species Act of 1973 as amended (16 USC 1531 et seq.) or the Bald Eagle Protection Act as amended (16 USC 668 et seq.).

~~[(2) A permittee shall promptly report to the cabinet the presence in the permit area of any critical habitat of a threatened or endangered species listed by the Secretary of the Interior, any plant or animal listed by the Commonwealth of Kentucky as threatened or endangered, or any bald or golden eagle, of which that person becomes aware and which was not previously reported to the cabinet by that person.]~~

~~[(3) A permittee shall ensure that the design and construction of electric power lines and other transmission facilities used for or incidental to the underground mining activities on the permit area shall be designed and constructed in accordance with the guidelines set forth in "Environmental Criteria for Electric Transmission System" (USD, USDA (1970)), or in alternative guidance manuals approved by the cabinet. Distribution lines shall be designed and constructed in accordance with REA Bulletin 61-10 "Powerline Contacts by Eagles and Other Large Birds" or in alternative guidance manuals approved by the cabinet.]~~

~~[(4) Each permittee shall to the extent possible using the best technology currently available:]~~

~~[(a) Locate and operate haul and access roads so as to avoid or minimize impacts to important fish and wildlife species or other species protected by state or federal law:]~~

~~[(b) Fence roadways where specified by the cabinet to guide locally important wildlife to roadway underpasses or overpasses and~~

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construct the necessary passages. No new barrier shall be located in known and important wildlife migration routes;]

~~[(e) Fence, cover, or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic forming materials;]~~

~~[(d) Restore, enhance where practicable, or avoid disturbances to habitats of unusually high value for fish and wildlife;]~~

~~[(e) Restore, enhance where practicable, or maintain natural riparian vegetation on the banks of streams, lakes, and other wetland areas. Wetlands shall be preserved or created, rather than drained or otherwise permanently abolished;]~~

~~[(f) Afford protection to aquatic communities by avoiding stream channels as required in 405 KAR 18:060, Section 9 and 405 KAR 18:210, Section 4 or restoring stream channels as required in 405 KAR 18:080, Section 2;]~~

~~[(g) Not use persistent pesticides on the area during underground mining and reclamation activities unless approved by the cabinet;]~~

~~[(h) To the extent possible prevent, control, and suppress range forest and coal fires which are not approved by the cabinet as part of a management plan;]~~

Section 3. Reclamation Strategies and Wildlife Enhancement Techniques. (1) Where ~~[(i)-(j)]~~ fish and wildlife ~~[habitat]~~ is to be a ~~[primary or secondary]~~ postmining land use, the permittee ~~[operator]~~ shall ~~[in addition to the requirements of 405 KAR 18:200]~~:

(a) ~~[(1)]~~ Select plant species to be used on reclaimed areas ~~[based]~~ on the basis of the following criteria: their proven nutritional value for fish or ~~[and]~~ wildlife; their use[s] as cover for fish or ~~[and]~~ wildlife; and their ability to support and enhance fish or ~~[and]~~ wildlife habitat after release of performance bonds; and

(b) ~~Group and distribute plants~~ ~~[(2) Distribute plant groupings to maximize benefit to fish and wildlife. Plants should be grouped and distributed]~~ in a manner which optimizes edge effect, cover, and other benefits to ~~[for]~~ fish and wildlife. ~~[(1)]~~

(2) ~~[(j)]~~ Where cropland is to be the ~~[alternative]~~ postmining land use ~~[on lands diverted from a fish and wildlife premining land use]~~, and where appropriate for wildlife- and crop- management practices, the permittee shall intersperse the fields with trees, hedges or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types of birds and other animals. ~~[(1)]~~

(3) ~~[(k)]~~ Where ~~[the primary land use is to be]~~ residential, public service, or industrial uses are to be the postmining land use, and where consistent with the approved postmining land use, the permittee shall ~~[land use]~~ intersperse reclaimed lands with greenbelts, utilizing species of grass, shrubs, and trees useful as food and cover for wildlife ~~[birds and small animals, unless such greenbelts are inconsistent with the approved postmining land use].~~

PHILLIP J. SHEPHERD, Secretary

JUDITH A. VILLINES, Commissioner

APPROVED BY AGENCY: March 9, 1992

FILED WITH LRC: March 18, 1992 at 8 a.m.

## STATEMENT OF EMERGENCY 501 KAR 6:150E

In order to continue to operate the Eastern Kentucky Correctional Complex (EKCC) in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policies must be revised immediately as the institution will be audited by the American Correctional Association in May, 1992, to determine if it meets national standards for operating and housing inmates. In order to be accredited, all of EKCC's policies must be updated and placed in compliance with Kentucky statutes and federal court decisions. This emergency regulation shall be replaced by the ordinary administrative regulation filed with LRC on March 5, 1992 in accordance with KRS Chapter 13A.

BRERETON C. JONES, Governor

JACK C. LEWIS, Commissioner

## CORRECTIONS CABINET

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

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

EFFECTIVE: March 30, 1992

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures, revised March 5, 1992 ~~[November 15, 1991]~~, are incorporated by reference and shall be referred to as the Eastern Kentucky Correctional Complex Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

EKCC 01-01-01 Institutional Legal Assistance (Revised 3/5/92)

EKCC 01-02-01 Public Information and News Media Access (Revised 3/5/92)

EKCC 01-06-01 Inmate Death (Revised 3/5/92)

EKCC 01-06-02 Crime Scene Camera (Revised 3/5/92)

EKCC 01-07-01 Institutional Tours of EKCC (Revised 3/5/92)

EKCC 01-07-02 EKCC Cooperation with Outside Bodies Including Courts, Governmental, Legislative, Executive, and Community Agencies (Revised 3/5/92)

EKCC 01-07-03 Outside Consultation and Research (Revised 3/5/92)

EKCC 01-08-01 Monthly Reports (Revised 3/5/92)

EKCC 01-09-01 Duty Officer Responsibilities (Revised 3/5/92)

EKCC 01-10-01 Annual Planning Document and Conference (Revised 3/5/92)

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EKCC 01-10-02	Organization and Assignment of Responsibility (Revised 3/5/92)	Caustic Chemicals and Materials (Added 11-15-91) Deleted 3/5/92]
EKCC 01-10-03	Institutional Planning (Revised 3/5/92)	[EKCC 08-06-02 Hazardous Chemicals and Materials Safety Data Sheets (Added 11-15-91) Deleted 3/5/92]
EKCC 01-13-01	Organization of Operations Manual (Revised 3/5/92)	[EKCC 09-04-01 Inmates Immediate Family, Bedside Visits; and Funeral Trips Deleted 3/5/92]
EKCC 01-13-02	Monitoring of Operations, Policies and Procedures (Revised 3/5/92)	[EKCC 09-06-01 Unauthorized Items Deleted 3/5/92]
EKCC 01-13-03	Formulation and Revision of EKCC Operating Procedures (Revised 3/5/92)	[EKCC 09-08-01 Unit Searches/Control of Excess Property Deleted 3/5/92]
EKCC 01-13-04	Meetings Conducted and Their Purpose (Revised 3/5/92)	[EKCC 09-08-02 Contraband, Dangerous Contraband, Search Policy Deleted 3/5/92]
[EKCC 02-01-01	Canteen Cards: Issuance and Distribution Deleted 3/5/92]	[EKCC 09-09-01 Transportation of Inmates Deleted 3/5/92]
EKCC 02-01-02	Inmate Canteen (Revised 3/5/92)	[EKCC 09-10-01 Institutional Inspections Deleted 3/5/92]
EKCC 02-02-01	Fiscal Management: Agency Funds (Revised 3/5/92)	[EKCC 09-12-01 Key Control Deleted 3/5/92]
EKCC 02-05-01	Fiscal Management: Budget (Revised 3/5/92)	[EKCC 09-13-01 Institutional Post Orders Deleted 3/5/92]
EKCC 02-08-01	Property Inventory (Revised 3/5/92)	[EKCC 09-14-01 Count Procedures (Revised 11-15-91) Deleted 3/5/92]
EKCC 02-08-02	Warehouse Operation and Inventory Control (Re- vised 3/5/92)	[EKCC 09-15-01 Standards for Maintaining Perimeter Safety Deleted 3/5/92]
EKCC 02-08-03	Inventory Control, Nonexpendable Items (Revised 3/5/92) [(Added 11-15-91)]	[EKCC 09-15-02 Lobby/Reception: Entry and Exit Procedure Deleted 3/5/92]
EKCC 02-08-04	Warehouse Policy and Procedure (Revised 3/5/92) [(Added 11-15-91)]	[EKCC 09-15-05 Post #1 Entry and Exit Procedures (Added 11-15-91) Deleted 3/5/92]
EKCC 02-11-01	Purchase and Supply Requisition (Revised 3/5/92)	[EKCC 09-19-01 Contraband Outside Institutional Perimeter Deleted 3/5/92]
EKCC 02-12-01	Fiscal Management: Audits (Revised 3/5/92)	[EKCC 09-20-01 Drug Abuse/Intoxicants Testing Deleted 3/5/92]
EKCC 02-13-01	Fiscal Management: Accounting Procedures (Re- vised 3/5/92)	[EKCC 09-21-01 Collection, Preservation of Evidence Deleted 3/5/92]
EKCC 02-14-01	Screening Disbursements from Inmate Personal Accounts (Revised 3/5/92)	[EKCC 09-22-01 Restricted Areas Deleted 3/5/92]
[EKCC 03-01-01	Construction Crew Entry/Exit Deleted 3/5/92]	[EKCC 09-23-01 Regulation of Inmate Movement Deleted 3/5/92]
[EKCC 03-02-01	Operation in Inclement Weather/Dense Fog/Essen- tial Emergency Personnel (Added 11-15-91) Delet- ed 3/5/92]	[EKCC 09-24-01 Guidelines for Unit Staff Deleted 3/5/92]
[EKCC 03-08-01	Replacement of Damaged or Destroyed Personal Property Deleted 3/5/92]	[EKCC 09-24-02 Rules and Regulations of the Unit (Added 11-15-91) Deleted 3/5/92]
[EKCC 03-09-01	Use of Interns and Students Deleted 3/5/92]	[EKCC 09-25-01 Procedures for Prohibiting Inmate Authority over Other Inmates Deleted 3/5/92]
[EKCC 03-18-01	Fiscal Management: Insurance Deleted 3/5/92]	[EKCC 09-26-01 Security Activity Logs Deleted 3/5/92]
EKCC 04-01-01	Staff Participation in Professional Organizations and Conferences; Provision for Leave and Reim- bursement for Expenses (Revised 3/5/92)	EKCC 10-02-01 Special Management Unit: Operating Procedures and Living Conditions (Revised 3/5/92)
EKCC 04-02-01	Emergency Preparedness Training (Revised 3/5/92)	EKCC 10-02-02 Special Management Inmates: Assignment, Classification, Reviews and Release (Revised 3/5/92) [(Revised 11-15-91)]
EKCC 04-02-02	Advisory Training Committee (Added 3-5-92)	EKCC 10-02-03 Grooming Standards for Special Management (Revised 3/5/92)
EKCC 05-01-01	Inmate Participation in Authorized Research (Re- vised 3/5/92)	EKCC 11-02-01 Meal Planning for General Population (Revised 3/5/92)
EKCC 05-02-01	Information System (Revised 3/5/92)	EKCC 11-02-02 Food Service: Purchasing, Storage and Farm Products (Revised 3/5/92)
EKCC 06-01-01	Confidentiality of Information, Roles and Services of Consultants, Contract Personnel and Volunteers (Revised 3/5/92)	EKCC 11-03-01 Food Service: Menu, Nutrition and Special Diets (Revised 3/5/92)
EKCC 06-03-01	Case Record Management (Revised 3/5/92) [Of- fender Records]	EKCC 11-04-01 Food Service: Inspections and Sanitation (Revised 3/5/92)
[EKCC 08-02-01	Fire Safety Deleted 3/5/92]	EKCC 11-04-02 Medical Screening of Food Handlers (Revised 3/5/92)
[EKCC 08-02-02	Fire Procedures (Revised 11-15-91) Deleted 3/5/92]	EKCC 11-05-01 Food Service: Security (Revised 3/5/92)
[EKCC 08-02-03	Fire Prevention Deleted 3/5/92]	EKCC 11-06-01 Food Service: Kitchen and Dining Room Inmate Worker Responsibilities (Revised 3/5/92)
[EKCC 08-03-01	Emergency Preparedness Manual Deleted 3/5/92]	EKCC 11-07-01 Dining Room Guidelines (Revised 3/5/92)
[EKCC 08-03-03	Emergency Medical Transportation Deleted 3/5/92]	EKCC 11-08-01 OJT Food Service Training Placement (Revised 3/5/92)
[EKCC 08-05-01	Emergency Squad: Selection, Training and Evalua- tion Deleted 3/5/92]	
[EKCC 08-06-01	Control of Flammable, Hazardous, Toxic and	

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EKCC 12-01-01	Vermin and Insect Control ( <u>Revised 3/5/92</u> )	EKCC 17-04-01	Inmate Reception Process at the EKCC ( <u>Revised 3/5/92</u> )
EKCC 12-02-01	Inmate Dress and Use of Access Areas ( <u>Revised 3/5/92</u> )	EKCC 18-01-01	Inmate Classification ( <u>Revised 3/5/92</u> )
EKCC 13-01-01	Pharmacy Policy ( <u>Revised 3/5/92</u> )	EKCC 18-10-01	Preparole Progress Report ( <u>Revised 3/5/92</u> )
EKCC 13-02-01	Emergency Medical Procedure ( <u>Revised 3/5/92</u> )	EKCC 18-13-01	Meritorious Housing ( <u>Added 3/5/92</u> )
EKCC 13-02-02	Disaster and Mass Casualty Plan ( <u>Revised 3/5/92</u> )	EKCC 19-04-01	Inmate Work Program ( <u>Revised 3/5/92</u> )
EKCC 13-02-03	Consultations ( <u>Revised 3/5/92</u> )	EKCC 20-01-01	Educational Program ( <u>Added 3/5/92</u> )
EKCC 13-02-04	Medical [ <del>Hospital</del> ] Services ( <u>Revised 3/5/92</u> )	EKCC 21-01-01	Library Services ( <u>Revised 3/5/92</u> )
EKCC 13-01-05	Health Evaluations ( <u>Revised 3/5/92</u> )	EKCC 22-02-01	Recreation and Inmate Activities ( <u>Added 3/5/92</u> )
EKCC 13-02-06	Sick Call ( <u>Revised 3/5/92</u> )	EKCC 23-01-01	Religious Services ( <u>Revised 3/5/92</u> )
EKCC 13-02-07	First Aid Kits ( <u>Revised 3/5/92</u> )	EKCC 23-01-02	Muslim Services - Ramadan ( <u>Revised 3/5/92</u> )
EKCC 13-02-08	Transportation of Injured or Ill Staff ( <u>Revised 3/5/92</u> )	EKCC 24-01-01	Social Services and Counseling Program ( <u>Revised 3/5/92</u> ) [ <del>Added 11-15-91</del> ]
EKCC 13-02-09	Emergency Dental Care ( <u>Revised 3/5/92</u> )	EKCC 25-02-01	Inmate Discharge Procedure ( <u>Revised 3/5/92</u> )
EKCC 13-02-10	Dental Services for Special Management Units ( <u>Revised 3/5/92</u> )	EKCC 25-03-01	Prerelease Preparation ( <u>Revised 3/5/92</u> )
EKCC 13-02-11	Suicide Prevention and Intervention Program ( <u>Revised 3/5/92</u> ) [ <del>Added 11-15-91</del> ]	EKCC 25-04-01	Inmate Furloughs ( <u>Revised 3/5/92</u> ) [ <u>Extended Visits</u> ] ( <u>Furlough</u> )
EKCC 13-05-01	Aids and Hepatitis B ( <u>Revised 3/5/92</u> )	EKCC 25-06-01	Community Center Program ( <u>Revised 3/5/92</u> )
EKCC 13-07-01	Serious Illness, Major Injuries, Death ( <u>Revised 3/5/92</u> )	EKCC 26-01-01	Citizens Involvement and Volunteers ( <u>Revised 3/5/92</u> )
EKCC 13-08-01	Psychiatric and Psychological Services ( <u>Revised 3/5/92</u> )	<p>JACK C. LEWIS, Commissioner  APPROVED BY AGENCY: March 5, 1992  FILED WITH LRC: March 30, 1992 at 4 p.m.</p> <p style="text-align: center;">STATEMENT OF EMERGENCY  904 KAR 2:016E</p> <p>This emergency administrative regulation implements a change in age limits as related to child care of both "preschool" and "school-age" children. This is effective April 1, 1992. This emergency administrative regulation reflects the revised child care maximum payments used in the Job Opportunities and Basic Skills (JOBS), At-risk Child Care, Self-initiated Child Care and Transitional Child Care (TCC) Programs. Federal regulations require these payments to be updated at least biennially. These amounts are effective April 1, 1992. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler for the April, 1992 filing.</p> <p>BRERETON C. JONES, Governor  LEONARD E. HELLER, Secretary</p> <p style="text-align: center;"><b>CABINET FOR HUMAN RESOURCES</b>  <b>Department for Social Insurance</b>  <b>Division of Management and Development</b></p> <p style="text-align: center;">904 KAR 2:016E. Standards for need and amount; AFDC.</p> <p>RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 250.73, 255, PL 101-508  STATUTORY AUTHORITY: KRS 194.050, 205.200(2)  EFFECTIVE: March 31, 1992  NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families</p>	
EKCC 13-08-02	Psychiatric and Psychological Services Team ( <u>Revised 3/5/92</u> )		
EKCC 13-09-01	Optometric Services ( <u>Revised 3/5/92</u> )		
EKCC 13-10-01	Detoxification ( <u>Revised 3/5/92</u> )	<p style="text-align: center;"><b>CABINET FOR HUMAN RESOURCES</b>  <b>Department for Social Insurance</b>  <b>Division of Management and Development</b></p> <p style="text-align: center;">904 KAR 2:016E. Standards for need and amount; AFDC.</p> <p>RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 250.73, 255, PL 101-508  STATUTORY AUTHORITY: KRS 194.050, 205.200(2)  EFFECTIVE: March 31, 1992  NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families</p>	
EKCC 13-11-01	Therapeutic Diets ( <u>Revised 3/5/92</u> )		
EKCC 13-12-02	Resident Transfer/Medical Profiles ( <u>Revised 3/5/92</u> )	<p style="text-align: center;"><b>CABINET FOR HUMAN RESOURCES</b>  <b>Department for Social Insurance</b>  <b>Division of Management and Development</b></p> <p style="text-align: center;">904 KAR 2:016E. Standards for need and amount; AFDC.</p> <p>RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 250.73, 255, PL 101-508  STATUTORY AUTHORITY: KRS 194.050, 205.200(2)  EFFECTIVE: March 31, 1992  NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families</p>	
EKCC 13-13-01	Syringes, Needles and Sharps Control ( <u>Revised 3/5/92</u> )		
EKCC 13-14-01	Fire and Emergency Evacuation Plan ( <u>Revised 3/5/92</u> )	<p style="text-align: center;"><b>CABINET FOR HUMAN RESOURCES</b>  <b>Department for Social Insurance</b>  <b>Division of Management and Development</b></p> <p style="text-align: center;">904 KAR 2:016E. Standards for need and amount; AFDC.</p> <p>RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 250.73, 255, PL 101-508  STATUTORY AUTHORITY: KRS 194.050, 205.200(2)  EFFECTIVE: March 31, 1992  NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families</p>	
EKCC 13-15-01	Medical Department - General Housekeeping, Sanitation and Protection Standards and Requirements ( <u>Revised 3/5/92</u> )		
EKCC 13-16-01	Medical Records ( <u>Added 3/5/92</u> )	<p style="text-align: center;"><b>CABINET FOR HUMAN RESOURCES</b>  <b>Department for Social Insurance</b>  <b>Division of Management and Development</b></p> <p style="text-align: center;">904 KAR 2:016E. Standards for need and amount; AFDC.</p> <p>RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 250.73, 255, PL 101-508  STATUTORY AUTHORITY: KRS 194.050, 205.200(2)  EFFECTIVE: March 31, 1992  NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families</p>	
EKCC 14-02-01	Personal Hygiene Items: Issuance and Replacement Schedule ( <u>Revised 3/5/92</u> )		
EKCC 14-04-01	Inmate Legal Services ( <u>Revised 3/5/92</u> )	<p style="text-align: center;"><b>CABINET FOR HUMAN RESOURCES</b>  <b>Department for Social Insurance</b>  <b>Division of Management and Development</b></p> <p style="text-align: center;">904 KAR 2:016E. Standards for need and amount; AFDC.</p> <p>RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 250.73, 255, PL 101-508  STATUTORY AUTHORITY: KRS 194.050, 205.200(2)  EFFECTIVE: March 31, 1992  NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families</p>	
EKCC 14-06-01	Inmate Grievance Procedure ( <u>Revised 3/5/92</u> )		
EKCC 14-07-01	Inmate Rights and Responsibilities ( <u>Added 3/5/92</u> )	<p style="text-align: center;"><b>CABINET FOR HUMAN RESOURCES</b>  <b>Department for Social Insurance</b>  <b>Division of Management and Development</b></p> <p style="text-align: center;">904 KAR 2:016E. Standards for need and amount; AFDC.</p> <p>RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 250.73, 255, PL 101-508  STATUTORY AUTHORITY: KRS 194.050, 205.200(2)  EFFECTIVE: March 31, 1992  NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families</p>	
EKCC 15-01-01	Hair and Grooming Standards: Inmate Barber Shop ( <u>Added 3/5/92</u> )		
EKCC 15-05-01	Restoration of Forfeited Good Time ( <u>Revised 3/5/92</u> )	<p style="text-align: center;"><b>CABINET FOR HUMAN RESOURCES</b>  <b>Department for Social Insurance</b>  <b>Division of Management and Development</b></p> <p style="text-align: center;">904 KAR 2:016E. Standards for need and amount; AFDC.</p> <p>RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 250.73, 255, PL 101-508  STATUTORY AUTHORITY: KRS 194.050, 205.200(2)  EFFECTIVE: March 31, 1992  NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families</p>	
EKCC 15-06-01	Due Process/Disciplinary Procedure ( <u>Revised 3/5/92</u> )		
EKCC 16-01-01	Inmate Visiting ( <u>Revised 3/5/92</u> ) [ <del>Revised 11-15-91</del> ]	<p style="text-align: center;"><b>CABINET FOR HUMAN RESOURCES</b>  <b>Department for Social Insurance</b>  <b>Division of Management and Development</b></p> <p style="text-align: center;">904 KAR 2:016E. Standards for need and amount; AFDC.</p> <p>RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 250.73, 255, PL 101-508  STATUTORY AUTHORITY: KRS 194.050, 205.200(2)  EFFECTIVE: March 31, 1992  NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families</p>	
EKCC 16-02-01	Inmate Correspondence ( <u>Revised 3/5/92</u> )		
EKCC 16-03-01	Inmate Telephone Procedures ( <u>Added 3/5/92</u> )	<p style="text-align: center;"><b>CABINET FOR HUMAN RESOURCES</b>  <b>Department for Social Insurance</b>  <b>Division of Management and Development</b></p> <p style="text-align: center;">904 KAR 2:016E. Standards for need and amount; AFDC.</p> <p>RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 250.73, 255, PL 101-508  STATUTORY AUTHORITY: KRS 194.050, 205.200(2)  EFFECTIVE: March 31, 1992  NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families</p>	
EKCC 16-05-01	Inmate Access to and Communication with EKCC Staff ( <u>Revised 3/5/92</u> )		
EKCC 16-05-02	Unit Bulletin Boards ( <u>Revised 3/5/92</u> )	<p style="text-align: center;"><b>CABINET FOR HUMAN RESOURCES</b>  <b>Department for Social Insurance</b>  <b>Division of Management and Development</b></p> <p style="text-align: center;">904 KAR 2:016E. Standards for need and amount; AFDC.</p> <p>RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 250.73, 255, PL 101-508  STATUTORY AUTHORITY: KRS 194.050, 205.200(2)  EFFECTIVE: March 31, 1992  NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families</p>	
EKCC 17-01-01	Authorized Inmate Personal Property ( <u>Revised 3/5/92</u> )		
EKCC 17-01-02	Personal Property Control ( <u>Revised 3/5/92</u> )	<p style="text-align: center;"><b>CABINET FOR HUMAN RESOURCES</b>  <b>Department for Social Insurance</b>  <b>Division of Management and Development</b></p> <p style="text-align: center;">904 KAR 2:016E. Standards for need and amount; AFDC.</p> <p>RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 250.73, 255, PL 101-508  STATUTORY AUTHORITY: KRS 194.050, 205.200(2)  EFFECTIVE: March 31, 1992  NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families</p>	
EKCC 17-02-01	Assessment/Orientation ( <u>Revised 3/5/92</u> )		



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with Dependent Children Program, referred to as AFDC. This regulation sets forth the standards by which the need for and the amount of an AFDC assistance payment is established.

Section 1. Definitions. (1) "Approved JOBS activities" means participation in component, precomponent, component preparation, preemployment, transitional extension or self-initiated JOBS activities which have been determined by the Department for Social Insurance to be consistent with employment goals.

(2) "Assistance group" means a group composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:006, Section 3. The assistance group shall include the dependent child, child's eligible parent, and all eligible siblings living in the home with the needy child. Additionally, if the dependent child's parent is a minor living in the home with his eligible parent, the minor's parent shall also be included in the assistance group if the minor's parent applied for assistance. The incapacitated or unemployed natural or adoptive parent of the child who is living in the home shall be included as second parent if the technical eligibility factors are met.

(3) "Beyond the control" means:

(a) Loss or theft of the money;

(b) The individual to whom the lump sum was designated no longer lives in the household, making the lump sum income inaccessible;

(c) Expenditure of the lump sum income to meet extraordinary expenses, that are not included in the AFDC Standard of Need.

(4) "Certified child care providers" means a small family day care in a provider's home serving fewer than four (4) children. This provider has voluntarily registered with the Cabinet for Human Resources, Department for Social Services. Standards for certification are contained in 905 KAR 2:070.

(5) "Claimant" means the individual responsible for an overpayment.

(6) "Combination programs" means any educational program which includes as its basis literacy or GED. This program must also include life skills, skills training or job readiness training.

(7) "Component" means services and activities such as education, job skills training, job readiness, job development and placement, job search, on-the-job training, work supplementation or community work experience program activities available under the Job Opportunities and Basic Skills (JOBS) program. Each individual component is described in 904 KAR 2:006.

(8) "Component preparation" means the period in which assessment, testing, development of the employability plan and referrals for removal of barriers takes place.

(9) "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

(10) "Full-time school attendance" means a workload of at least:

(a) The number of hours required by the individual program for participation in a General Educational Development (GED) program; or

(b) Twelve (12) semester hours or more in a college or university; or six (6) semester hours or more during the summer term; or the equivalent in a college or university if other than a semester system is used; or

(c) The number of hours required by the individual high school/vocational school to fulfill their definition of full time; or

(d) Eight (8) clock hours per month in a literacy program.

(e) Twenty-five (25) clock hours per week in combination programs.

(11) "Gross income limitation standard" means 185 percent of the sum of the assistance standard, as set forth in Section 7 of this regulation.

(12) "Licensed child care providers" means day care centers serving twelve (12) or more children, or day care in a provider's home serving four (4) to twelve (12) children, which are licensed by the Division of Licensing and Regulation, Office of the Inspector General, as provided in 905 KAR 2:010.

(13) "Lump sum income" means income that does not occur on a regular basis, and does not represent accumulated monthly income received in a single sum.

(14) "Minor" means any person who is under the age of eighteen (18) or under the age of nineteen (19) in accordance with 45 CFR 233.90(b)(3). EXCEPTION: For the purpose of deeming income, a minor parent is considered any person under the age of eighteen (18).

(15) "Part-time employment" means employment of less than thirty (30) hours per week or 130 hours per month or not employed throughout the entire month.

(16) "Part-time school attendance" means a workload of anything less than "full-time school attendance."

(17) "Precomponent" means a waiting period between the dates of component assignment and component commencement.

(18) "Preemployment" means a waiting period between the dates of hiring and employment commencement.

(19) "Prospective budgeting" means computing the amount of assistance based on income and circumstances which will exist in the month(s) for which payment is made.

(20) "Recoupment" means recovery of overpayments of assistance payments.

(21) "Sanctioned individual" means any person who is required to be included in the assistance group but who is excluded from the assistance group due to failure to fulfill an eligibility requirement.

(22) "Self-initiated" means approved participation in which education or training activities are initiated by the client and determined to meet agency criteria. Specific criteria is contained in 904 KAR 2:006.

(23) "Transitional extension" means a period of up to ninety (90) days subsequent to the discontinuance of the AFDC case in which supportive service payments may continue if:

(a) The case is not discontinued due to fraudulent activity; and

(b) The case is not discontinued due to failure to comply with procedural requirements; and

(c) The JOBS participant elects to continue the approved component activity in which she is engaged at the time of discontinuance.

(24) "Unavailable" means that the income is not accessible to the AFDC benefit group for use toward basic food, clothing, shelter, and utilities.

(25) "Unregulated child care providers" means private providers, such as friends or relatives, who are not required to be certified or licensed.

(26) "Work expense standard deduction" means a deduction from earned income intended to cover mandatory pay check deductions, union dues, tools and transportation.

Section 2. Resource Limitations. (1) Real and personal property



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owned in whole or in part by an applicant or recipient including a sanctioned individual and his parent, even if the parent is not an applicant or recipient, if the applicant or recipient is a dependent child living in the home of the parent, shall be considered.

(2) The amount that can be reserved by each assistance group shall not be in excess of \$1,000 equity value excluding those items specifically listed in subsection (1) of this section as follows:

(3) Excluded resources. The following resources shall be excluded from consideration:

- (a) One (1) owner-occupied home;
- (b) Home furnishings, including all appliances;
- (c) Clothing;
- (d) One (1) motor vehicle, not to exceed \$1,500 equity value;
- (e) Farm machinery, livestock or other inventory, and tools and equipment other than farm, used in a self-employment enterprise;
- (f) Items valued at less than fifty (50) dollars each;
- (g) One (1) burial plot or space per family member;
- (h) Funeral agreements not to exceed maximum equity of \$1,500 per family member;

(i) Real property which the assistance group is making a good faith effort to sell. This exemption shall not exceed a period of nine (9) months and is contingent upon the assistance group agreeing to repay AFDC benefits received beginning with the first month of the exemption. Any amount of AFDC paid during that period that would not have been paid if the disposal of property had occurred at the beginning of the period is considered an overpayment. The amount of the repayment shall not exceed the net proceeds of the sale. If the property has not been sold within the nine (9) months, or if eligibility stops for any other reason, the entire amount of assistance paid during the nine (9) month period shall be treated as an overpayment;

(j) Other items or benefits mandated by federal regulations.

(4) Disposition of resources.

(a) An applicant or recipient shall not have transferred or otherwise divested himself of property without fair compensation in order to qualify for assistance.

(b) If the transfer was made expressly for the purpose of qualifying for assistance and if the uncompensated equity value of the transferred property, when added to total resources, exceeds the resource limitation, the household's application shall be denied, or assistance discontinued.

(c) The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer.

(d) If the amount of excess transferred resources does not exceed \$500, the period of ineligibility shall be one (1) month; the period of ineligibility shall be increased one (1) month for every \$500 increment up to a maximum of twenty-four (24) months.

**Section 3. Income Limitations.** In determining eligibility for AFDC the following shall apply:

(1) Gross income test.

(a) The total gross non-AFDC income of the assistance group, as well as income of parent, sanctioned individual and amount deemed available from the parent of a minor parent living in the home with such assistance group, and amount deemed available from a stepparent living in the home, and amount deemed available from an alien's sponsor and sponsor's spouse if living with the sponsor, shall not exceed the gross income limitation standard.

(b) Disregards specified in Section 4(1) of this regulation shall apply.

(c) If total gross income exceeds the gross income limitation standard, the assistance group is ineligible.

(2) Applicant eligibility test.

(a) An applicant eligibility test shall be applied if:

1. The gross income is below the gross income limitation standard; and

2. The assistance group has not received assistance during the four (4) months prior to the month of application.

(b) The total gross income after application of exclusions or disregards set forth in Section 4(1) and (2) of this regulation shall be compared to the assistance standard set forth in Section 7 of this regulation.

(c) If income exceeds this standard, the assistance group is ineligible.

(d) For assistance groups who meet the gross income test but who have received assistance any time during the four (4) months prior to the application month, the applicant eligibility test shall not apply.

(3) Benefit calculation.

(a) If the assistance group meets the criteria set forth in subsections (1) and (2) of this section, benefits shall be determined by applying disregards in Section 4(1), (2), and (3) of this regulation.

(b) If the assistance group's income, after application of appropriate disregards, exceeds the assistance standard, the assistance group is ineligible.

(c) Amount of assistance shall be determined prospectively.

(4) Ineligibility period.

(a) A period of ineligibility shall be established for an applicant or recipient whose income in the month of application or during any month for which assistance is paid exceeds the limits as set forth in subsections (2) or (3) of this section due to receipt of lump sum income.

(b) The ineligibility period shall be recalculated if any of the following circumstances occur:

1. The standard of need increases and the amount of grant the assistance group would have received also changes.

2. Income, which caused the calculation of the ineligibility period, has become unavailable for reasons that were beyond the control of the benefit group.

3. The assistance group incurs and pays necessary medical expenses not reimbursable by a third party.

**Section 4. Excluded or Disregarded Income.** All gross non-AFDC income received or anticipated to be received by the assistance group, sanctioned individual, natural parent and parent of a minor parent living in the home with such assistance group and stepparent living in the home, shall be considered with the applicable exclusions or disregards as set forth below:

(1) Gross income test. All incomes listed below shall be excluded or disregarded:

(a) Disregards applicable to stepparent income or income of the parent of a minor parent in the home with the assistance unit, as set forth in Section 5 of this regulation;

(b) Disregards applicable to alien sponsor's income, as set forth in Section 6 of this regulation;

(c) Disregards applicable to self-employment income;

(d) Earnings received by a dependent child from participation in the Summer Youth Program, Work Experience Program, Limited Work Experience Program, and Tryout Employment Program under the Job

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Training Partnership Act (JTPA) for a period not to exceed six (6) months within a given calendar year, effective March 1, 1988;

(e) Unearned income received by a dependent child from participation in a JTPA program;

(f) Value of the monthly allotment of food stamp coupons or value of United States Department of Agriculture (USDA) donated foods;

(g) Nonemergency medical transportation payments;

(h) Payments from complementary programs if no duplication exists between the other assistance and the assistance provided by the AFDC program;

(i) Educational grants, loans, scholarships, including payments for actual educational costs made under the GI Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans to any undergraduate made or insured under any program administered by the United States Commissioner of Education;

(j) Highway relocation assistance;

(k) Urban renewal assistance;

(l) Federal disaster assistance and state disaster grants;

(m) Home produce utilized for household consumption;

(n) Housing subsidies received from federal, state or local governments;

(o) Receipts distributed to members of certain Indian tribes by the federal government under 25 USC 459, 1261 and 1401;

(p) Funds distributed per capita to or held in trust for members of any Indian tribe by the federal government under 25 USC 459, 1261 and 1401;

(q) Benefits received from the Nutrition Program for the Elderly, under 42 USC 3001;

(r) Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under 42 USC 5001 and 5011;

(s) Payments to "Volunteers in Service to America" (VISTA) participants under 42 USC 1451 except when the value of such payments when adjusted to reflect the number of hours volunteers are serving is the same as or greater than the minimum wage under state or federal law, whichever is greater;

(t) The value of supplemental food assistance received under 42 USC 1771, and the special food service program for children under 42 USC 1755, as amended;

(u) Payments from the Cabinet for Human Resources, Department for Social Services, for child foster care, or adult foster care;

(v) Payments made under the Low Income Home Energy Assistance Program (LIHEAP) under 42 USC 8621, and other energy assistance payments which are made to an energy provider or provided in-kind;

(w) The first fifty (50) dollars of child support payments collected in a month which represents the current month's support obligation and is returned to the assistance group;

(x) For a period not to exceed six (6) months within a given year, earnings of a dependent child in full-time school attendance;

(y) Nonrecurring gifts of thirty (30) dollars or less received per calendar quarter for each individual included in the assistance group; and

(z) Effective January 3, 1989, loans.

(aa) Effective June 1, 1989, up to \$12,000 to Aleuts and \$20,000

to individuals of Japanese ancestry for payments made by the United States Government to compensate for hardships experienced during World War II.

(bb) Effective June 1, 1989, the essential person's portion of the SSI check.

(cc) Income of an individual receiving mandatory or optional state supplementary payments.

(dd) The advance payment or refund of earned income tax credit (EITC).

(ee) Other benefits mandated by federal regulations or legislation.

(2) Applicant eligibility test. The exclusions or disregards set forth in subsection (1) of this section and those listed below shall be applied:

(a) Earnings received from participation in the Job Corps Program under JTPA by an AFDC child;

(b) Earnings of a dependent child in full-time school attendance for a period not to exceed six (6) months within a given year;

(c) Standard work expense deduction of ninety (90) dollars for full-time and part-time employment; and

(d) Child care, for a child or incapacitated adult living in the home and receiving AFDC, is allowed as a work expense is allowed not to exceed \$175 per month per individual for full-time employment or \$150 per month per individual for part-time employment, or \$200 per month per individual for child under age two (2).

(3) Benefit calculation. After eligibility is established, exclude or disregard all incomes listed in subsections (1) and (2) of this section as well as:

(a) Child support payments assigned and actually forwarded or paid to the department; and

(b) First thirty (30) dollars and one-third (1/3) of the remainder of each individual's earned income not already disregarded, if that individual's needs are considered in determining the benefit amount. The one-third (1/3) portion of this disregard shall not be applied to an individual after the fourth consecutive month it has been applied to his earned income. The thirty (30) dollar portion of this disregard shall be applied concurrently with the one-third (1/3) disregard, however, it shall be extended for an additional eight (8) months following the four (4) months referenced in the preceding sentence. These disregards shall not be available to the individual until he has not been a recipient for twelve (12) consecutive months; and

(c) Earnings of a child in full-time school attendance or earnings of a child in part-time school attendance, if not working full-time.

(4) Exceptions. Disregards from earnings in subsections (2)(c) and (d) and (3)(b) of this section shall not apply for any month in which the individual:

(a) Reduces, terminates, or refuses to accept employment within the period of thirty (30) days preceding such month, unless good cause exists as follows:

1. The individual is unable to engage in such employment or training for mental or physical reasons; or

2. The individual has no way to get to and from the work site or the site is so far removed from the home that commuting time would exceed three (3) hours per day; or

3. Working conditions at such job or training would be a risk to the individual's health or safety; or

4. A bona fide offer of employment at a minimum wage customary for such work in the community was not made; or

5. Effective February 1, 1988, the child care arrangement is terminated through no fault of the client; or

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6. Effective February 1, 1988, the available child care does not meet the needs of the child, for example, handicapped or retarded children.

(b) Requests assistance be terminated for the primary purpose of evading the four (4) month limitation on the deduction in subsection (3)(b) of this section.

Section 5. Income and Resources. Income and resources of a stepparent living in the home with a dependent child and parent living in the home with a minor parent but whose needs are not included in the grant are considered as follows:

(1) Income. The gross income is considered available to the assistance group, subject to the following exclusions or disregards:

(a) The first seventy-five (75) dollars of the gross earned income;

(b) An amount equal to the AFDC assistance standard for the appropriate family size, for the support of the stepparent or parent of a minor parent and any other individuals living in the home but whose needs are not taken into consideration in the AFDC eligibility determination and are or may be claimed by the stepparent or parent of a minor parent as dependents for purposes of determining his federal personal income tax liability;

(c) Any amount actually paid by the stepparent or parent of a minor parent to individuals not living in the home who are or may be claimed by him as dependents for purposes of determining his personal income tax liability;

(d) Payments by the stepparent and parent of a minor parent for alimony or child support with respect to individuals not living in the household; and

(e) Income of a stepparent and parent of a minor parent receiving Supplemental Security Income (SSI).

(2) Sanction exception. The needs of any sanctioned individual are not eligible for the exclusions listed in this section.

(3) Resources. Resources which belong solely to the stepparent and parent of a minor parent are not considered in determining eligibility of the parent or the assistance group.

Section 6. Alien Income and Resources. (1) For the purposes of this section the alien's sponsor and sponsor's spouse (if living with the sponsor) shall be referred to as sponsor.

(2) The gross non-AFDC income and resources of an alien's sponsor shall be deemed available to the alien, subject to disregards as set forth below, for a period of three (3) years following entry into the United States.

(3) If an individual is sponsoring two (2) or more aliens, the income and resources shall be prorated among the sponsored aliens.

(4) A sponsored alien is ineligible for any month in which adequate information on the sponsor or sponsor's spouse is not provided.

(5) If an alien is sponsored by an agency or organization, which has executed an affidavit of support, that alien is ineligible for benefits for a period of three (3) years from date of entry into the United States, unless it is determined that the sponsoring agency or organization is no longer in existence or does not have the financial ability to meet the alien's needs.

(6) The provisions of this section shall not apply to those aliens identified in subsection (5) of this section.

(a) Income. The gross income of the sponsor is considered available to the assistance group subject to the following disregards:

1. Twenty (20) percent of the total monthly gross earned income,

not to exceed \$175;

2. An amount equal to the AFDC assistance standard for the appropriate family size of the sponsor and other persons living in the household who are or may be claimed by the sponsor as dependents in determining his federal personal income tax liability, and whose needs are not considered in making a determination of eligibility for AFDC;

3. Amounts paid by the sponsor to nonhousehold members who are or may be claimed as dependents in determining his federal personal tax liability;

4. Actual payments of alimony or child support paid to nonhousehold members; and

5. Income of a sponsor receiving SSI or AFDC.

(b) Resources. Resources deemed available to the alien shall be the total amount of the resources of the sponsor and sponsor's spouse determined as if he were an AFDC applicant in this state, less \$1,500.

Section 7. Payment Maximum. (1) The AFDC payment maximum includes amounts for food, clothing, shelter, and utilities.

(2) Countable income is deducted in determining eligibility for and the amount of the AFDC assistance payment, as follows:

Effective July 1, 1989		
Number of Eligible Persons	Payment Maximum	Standard of Need
1 child	\$162	\$394
2 persons	\$196	\$460
3 persons	\$228	\$526
4 persons	\$285	\$592
5 persons	\$333	\$658
6 persons	\$376	\$724
7 or more persons	\$419	\$790

(3) Since the payment maximum does not meet full need, effective July 1, 1989, a forty-five (45) percent ratable reduction shall be applied to the deficit between the family's countable income and the standard of need for the appropriate family size.

(4) The assistance payment shall be fifty-five (55) percent of the deficit or the payment maximum, whichever is the lesser amount.

Section 8. Job Opportunities and Basic Skills (JOBS) Child Care and Supportive Services. (1) With the exception of those in subsections (8) and (12) of this section those individuals participating in the JOBS program shall be entitled to payment of:

(a) Child care;

(b) Transportation; and

(c) Other supportive service costs necessary for participation in an approved JOBS activity, as described in subsection (10) of this section.

(2) JOBS activities are described in 904 KAR 2:006, Section 9.

(3) Child care eligibility in JOBS components. Child care shall be paid for a child meeting the criteria specified in Section 9(1) of this regulation. Child care shall be provided in the following situations:

(a) Precomponent;

(b) Component preparation;

(c) Component participation;

(d) Preemployment; or

(e) On-the-job training (OJT) and work supplementation partici-

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pants discontinued from AFDC, until the end of the component placement.

(4) Child care eligibility in self-initiated activities.

(a) Child care shall be provided in the same situations as in JOBS components with the following exceptions:

1. OJT participants discontinued due to increased earnings or hours of employment;
2. Component preparation; and
3. Precomponent, for persons waiting to enter self-initiated activities for the first time.

(b) Child care shall be provided only for approved self-initiated activities.

(5) Child care limitations.

(a) Child care payments shall:

1. Be made directly to the provider, in an amount equal to the actual cost, up to a payment maximum based on local market rates for components which:

- a. Do not provide earned income; or
- b. Are work supplementation components.

2. Be allowed as a deduction as outlined in Section 4(2)(d) of this regulation for any component yielding earned income, other than work supplementation.

(b) Payments shall not be made to a provider if the provider is:

1. The parent;
2. The legal guardian;

3. A member of the AFDC assistance unit which includes the child needing care;

4. Not meeting applicable standards of state and local law; or
5. Not allowing parental access.

(c) Local market rates shall be determined by:

1. The type of provider;
2. The age of the child;
3. The special needs of the child. Special needs shall be verified by:

- a. Entitlement to disability benefits; or

- b. Written statement from a physician or professional from a service agency such as Comprehensive Care, or the Department for Social Services;

4. The amount of time care is needed; and

5. The geographical boundaries of the fifteen (15) area development districts.

(d) Full-time (FT) and part-time (PT) attendance shall be determined by the provider.

(e) FT and PT maximum payment levels shall be established for the following groups of dependent children:

1. "Special needs" includes children in no certain age group;
2. "Infants" includes children under age one (1);
3. "Toddlers" includes children from age one (1) up to age three (3);

4. "Preschool" includes children from age three (3) up to age (6) ~~six [five-(5)]~~;

5. "School-age" includes children age (6) ~~six [five-(5)]~~ and over.

(f) For needs incurred on or after April 1, 1992, child care maximum payments shall be made as follows:

## PURCHASE AREA DEVELOPMENT DISTRICT #1

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$12	12	12	9	12	9	12	9	12	9
Certified	\$11	11	11	8	11	8	11	8	11	8
Unregulated	\$10	10	10	7	10	7	10	7	10	7
[Licensed	\$10	10	10	7	10	7	10	7	10	7
Certified	\$9	9	9	6	9	6	9	6	9	6
Unregulated	\$8	8	8	5	8	5	8	5	8	5]

## PENNYRILE AREA DEVELOPMENT DISTRICT #2

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	11	8	10	7	10	7	10	7
Certified	\$10	10	10	7	9	6	9	6	9	6
Unregulated	\$9	9	9	6	8	5	8	5	8	5
[Licensed	\$10	10	10	7	9	6	9	6	9	6
Certified	\$9	9	9	6	8	5	8	5	8	5
Unregulated	\$8	8	8	5	7	4	7	4	7	4]

## GREEN RIVER AREA DEVELOPMENT DISTRICT #3

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$13	13	13	10	13	10	13	10	13	10
Certified	\$12	12	12	9	12	9	12	9	12	9
Unregulated	\$11	11	11	8	11	8	11	8	11	8
[Licensed	\$10	10	9	6	9	6	9	6	8	5
Certified	\$9	9	8	5	8	5	8	5	7	4
Unregulated	\$8	8	7	4	7	4	7	4	6	3]

## BARREN RIVER AREA DEVELOPMENT DISTRICT #4

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$13	13	13	10	11	8	11	8	11	8
Certified	\$12	12	12	9	10	7	10	7	10	7
Unregulated	\$11	11	11	8	9	6	9	6	9	6
[Licensed	\$12	12	12	9	10	7	10	7	10	7
Certified	\$11	11	11	8	9	6	9	6	9	6
Unregulated	\$10	10	10	7	8	5	8	5	8	5]

## LINCOLN TRAIL AREA DEVELOPMENT DISTRICT #5

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	11	8	10	7	10	7	10	7
Certified	\$10	10	10	7	9	6	9	6	9	6
Unregulated	\$9	9	9	6	8	5	8	5	8	5
[Licensed	\$10	10	10	7	9	6	9	6	8	5
Certified	\$9	9	9	6	8	5	8	5	7	4

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Unregulated ~~\$8 8 8 5 7 4 7 4 6 3]~~

## KENTUCKIANA REGIONAL PLANNING AND DEVELOPMENT AGENCY AREA DEVELOPMENT DISTRICT #6

	Special Needs		Infants		Toddlers		Pre- School- school		aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$15	15	15	12	15	12	14	11	12	9
Certified	\$14	14	14	11	14	11	13	10	11	8
Unregulated	\$13	13	13	10	13	10	12	9	10	7

[Licensed ~~\$12 12 12 10 12 10 11 8 11 8~~  
 Certified ~~\$12 12 12 9 12 9 10 7 10 7~~  
 Unregulated ~~\$11 11 11 8 11 8 9 6 9 6]~~

## NORTHERN KENTUCKY AREA DEVELOPMENT DISTRICT #7

	Special Needs		Infants		Toddlers		Pre- School- school		aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$16	16	16	13	14	11	14	11	13	10
Certified	\$15	15	15	12	13	10	13	10	12	9
Unregulated	\$14	14	14	11	12	9	12	9	11	8

[Licensed ~~\$10 10 10 7 10 7 10 7 10 7~~  
 Certified ~~\$9 9 9 6 9 6 9 6 9 6~~  
 Unregulated ~~\$8 8 8 5 8 5 8 5 8 5]~~

## BUFFALO TRACE AREA DEVELOPMENT DISTRICT #8

	Special Needs		Infants		Toddlers		Pre- School- school		aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$12	12	12	9	11	8	9	6	9	6
Certified	\$11	11	11	8	10	7	8	5	8	5
Unregulated	\$10	10	10	7	9	6	7	4	7	4

[Licensed ~~\$10 10 8 5 8 5 8 5 8 5~~  
 Certified ~~\$9 9 7 4 7 4 7 4 7 4~~  
 Unregulated ~~\$8 8 6 3 6 3 6 3 6 3]~~

## GATEWAY AREA DEVELOPMENT DISTRICT #9

	Special Needs		Infants		Toddlers		Pre- School- school		aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	9	6	9	6	9	6	9	6
Certified	\$10	10	8	5	8	5	8	5	8	5
Unregulated	\$9	9	7	4	7	4	7	4	7	4

[Licensed ~~\$10 10 8 5 8 5 8 5 8 5~~  
 Certified ~~\$9 9 7 4 7 4 7 4 7 4~~  
 Unregulated ~~\$8 8 6 3 6 3 6 3 6 3]~~

## FIVCO AREA DEVELOPMENT DISTRICT #10

	Special Needs		Infants		Toddlers		Pre- School- school		aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$14	14	14	11	13	10	13	10	13	10
Certified	\$13	13	13	10	12	9	12	9	12	9
Unregulated	\$12	12	12	9	11	8	11	8	11	8

[Licensed ~~\$10 10 10 7 10 7 10 7 9 6~~  
 Certified ~~\$9 9 9 6 9 6 9 6 8 5~~  
 Unregulated ~~\$8 8 8 5 8 5 8 5 7 4]~~

## BIG SANDY AREA DEVELOPMENT DISTRICT #11

	Special Needs		Infants		Toddlers		Pre- School- school		aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$12	12	12	9	12	9	12	9	12	9
Certified	\$11	11	11	8	11	8	11	8	11	8
Unregulated	\$10	10	10	7	10	7	10	7	10	7

[Licensed ~~\$10 10 10 7 10 7 10 7 10 7~~  
 Certified ~~\$9 9 9 6 9 6 9 6 9 6~~  
 Unregulated ~~\$8 8 8 5 8 5 8 5 8 5]~~

## KENTUCKY RIVER AREA DEVELOPMENT DISTRICT #12

	Special Needs		Infants		Toddlers		Pre- School- school		aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$13	13	13	10	13	10	11	8	11	8
Certified	\$12	12	12	9	12	9	10	7	10	7
Unregulated	\$11	11	11	8	11	8	9	6	9	6

[Licensed ~~\$11 11 11 8 11 8 9 6 9 6~~  
 Certified ~~\$10 10 10 7 10 7 8 5 8 5~~  
 Unregulated ~~\$9 9 9 6 9 6 7 4 7 4]~~

## CUMBERLAND VALLEY AREA DEVELOPMENT DISTRICT #13

	Special Needs		Infants		Toddlers		Pre- School- school		aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	11	8	11	8	11	8	11	8
Certified	\$10	10	10	7	10	7	10	7	10	7
Unregulated	\$9	9	9	6	9	6	9	6	9	6

[Licensed ~~\$10 10 10 7 10 7 9 6 10 7~~  
 Certified ~~\$9 9 9 6 9 6 8 5 9 6~~  
 Unregulated ~~\$8 8 8 5 8 5 7 4 8 5]~~

## LAKE CUMBERLAND AREA DEVELOPMENT DISTRICT #14

	Special Needs		Infants		Toddlers		Pre- School- school		aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	10	7	10	7	10	7	10	7
Certified	\$10	10	9	6	9	6	9	6	9	6
Unregulated	\$9	9	8	5	8	5	8	5	8	5

[Licensed ~~\$10 10 9 6 9 6 9 6 9 6~~  
 Certified ~~\$9 9 8 5 8 5 8 5 8 5~~  
 Unregulated ~~\$8 8 7 4 7 4 7 4 7 4]~~

## BLUEGRASS AREA DEVELOPMENT DISTRICT #15

	Special Needs		Infants		Toddlers		Pre- School- school		aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$14	14	14	11	13	10	13	10	13	10
Certified	\$13	13	13	10	12	9	12	9	12	9
Unregulated	\$12	12	12	9	11	8	11	8	11	8

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Licensed	\$12	12	12	0	12	0	11	8	11	8
Certified	\$11	11	11	8	11	8	10	7	10	7
Unregulated	\$10	10	10	7	10	7	0	6	0	6]

(g) Child care payments shall be limited as follows:

1. Six (6) semesters (three (3) years) for a two (2) year postsecondary program;

2. Eight (8) semesters (nine (9) with good cause) for a four (4) year postsecondary program; or

3. No restrictions on other education and training activities.

(h) These limits apply to both full-time and part-time enrollment.

(i) In preemployment or precomponent, child care payments shall be limited to a period of two (2) weeks up to one (1) month if necessary to guarantee the child care arrangement shall not be lost.

(j) Child care payments shall not be made if:

1. An AFDC-UP qualifying parent is participating; and

2. The nonparticipating parent is not incapacitated.

(6) Authorization of child care payment.

(a) Child care payments shall be authorized upon the receipt of appropriate verification of the cost of care.

(b) Departmental forms required for verification are incorporated by reference in this regulation.

(c) Payments shall be authorized in accordance with 904 KAR 2:050.

(7) Restrictions on authorization of child care payments. Payment shall not be made if:

(a) Verification is not returned by the end of the month following the month in which the cost was incurred;

(b) The participant is sanctioned for noncompliance with JOBS activities, as specified in 904 KAR 2:006; or

(c) A fair hearing decision is pending on an issue of noncompliance with JOBS.

(8) Transportation payments in JOBS components. Transportation reimbursement shall be paid in the following situations:

(a) Precomponent;

(b) Component preparation;

(c) Component participation, with the exception of OJT and work supplementation while the AFDC case remains active;

(d) Transitional extension; or

(e) On-the-job training (OJT) and work supplementation participants discontinued from AFDC, until the end of the component placement.

(9) Transportation payments in self-initiated activities.

(a) Transportation shall be provided in the same situations as in JOBS components, with the exceptions of:

1. Transitional extension;

2. OJT participants discontinued due to increased earnings or hours of employment;

3. Component preparation; and

4. Precomponent, for persons waiting to enter self-initiated activities for the first time.

(b) Reimbursement shall be paid only for approved self-initiated activities.

(10) Transportation payment amount and authorization.

(a) A standard rate of three (3) dollars per day shall be paid for individuals participating in approved JOBS activities.

(b) Transportation reimbursement shall be made after receipt of appropriate verification. Departmental forms required for verification are incorporated by reference. Payments shall be made as specified

in 904 KAR 2:050.

(c) Transportation payments shall be limited in the same manner as child care payments, as described in subsection (4)(g) of this section.

(d) In precomponent, transportation payments are limited to two (2) weeks up to one (1) month if necessary to guarantee that the arrangements shall not be lost.

(11) Restrictions on authorization of transportation payments. Payments shall not be made if:

(a) Appropriate verification is not returned by the end of the month following the month in which the cost was incurred;

(b) The participant is sanctioned for noncompliance with JOBS activities, as specified in 904 KAR 2:006; or

(c) A fair hearing decision is pending on an issue of noncompliance with JOBS.

(12) Other supportive services in JOBS components.

(a) Nonrecurring services shall be provided if necessary for participation in the approved JOBS activities of:

1. Component preparation;

2. Component participation, except for expenses included in the work expense standard deduction for participants in OJT or work supplementation while the AFDC case remains active;

3. Transitional extension;

4. Preemployment; or

5. OJT and work supplementation participants discontinued from AFDC, until the end of the component placement.

(b) These services shall be approved by the case manager as defined in 904 KAR 2:006.

(c) Examples of services which may be approved are the purchase of:

1. Remedial health care items or services not covered under the Medicaid program;

2. Necessary clothing; or

3. Any other item identified by a referral agency, the case manager, or the participant as being necessary for participation.

(13) Other supportive services in self-initiated activities. Nonrecurring services shall be provided in the same situations as in JOBS components, with the following exceptions:

(a) Transitional extension;

(b) OJT participants discontinued due to increased earnings or hours of employment; or

(c) Component preparation.

(14) Limitations on other supportive services.

(a) A cumulative limit of \$300 in a twelve (12) month period, beginning with the first day of the month in which the first supportive service payment is made, shall be in effect for any participant in these approved JOBS activities:

1. Component preparation;

2. Component-related;

3. Transitional extension; or

4. OJT participants discontinued due to increased earnings or hours of employment.

(b) A separate \$300 limit, per job, for preemployment supportive services may be paid.

(c) Other supportive services shall be limited in the same manner as child care payments, as described in subsection (4)(g) of this section.

(15) Restrictions on authorization of supportive service payments. Payments shall not be made for the period during which:

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- (a) Verification is not returned by the service provider;
- (b) The participant is sanctioned for noncompliance with JOBS activities, as specified in 904 KAR 2:006; or
- (c) A fair hearing decision is pending on an issue of noncompliance with JOBS.

Section 9. Recoupment. The following provisions are effective for all overpayments discovered on or after April 1, 1982, regardless of when the overpayment occurred.

- (1) Necessary action will be taken promptly to correct and recoup any overpayments.
- (2) Overpayments, including assistance paid pending hearing decisions, shall be recovered:
  - (a) The claimant;
  - (b) The overpaid assistance unit;
  - (c) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or
  - (d) Any individual member of the overpaid assistance unit whether or not currently a recipient.
- (3) Overpayments shall be recovered through:
  - (a) Repayment by the individual to the cabinet; or
  - (b) Reduction of future AFDC benefits, which shall result in the assistance group retaining, for the payment month, family income and liquid resources of not less than ninety (90) percent of the amount of assistance paid to a like size family with no income in accordance with Section 7 of this regulation; or
  - (c) Civil action in the court of appropriate jurisdiction.
- (4) In cases which have both an overpayment and an underpayment, the cabinet shall offset one against the other in correcting the payment to current recipients.
- (5) Neither reduction in future benefits nor civil action shall be taken except after notice and an opportunity for a fair hearing as specified in 904 KAR 2:055 is given and the administrative and judicial remedies have been exhausted or abandoned in accordance with Title 904, Chapter 2.

Section 10. Material Incorporated by Reference. (1) Forms necessary for verification of child care and supportive service payments in the JOBS program are incorporated effective October 1, 1990. These forms include the PA-33, revised 10/90, the PA-33.1, revised 10/90, and the PA-32, revised 10/90.

(2) These forms may be inspected and copied at the Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

MIKE ROBINSON, Commissioner  
LEONARD E. HELLER, Secretary

APPROVED BY AGENCY: March 2, 1992  
FILED WITH LRC: March 31, 1992 at 9 a.m.

### STATEMENT OF EMERGENCY 905 KAR 2:080E

This emergency regulation amends the current regulation which establishes the procedures for implementing the child day care services provided by the Department for Social Services and, pursuant to KRS 199.892, enables the cabinet to qualify to receive federal funds under the child care and development block grant. It is

necessary to promulgate this emergency regulation amendment to incorporate the new provider market rates which need to become effective on April 1, 1992 in order to conform to the new provider market rates of the Title IV-A programs which will become effective on that date. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary regulation was filed with the Regulations Compiler on or about April 1, 1992.

BRERETON C. JONES, Governor  
LEONARD E. HELLER, Secretary

### CABINET FOR HUMAN RESOURCES Department for Social Services

#### 905 KAR 2:080E. Child day care services.

RELATES TO: KRS 199.892 through 199.896, 45 CFR Part 98, 256, 257, PL 99-457 Part H, 94-142.2

STATUTORY AUTHORITY: KRS 194.050, 199.892

EFFECTIVE: April 9, 1992

NECESSITY AND FUNCTION: KRS 194.050 provides that the Secretary for the Cabinet for Human Resources shall adopt regulations necessary to operate programs and fulfill the responsibilities vested in the Cabinet for Human Resources. In accordance with KRS 199.892, to enable the Cabinet for Human Resources to qualify to receive federal funds under the child care and development block grant, and pursuant to KRS 194.050, the Department for Social Services has drafted procedures that shall enable the provisions of child day care services to be implemented.

Section 1. Definitions. (1) "At-risk child care (ARCC)" means child care assistance provided through the state to non-AFDC families who need care in order to work and who may otherwise be at risk of becoming dependent upon AFDC.

(2) "Attending a job training or educational program" means regular and scheduled participation in a program offering appropriate skills training or education, if postsecondary, consistent with employment goals.

(3) "Certificate" means a payment mechanism provided by DSS and used by a family to secure day care from the provider of choice.

(4) "Child care and development block grant (CCDBG)" means child care assistance provided to families through the state to improve the affordability, quality and availability of child care services for a low income family to work or attend training or educational programs.

(5) "Child protective cases" means cases registered for services in which the case file contains case documentation that substantiates child abuse, neglect, dependency or exploitation. This category may include services to prevent abuse, neglect, dependency or exploitation, including multiproblem families.

(6) "Day care" means the provision of essential child care for a portion of a day on a regular basis and is designed to supplement, but not substitute for, the parent's responsibility for the child's protection, development and supervision.

(7) "Dedicated child care workers (DCW)" means the Department for Social Services staff who work strictly with the day care program. The dedicated child care worker provides services to families through the following federally funded programs: social services block grant (SSBG), child care and development block grant (CCDBG), at-risk child care (ARCC), and transitional child care (TCC).



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(8) "Dependent care disregard" means a method of providing child care for AFDC and medical assistance recipients with earned income and food stamp recipients with earned income or in training or educational programs which are preparatory to employment by deducting child care expenses from the gross income, thus allowing the AFDC recipient to retain more income to pay child care expenses. In cases where recipients are receiving assistance under more than one (1) program, the highest disregard shall be used.

(9) "Eligibility requirements" means that for a family to qualify for child day care funds, except in those instances where day care is provided under SSBG for child protective cases, a family shall meet both need and income status criteria.

(10) "Employment" means public or private, full- or part-time, permanent or temporary work, including self-employment.

(11) "Family" means one (1) or more adults and children related by blood or law, including stepparents, residing in the same residence.

(12) "Licensed child day care facility" means a facility as governed by KRS 199.894.

(13) "Physical or mental incapacity" means a child under the age of eighteen (18) who has multiple or severe problems diagnosed by a physician or qualified professional, that prevent the child from caring for himself or herself for a part of the day.

(14) "Priorities" mean that the client groups identified for receipt of day care are ranked in chronological order by priority.

(15) "Provider" means a person, including a volunteer, who works in a Type I or Type II day care facility, certified small family day care home, unregulated home or registered home.

(16) "Purchase of care" means the purchase of child day care services from state licensed facilities, certified registered homes or other eligible provider for authorized children.

(17) "Registered provider" means a provider that is registered with the Department for Social Services as a provider of child care services through the child care and development block grant (CCDBG) or at-risk program (ARCC)

(18) "Small family day care home (SFDCH)" means a home or dwelling unit which voluntarily meets the minimum standards set by the cabinet, with a certified provider, where care is provided for no more than three (3) children, who are unrelated by blood, marriage or adoption to the family child care provider.

(19) "Social services block grant (SSBG)" means child care assistance provided by licensed or certified providers that is reimbursed by the department for families receiving protective and preventive services, including multiproblem families, and low income working parents.

(20) "Special needs child" means a child who has multiple or severe problems, and the severity of the disability requires ongoing specialized care as defined under PL 99-457 Part H or 94-142.2.

(21) "Transitional child care (TCC)" means child care assistance that is provided by the department to families whose eligibility for AFDC has ceased due to earnings from employment, or as a result of the loss of income disregards due to the expiration of the time limit according to the federal regulation on AFDC. The purpose of TCC is to help prevent welfare dependency or potential welfare dependency.

(22) "Type I day care facility" means a facility other than a dwelling unit which regularly receives four (4) or more children for day care; or a facility, including a dwelling unit, which regularly provides day care for thirteen (13) or more children. If preschool children of any day care staff receive care in the facility, they shall be included

in the number for which the facility is licensed.

(23) "Type II day care facility" means a home or dwelling unit which regularly provides care apart from parents for four (4), but not more than twelve (12) children. The provider's own preschool children shall be included in the number for which the home is licensed.

(24) "Unregulated provider" means a child care provider who is not subject to be licensed, certified or registered by the state or federal government. Families receiving day care funds through the SSBG may not use unregulated care, however, unregulated care may be used by families receiving TCC or ARCC funds. Relative care as provided through the ARCC program, which is not required to be registered, shall be deemed unregulated.

(25) "Waiting list" means a list maintained by district DSS staff once funds are depleted in a district. The list is based on the availability of district day care funds. TCC families shall not be placed on a waiting list due to the uncapped funding source.

(26) "Without regard to income" means that SSBG child day care services for child protective cases shall be provided or purchased without regard to family income. In situations where the court is involved, parents may be ordered to pay for part or all of the cost of day care for their child. Voluntary payments by parents may be accepted

Section 2. Lead Agency Responsibilities. The Department for Social Services, as the lead agency, shall administer the CCDBG program directly, or through contracts or agreements and shall retain overall responsibility for the administration of the program and shall:

- (1) Determine the basic usage and priorities for expenditures;
- (2) Promulgate regulations governing the administration of the plan;
- (3) Submit reports required by the federal government;
- (4) Ensure the program complies with the CCDBG plan and federal requirements;
- (5) Oversee the expenditure of funds;
- (6) Monitor programs and services; and
- (7) Comply with federal requirements in a complaint compliance hearing or appeal hearing.

Section 3. Eligibility. A child shall be eligible for services if he:

- (1) Is under the age of thirteen (13) or is under the age of eighteen (18) and:
  - (a) Is physically or mentally incapable of caring for himself; or
  - (b) Is under court supervision;
- (2) Resides with a family whose income does not exceed:
  - (a) Sixty (60) percent of the states median income for a family of the same size at time of application; or
  - (b) Seventy-five (75) percent of the states median income for a family of the same size at the time of reauthorization; or
- (c) Receives, or needs to receive protective services under SSBG;
- (3) Resides with parents who are working or attending a job training or educational program except under CCDBG;
- (4) Other eligibility conditions or priority requirements including childhood development and before and after school care services, may be established in addition to subsection (1) through (5) of this section and Section 5(4) of this regulation as long as they shall not:
  - (a) Discriminate against children on the basis of:
    1. Race;
    2. National origin;

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3. Ethnic background;
4. Sex;
5. Religious affiliation; or
6. Handicap.

(b) Limit parental rights as governed by Section 4 of this regulation; or

(c) Violate provisions of Section 5(4) of this regulation.

(5) The DCW shall verify the client's eligibility for services and complete the DSS-1A, Application for Services, herein incorporated by reference.

Section 4. Parental Rights and Responsibilities. (1) Parents of an eligible child who receive or are offered child care services shall be offered a choice:

(a) To enroll the child with an eligible child care provider that has a grant or contract, selected by the parent to the maximum extent practicable; or

(b) To receive a child care certificate, the DSS-76, Day Care Services Agreement and Child Care Certificate, herein incorporated by reference, which shall:

1. Be issued to the parent;
2. Be of value commensurate with the value of child care services provided in paragraph (a) of this subsection;
3. If chosen by the parent, may be used for child care services provided by a sectarian organization or agency;
4. Not be considered a contract or grant to the provider but assistance to the parent; and
5. Allow parents to choose from a variety of child care categories in compliance with federal regulations governing child day care programs including:

- a. Licensed child care facilities;
- b. Certified child care facilities (SFDCH);
- c. Unregulated child care facilities; or
- d. Registered child care facilities.

(2) Providers of child care services shall afford parents unlimited access to their children and to the provider during normal hours of operation and whenever the child is in the care of the provider.

(3) The cabinet shall:

- (a) Maintain a record of substantiated parental complaints; and
- (b) Make information regarding parental complaints available to the public upon request.

(4) The cabinet shall make available to the parents and general public, consumer education about parental options relating to child care services including:

- (a) Licensing and regulatory requirements; and
- (b) Complaint procedures.

Section 5. State and Provider Requirements. (1) The cabinet shall assure that providers of child care services:

(a) Shall comply with licensing and regulatory requirements as governed by 905 KAR 2:010 and 905 KAR 2:070;

(b) That are not required to be licensed or certified as governed by 905 KAR 2:010 and 905 KAR 2:070 shall be registered with the cabinet prior to payment under the block grant using the DSS-77, Day Care Billing Statement, herein incorporated by reference except under TCC and relative provided care under AARC; and

(c) Under CCDBG, nonrelative providers registered with the cabinet shall become certified as governed by 905 KAR 2:070.

(d) Nonrelative providers providing care in the child's home shall

be certified by meeting the requirements as follows:

1. The provider shall be at least eighteen (18) years of age;
  2. The provider shall be physically capable of providing care to children, as stated by a qualified physician;
  3. The provider shall be free of tuberculosis, as stated by a qualified physician or health care specialist;
  4. The provider shall not have been convicted of crimes against children, as shown by a criminal records check conducted within the past year by the Kentucky State Police; and
  5. The provider shall sign an agreement not to use any form of corporal punishment on the children entrusted into their care.
- (2) The cabinet has established maximum child day care payments as follows:

## PURCHASE AREA DEVELOPMENT DISTRICT #1

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$12	12	12	9	12	9	12	9	12	9
Certified	\$11	11	11	8	11	8	11	8	11	8
Unregulated	\$10	10	10	7	10	7	10	7	10	7
[Licensed	\$10	10	10	7	10	7	10	7	10	7
Certified	\$9	9	9	6	9	6	9	6	9	6
Unregulated	\$8	8	8	5	8	5	8	5	8	5]

## PENNYRILE AREA DEVELOPMENT DISTRICT #2

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	11	8	10	7	10	7	10	7
Certified	\$10	10	10	7	9	6	9	6	9	6
Unregulated	\$9	9	9	6	8	5	8	5	8	5
[Licensed	\$10	10	10	7	9	6	9	6	9	6
Certified	\$9	9	9	6	8	5	8	5	8	5
Unregulated	\$8	8	8	5	7	4	7	4	7	4]

## GREEN RIVER AREA DEVELOPMENT DISTRICT #3

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$13	13	13	10	13	10	13	10	13	10
Certified	\$12	12	12	9	12	9	12	9	12	9
Unregulated	\$11	11	11	8	11	8	11	8	11	8
[Licensed	\$10	10	9	6	9	6	9	6	9	6
Certified	\$9	9	8	5	8	5	8	5	8	5
Unregulated	\$8	8	7	4	7	4	7	4	7	4]

## BARREN RIVER AREA DEVELOPMENT DISTRICT #4

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$13	13	13	10	11	8	11	8	11	8
Certified	\$12	12	12	9	10	7	10	7	10	7
Unregulated	\$11	11	11	8	9	6	9	6	9	6
[Licensed	\$12	12	12	9	10	7	10	7	10	7

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Certified \$11 11 11 8 9 6 9 6 9 6  
Unregulated \$10 10 10 7 8 5 8 5 8 5]

## LINCOLN TRAIL AREA DEVELOPMENT DISTRICT #5

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	11	8	10	7	10	7	10	7
Certified	\$10	10	10	7	9	6	9	6	9	6
Unregulated	\$9	9	9	6	8	5	8	5	8	5

[Licensed \$10 10 10 7 9 6 9 6 8 5  
Certified \$9 9 9 6 8 5 8 5 7 4  
Unregulated \$8 8 8 5 7 4 7 4 6 3]

## KIPDA DEVELOPMENT DISTRICT #6

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$15	15	15	12	15	12	14	11	12	9
Certified	\$14	14	14	11	14	11	13	10	11	8
Unregulated	\$13	13	13	10	13	10	12	9	10	7

[Licensed \$13 13 13 10 13 10 11 8 11 8  
Certified \$12 12 12 9 12 9 10 7 10 7  
Unregulated \$11 11 11 8 11 8 9 6 9 6]

## NORTHERN KENTUCKY DEVELOPMENT DISTRICT #7

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$16	16	16	13	14	11	14	11	13	10
Certified	\$15	15	15	12	13	10	13	10	12	9
Unregulated	\$14	14	14	11	12	9	12	9	11	8

[Licensed \$10 10 10 7 10 7 10 7 10 7  
Certified \$9 9 9 6 9 6 9 6 9 6  
Unregulated \$8 8 8 5 8 5 8 5 8 5]

## BUFFALO TRACE DEVELOPMENT DISTRICT #8

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$12	12	12	9	11	8	9	6	9	6
Certified	\$11	11	11	8	10	7	8	5	8	5
Unregulated	\$10	10	10	7	9	6	7	4	7	4

[Licensed \$10 10 8 5 8 5 8 5 8 5  
Certified \$9 9 7 4 7 4 7 4 7 4  
Unregulated \$8 8 6 3 6 3 6 3 6 3]

## GATEWAY AREA DEVELOPMENT DISTRICT #9

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	9	6	9	6	9	6	9	6
Certified	\$10	10	8	5	8	5	8	5	8	5
Unregulated	\$9	9	7	4	7	4	7	4	7	4

[Licensed \$10 10 8 5 8 5 8 5 8 5  
Certified \$9 9 7 4 7 4 7 4 7 4  
Unregulated \$8 8 6 3 6 3 6 3 6 3]

## FIVCO AREA DEVELOPMENT DISTRICT #10

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$14	14	14	11	13	10	13	10	13	10
Certified	\$13	13	13	10	12	9	12	9	12	9
Unregulated	\$12	12	12	9	11	8	11	8	11	8

[Licensed \$10 10 10 7 10 7 10 7 9 6  
Certified \$9 9 9 6 9 6 9 6 8 5  
Unregulated \$8 8 8 5 8 5 8 5 7 4]

## BIG SANDY AREA DEVELOPMENT DISTRICT #11

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$12	12	12	9	12	9	12	9	12	9
Certified	\$11	11	11	8	11	8	11	8	11	8
Unregulated	\$10	10	10	7	10	7	10	7	10	7

[Licensed \$10 10 10 7 10 7 10 7 10 7  
Certified \$9 9 9 6 9 6 9 6 9 6  
Unregulated \$8 8 8 5 8 5 8 5 8 5]

## KENTUCKY RIVER AREA DEVELOPMENT DISTRICT #12

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$13	13	13	10	13	10	11	8	11	8
Certified	\$12	12	12	9	12	9	10	7	10	7
Unregulated	\$11	11	11	8	11	8	9	6	9	6

[Licensed \$11 11 11 8 11 8 9 6 9 6  
Certified \$10 10 10 7 10 7 8 5 8 5  
Unregulated \$9 9 9 6 9 6 7 4 7 4]

## CUMBERLAND VALLEY AREA DEVELOPMENT DISTRICT #13

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	11	8	11	8	11	8	11	8
Certified	\$10	10	10	7	10	7	10	7	10	7
Unregulated	\$9	9	9	6	9	6	9	6	9	6

[Licensed \$10 10 10 7 10 7 9 6 10 7  
Certified \$9 9 9 6 9 6 8 5 9 6  
Unregulated \$8 8 8 5 8 5 7 4 8 5]

## LAKE CUMBERLAND AREA DEVELOPMENT DISTRICT #14

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	10	7	10	7	10	7	10	7
Certified	\$10	10	9	6	9	6	9	6	9	6
Unregulated	\$9	9	8	5	8	5	8	5	8	5

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Licensed	\$10	10	8	6	8	6	8	6	8	6
Certified	\$8	8	6	4	6	4	6	4	6	4
Unregulated	\$6	6	4	2	4	2	4	2	4	2

## BLUEGRASS AREA DEVELOPMENT DISTRICT #15

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$14	14	14	11	13	10	13	10	13	10
Certified	\$13	13	13	10	12	9	12	9	12	9
Unregulated	\$12	12	12	9	11	8	11	8	11	8

Licensed	\$12	12	12	8	12	8	11	8	11	8
Certified	\$11	11	11	8	11	8	10	7	10	7
Unregulated	\$10	10	10	7	10	7	9	6	9	6

(3) The cabinet shall assess a fee which the family shall pay to the provider for the cost of child day care based on the following sliding scale:

Income Range (Monthly)		FAMILY SIZE Fee per day per family							
		2	3	4	5	6	7	8*	
0	399	0.10	0.10	0.10	0.10	0.10	0.10	0.10	
400	499	0.20	0.20	0.20	0.20	0.20	0.20	0.20	
500	599	0.25	0.25	0.25	0.25	0.25	0.25	0.25	
600	699	0.40	0.30	0.30	0.30	0.30	0.30	0.30	
700	799	1.00	0.35	0.35	0.35	0.35	0.35	0.35	
800	899	2.00	0.60	0.40	0.40	0.40	0.40	0.40	
900	999	3.25	1.15	0.45	0.45	0.45	0.45	0.45	
1,000	1,099	4.50	2.25	0.80	0.50	0.50	0.50	0.50	
1,100	1,199	6.00	3.50	1.60	0.55	0.55	0.55	0.55	
1,200	1,299	7.50	5.00	3.10	0.90	0.60	0.60	0.60	
1,300	1,399	8.00	6.00	4.60	1.60	1.00	0.65	0.65	
1,400	1,499		7.00	6.10	2.65	2.00	0.70	0.70	
1,500	1,599		7.75	7.00	4.05	3.05	1.25	0.75	
1,600	1,699		8.25	7.85	5.50	4.50	2.30	0.80	
1,700	1,799			8.35	7.10	6.25	3.50	1.50	
1,800	1,899			8.80	8.35	7.50	5.20	2.50	
1,900	1,999			9.30	9.30	8.80	7.00	3.80	
2,000	2,099			9.55	9.75	9.75	8.50	5.30	
2,100	2,199				10.25	10.25	10.00	7.10	
2,200	2,299				10.70	10.70	10.70	8.90	
2,300	2,399				11.00	11.25	11.25	10.80	
2,400	2,499					11.75	11.75	11.75	
2,500	2,599					12.25	12.25	12.25	
2,600	2,699					12.60	12.75	12.75	
2,700	2,799						12.90	13.00	

\*For family size above eight (8), the family fee shall not increase.

(a) Except fees shall not be assessed in:

1. A child protective case under SSBG; or
2. An AFDC, medical assistance or food stamp case where clients are receiving dependent care disregard.

(b) The DCW shall determine the maximum daily reimbursement rate and parent fee, not to exceed rates as specified in subsection (2) of this section and monitor the payment to the child care provider. If the parent fails to pay the fee the DCW shall:

1. Develop a plan with the parent to pay the fee; or
2. In TCC cases report nonpayment to DSI if the client refuses to pay.

(c) The DCW shall advise the client to report family and financial changes that may affect authorization of payments. Reauthorizations shall be determined:

1. Every six (6) months; and
2. Upon receipt of reported changes.

(4) The Cabinet for Human Resources shall, except for SSBG protective service cases, establish priorities for child care services as follows with a ninety (90) day waiting list for approved clients maintained at each local office:

- (a) Children with special needs;
- (b) Job opportunity and basic skills program or TCC participants who have children ineligible for child care payments under the program;

(c) Families who lose eligibility in another child care program; and

(d) Other low income working parents or parents attending training or educational programs.

(5) The Department for Social Services shall exchange TCC client specific information to the Department for Social Insurance within ten (10) days of discovery.

(a) The DCW shall report the following changes in client information to the local DSI office:

1. Termination of client's job;
2. A child left home;
3. A child moved into the home or a newborn was reported;
4. Client's address changes;
5. An absent parent returns to the home;
6. Client failed to cooperate in paying the fee;
7. Case terminated; or
8. Overpayment or underpayment of TCC benefits.

(b) The DCW shall report the following changes in client information to the Division for Child Support Enforcement:

1. TCC case approval for payments;
2. A child left the home;
3. Payments cease for a child;
4. Client's address changes; or
5. Except for reapprovals for the AFDC program, discontinuances.

(6) The DCW shall terminate day care services when:

(a) DSI determines the client has lost eligibility for TCC benefits; or

(b) Due to need or income criteria, clients lose eligibility. If due to program policy changes the DCW shall:

1. Reassess the families so clients may be given ten (10) days notice of their eligibility, if they do not meet the new criteria after their authorization period expires;
2. Send written notices explaining new eligibility criteria with a notice of intended action.

(7) The day care worker shall notify the client of their rights as governed by 905 KAR 1:320, Fair hearing.

Section 6. Material Incorporated by Reference. (1) Forms necessary for the implementation of child day care services are herein incorporated by reference.

(2) Material incorporated by reference may be inspected and copied at the Department for Social Services, CHR Building, 6th Floor, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

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PEGGY WALLACE, Commissioner  
LEONARD E. HELLER, Secretary

APPROVED BY AGENCY: March 27, 1992  
FILED WITH LRC: April 9, 1992 at 9 a.m.

REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

**COMPILER'S NOTE:** The following regulations were amended by the promulgating agency and the Administrative Regulation Review Subcommittee on April 1, 1992, unless otherwise noted.

**GENERAL GOVERNMENT CABINET  
Department for Commission on Human Rights  
(As Amended)**

**104 KAR 1:010. Posting, ~~and~~ distribution and availability of notices.**

RELATES TO: KRS Chapter 344

STATUTORY AUTHORITY: KRS 13A.100, 344.190(14)

NECESSITY AND FUNCTION: This administrative regulation establishes the requirements governing the posting, distribution, and availability of notices by persons covered by KRS 344.010 to 344.450 and 344.990. [KRS 344.190(14) provides for commission adoption of regulations requiring the posting of notices prepared or approved by the commission. This rule is designed to educate the public as well as covered businesses to promote acceptance of the respective sections of the Civil Rights Act.]

Section 1. ~~[Nature of]~~ Fair Employment Practices Notices ~~[and Who Must Post]~~. Every employer, employment agency, and labor organization subject to KRS 344.010 to 344.450 and 344.990 ~~[the Kentucky Civil Rights Act]~~, shall post and maintain at their establishments the fair employment practices notices incorporated by reference. "Fair Employment Practice Notice (February, 1992)" is incorporated by reference. It may be inspected, copied, or obtained at the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m. [These notices may be obtained and copied at the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky, 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m.] [furnished by the Kentucky Commission on Human Rights indicating the substantive provisions of the Kentucky Civil Rights Act, where complaints may be filed and such other information as the Kentucky Commission on Human Rights deems pertinent.]

**(1) Fair Employment Practices Notices shall be posted so as to be readily apparent to employees and applicants for employment. They shall be posted:**

**(a) In easily-accessible and well-lighted places; and**

**(b) At or near each location where the employee's services are performed.** ~~[Section 2. Where] [Employers and Employment Agencies Shall Must] Post. Fair employment practices [With respect to employers and employment agencies such] notices shall [must] be posted [conspicuously] in easily accessible and well lighted places so as to be readily apparent to [customarily frequented by] employees and applicants for employment, and at or near each location where the employee's services are performed.]~~

**(2) [Section 3. Where] Labor organizations shall [Must] post "fair employment practices" [-With respect to labor organizations, such] notices shall [must] be posted [conspicuously] in easily-accessible**

and well-lighted places so as to be readily apparent to [customarily frequented by] members and applicants for membership.

Section 2. ~~[4. Nature of]~~ Public Accommodations Notices ~~[and Who Must Post]~~. (1) Every owner, lessee, proprietor, or manager of any place of public accommodation, resort, or amusement, shall post and maintain at any [such] place of public accommodation, resort or amusement notices incorporated by reference. "Fair Employment Practice Notice (February, 1992)" is incorporated by reference. It may be inspected, copied, or obtained at the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m. [The notice may be obtained and copied at the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m.] [furnished by the commission indicating the provisions of the Kentucky Civil Rights Act dealing with places of public accommodation, resort or amusement, where complaints may be filed and such other information as the commission deems pertinent.]

**(2) Fair Employment Practices Notices shall be posted so as to be readily apparent to employees and applicants for employment. They shall be posted:**

**(a) In easily-accessible and well-lighted places; and**

**(b) At or near each location where the employee's services are performed.** ~~[Section 5. Where] [Public accommodations notices shall [Must] be posted. Such notices must be posted conspicuously] in easily accessible and well lighted places at the place of public accommodation, resort or amusement where they may be readily observed by those seeking or granting any of the accommodations, advantages, facilities, or privileges of [such] places of public accommodations, resort or amusement.]~~

Section 3. Fair ~~[6. Nature of]~~ Housing Notices. (1) Every person or business entity ~~[and Who Must Post]~~. Every real estate operator, real estate broker, real estate salesman, financial institution, builder, developer, insurer or apartment owner subject to KRS 344.360 and 344.367 shall post and maintain at each location and elsewhere, where their services are regularly performed, the fair housing notices incorporated by reference. These notices may be obtained and copied at the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky, 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m. [indicating the provisions of the Kentucky Civil Rights Act dealing with housing, where complaints may be filed, and such other information as the commission deems pertinent.]

**(2) Fair [Section 7. Where] housing notices shall [Must] be posted.** ~~Every real estate operator, real estate broker, real estate salesman, financial institution, builder, developer, insurer or apartment owner subject to KRS 344.360 and 344.367 must post such notices~~

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furnished by the ~~Kentucky Commission on Human Rights~~ at every business location and elsewhere, where ~~their~~ services are regularly performed, in an easily-accessible and well-lighted place so as to be readily apparent to all persons seeking services.

Section 4. [8-] Notice to Owners Listing Property. Every real estate operator, real estate broker, real estate salesperson ~~salesman~~, financial institution, builder, developer and insurer subject to KRS 344.010 to 344.450 and 344.990 [the Kentucky Civil Rights Act] shall provide to owners of real property at the time they contract for the sale, purchase, or rent, or financing of property, a copy of the pamphlet ~~memorandum entitled:~~ "Your Rights and Responsibilities Under Kentucky's Civil Rights Act" incorporated by reference. The pamphlet may be obtained or copied at ~~and any amendments thereto, prepared with assistance from the office of the Attorney General of Kentucky on the subject of Kentucky law against discrimination in housing. Such notices shall be supplied by~~ the Kentucky Commission on Human Rights, 332 West Broadway, Suite 700, Louisville, Kentucky, 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m.

[Section 5. A person subject to this administrative regulation may obtain applicable notices from the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m.]

EDGAR S. GOINS, Chairperson

APPROVED BY AGENCY: February 7, 1992

FILED WITH LRC: February 13, 1992 at 8 a.m.

### GENERAL GOVERNMENT CABINET Department for Commission on Human Rights (As Amended)

#### 104 KAR 1:020. Administrative proceeding under the Kentucky Civil Rights Act [Rule of practice and procedure].

RELATES TO: KRS Chapter 344

STATUTORY AUTHORITY: KRS 13A.100, 344.190

NECESSITY AND FUNCTION: This administrative regulation [KRS 344.190(9) and (14) provide for the commission to adopt rules and regulations to effectuate the purposes and provisions of the Act. The rules of practice and procedure before the commission are designed to] informs the public [complainants and respondents] of the procedures [steps] followed in processing complaints of unlawful discrimination [through conciliation, dismissal or public hearing].

Section 1. Definitions. [When used in this regulation:]

(1) "Act" [shall] means the Kentucky Civil Rights Act, KRS Chapter 344.

[(2) "Person, commission, commissioner, discrimination, employer, employment agency, labor organization, employee, religion, place of public accommodation, resort or amusement, real estate operator, real estate broker, real estate salesman, financial institution and licensing agency, credit transaction" shall have the meanings given to them in the Act.]

[(2) [(3)] "Chairman" [shall] means the duly appointed chairman of

the Kentucky Commission on Human Rights, or in the event of his absence or inability to act, the vice chairman, or if no vice chairman has been designated, or if the [such] vice chairman is unable to act, a commissioner designated by the chairman.

[(3) [(4)] "Hearing commissioners" [shall] means the commissioners designated by the chairman to conduct a hearing.]

(2) [(4)] [(6)] "Investigator" [shall] means a member of the commission staff designated by the executive director to investigate the allegations of the complaint and make a determination of whether there is probable cause, or a commissioner appointed by the chairman.

Section 2. Complaint. (1) Filing. [Who may file.]

(a) ~~[Any individual claiming to be aggrieved by an unlawful practice may make, sign, and file with the commission a written sworn complaint.]~~ Assistance in drafting and filing complaints shall be available to complainants at the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m. [commission's office in Frankfort], at any other commission office, and from any commission staff member.

[(b) A commissioner or the Attorney General may, in like manner, make, sign, and file such complaint.]

(b) [(e)] Upon the receipt of a communication from the Federal Equal Employment Opportunity Commission or United States Department of Housing and Urban Development transmitting a complaint which has been submitted to that agency, the executive director, acting in the name of the commission, may issue a complaint in writing and attach thereto the materials transmitted from the federal government, if any.

(2) Complaint form. The complaint shall be in writing and the commission shall provide a **Complaint Form (February, 1992)**, hereby incorporated by reference to aid the complainant if so desired. This form may be inspected, obtained or copied at the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky, 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m. The complaint shall ~~must~~ be signed and sworn before a notary public or other person duly authorized by law to administer oaths and take acknowledgments. Notarial service shall be furnished without charge by the commission.

[(3) Contents of complaint.

[(a)] A complaint shall contain the following:

(a) [1.] The full name and address of the complainant.

(b) [2.] The name and address of the person, employer, labor organization, employment agency, government agency, place of public accommodation, resort, or amusement, real estate operator, real estate broker, real estate salesman, financial institution or licensing agency against whom the complaint is made.

(c) [3.] A short and plain statement of the claim showing that the complainant is entitled to relief under the Kentucky Civil Rights Act.

[(b) A complaint should contain the following:]

(d) [1.] The date or dates and time of day of the alleged unlawful discriminatory practice, if known, and if the alleged unlawful discriminatory practice is of a continuing nature, the dates between which said continuing unlawful acts of discrimination are alleged to have occurred, if known.

(e) [2.] A statement as to any other action, civil or criminal,



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instituted by the complainant in any other forum based upon the same grievance as is alleged in the complaint, together with a statement as to the status or disposition of such other action.]

(3) [(4)] Computation of time. [Time of filing. A complaint alleging discrimination must be filed within 180 days after the alleged unlawful practice occurs.] If the alleged practice is of a continuing nature, the date of the occurrence of said practice shall be deemed to be any date subsequent to the commencement of the practice up to and including the date on which the practice shall have ceased, or the date on which the complaint shall have been filed if the unlawful practice continues.

(4) [(5)] Place of filing. A complaint shall be filed with the commission at its office in [Frankfort or] Louisville.

(5) [(6)] Manner in filing. The complaint may be filed by personal delivery[, ordinary mail, registered] or [certified] mail to the commission's office in [Frankfort or] Louisville. A complaint may be delivered to a commissioner, or a member of the commission's staff or to any other commission office for filing at the commission's [Frankfort or] Louisville office.

(6) [(7)] Amendment of complaint. The commission, the presiding hearing commissioner, or the complainant shall have the power reasonably and fairly to amend a complaint.

(a) The power to amend a complaint may be exercised prior to the issuance of a notice of hearing by the commission staff with the consent of the complainant and after the issuance of a notice of hearing by the presiding hearing commissioner with the consent of the complainant.

(b) The complainant's power to amend the complaint may be exercised prior to the issuance of a notice of hearing as a matter of right, and after notice of hearing at the discretion of the presiding hearing commissioner.

(c) If a complaint is amended, postponement of the hearing date may be granted to the respondent upon a request to the commission. In no event shall the [such] hearing date be more than ten (10) days later than the original hearing date.

(7) [(8)] Withdrawal of complaint. Upon the written request of the complainant, stating the reasons for a [such] request, a complaint or any part thereof, may be withdrawn; [only on written consent as hereinafter set forth.]

(a) If the request for withdrawal is made before the case has been noted for hearing, the written consent of the executive director shall be obtained.

(b) If the request for withdrawal is made after the case has been noted for hearing, the written consent of the chairman shall be obtained.

(c) In either case of withdrawal, [such] withdrawal shall be without prejudice to the rights of the complainant.

[(9)] Dismissal of complaint. If the executive director shall determine, whether upon the face of the complaint, after investigation, or after conference, conciliation, and persuasion, that the complaint shall be dismissed, due to lack of probable cause or for other reasons, he shall dismiss the complaint and notify the parties by mail of such determination and of the complainant's right to apply to the commission for reconsideration of such dismissal.]

[Section 3. Investigation, Conference, Conciliation, and Persuasion. (1) Investigation. After the filing of a complaint, the executive director shall designate an investigator from the commission staff and

the chairman may designate a commissioner to direct the investigation as chief investigator. The investigator(s) shall make a prompt and thorough investigation of the allegations of the complaint.

[(2)] Production of evidence.

(a) An investigator may at any reasonable time request access to premises, records, and documents relevant to the complaint.

(b) If such request is denied, the commission may issue a subpoena duces tecum requiring the production of such documents.

(c) If a person fails to permit access, examination, photographing, or copying, the commission may apply to circuit court for an order requiring the person to permit same.]

[(2)] [(3)] Conference, conciliation and persuasion.

[(a)] If the investigator determines after preliminary investigation that probable cause may exist for crediting the allegations of the complaint, he shall report his recommendations to the executive director, who shall make a finding and report to the commission. The investigator shall endeavor to eliminate the unlawful discriminatory practice by conference, conciliation and persuasion. If a complaint subsequently goes to a hearing, no testimony shall be given or received concerning any offers or counteroffers made in an effort to conciliate any alleged unlawful discriminatory practice.]

(a) [(b)] The investigator shall notify the respondent(s) that a conference [particular meeting] or conversation is for the purpose of attempting to conciliate the complaint.

(b) [These requirements shall not be construed to limit the power of] The commission may [to] conduct further investigations in preparation for a hearing or for other purposes in connection with its statutory duties and [, nor shall they be construed to prohibit the] use [of] evidence obtained through [such] investigations.

(4) Conciliation agreement. If as a result of conference, conciliation, and persuasion, the investigator is able to provide for voluntary [involuntary] compliance, [and to effect the elimination of any unlawful discriminatory practice,] a conciliation agreement shall be prepared. The conciliation agreement [which] shall set forth all measures to be taken by any party, including provisions for compliance reports. The agreement [, and which] shall be signed by the respondent, the complainant and a representative of the commission.

(5) Satisfactory adjustment. Upon the signing of the conciliation agreement, the investigator shall report the same to the executive director, who shall mark the case "satisfactorily adjusted" [and notify the parties and commissioners of the terms of such disposition. Said disposition of a case by conference, conciliation, and persuasion shall not, however, preclude the commission, whenever justice so requires, from reconsidering the terms of such conciliation at any time and taking such further action as it may deem necessary on notice to the parties].

Section 4. Reconsideration. [(1)] The complainant, within ten (10) days after receiving a copy of the order dismissing the complaint, may file with the commission an application for reconsideration of the order. Such application must be in writing, stating specifically the ground on which it is based.]

[(1)] [(2)] Upon receipt of an application for reconsideration, the executive director shall designate a different investigator and the chairman may designate a different commissioner to direct the new investigation as chief investigator. [While a new investigation shall be made.]

[(2)] The investigator may consider the evidence gathered in the initial investigation. [The investigator(s) shall within ten (10) days

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~~make a new determination of whether there is probable cause to believe that the respondent has engaged in an unlawful practice.~~

~~(2) Dismissal of a complaint may be reconsidered by the commission on its own initiative at any time within 180 days after the alleged unlawful practice occurred. Notice of such reconsideration shall be provided by the commission to all parties to the initial investigation or final conciliation as the case may be.]]~~

Section 3. [5.] Notice of Hearing. (1) [When hearings ordered.

~~(a) After a finding of probable cause to credit the allegations of the complaint and in case of failure to eliminate said unlawful discriminatory practices or otherwise resolve same, the results of the investigation shall be reported to the executive director, who shall report same to the chairman, with his recommendation on scheduling a hearing.~~

~~(b)] The executive director shall schedule a hearing and report same to the chairman who shall thereupon appoint a presiding hearing commissioner and may [in his discretion] appoint one (1) or more additional hearing commissioners.~~

(2) Notice of hearing.

~~[(a) The notice of hearing shall state the time and place and shall inform the respondent that he may file an answer to the complaint.~~

~~(b) The notice of hearing on sworn complaint, as the same may have been amended, shall be served by registered or certified mail on the respondent at least ten (10) days before the date of the hearing, and the complainant, hearing commissioners and Attorney General shall be furnished a copy of such notice.~~

~~(c)] If a party is represented by an attorney, a copy of the notice of hearing and complaint, as the same may have been amended, shall be furnished to said attorney.~~

(3) Place of hearing. The place of any hearing shall be any [the] office of the commission [in Frankfort] or any [such] other place as may be designated by the commission [it]. The commission shall give consideration to a request for a change of hearing location made by the complainant or the respondent.

Section 4. [6.] Answer. (1) Filing of answer. The respondent shall [may by himself] or the respondent's [his] attorney of record answer the complaint or amended complaint. The answer shall be in writing and signed by the respondent or respondent's [his] attorney of record and filed with two (2) copies at the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m. [office of the commission in Frankfort or Louisville not less than five (5) days before the hearing date.]

(2) Content. The answer shall state in short and plain terms the defenses to each claim asserted and shall admit or deny the allegations in the complaint. A defense of lack of jurisdiction shall be specifically stated in the answer, together with a brief statement of facts upon which the respondent relies for this defense. If the respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, the answer shall contain the mailing [post-office] address of the respondent.

(3) Manner of filing. The answer may be filed by registered or certified mail addressed to the office of the commission in [Frankfort or] Louisville or by delivery to said offices.

(4) Failure to deny or admit. Failure to deny or admit an allegation in the complaint, unless the respondent shall state in the answer an absence of [that he is without] knowledge or information sufficient to

form a belief, shall be deemed an admission of [such] allegation.

(5) Defense and new matter. Any allegation of new matter contained in the answer shall be deemed denied without the necessity of a reply.

(6) Extension of time for filing. Upon application, the chairman or the presiding hearing commissioner may for good cause shown extend the time within which the answer may be filed.

(7) Amendments of answer. ~~[The answer or any part hereof may be amended as a matter of right at any time before the first hearing and thereafter in the discretion of the presiding hearing commissioner on application duly made therefor.]~~ An original with two (2) copies of the amended answer shall be filed with the commission.

~~[(8) Amendment of answer upon amendment of complaint. In any case where a complaint has been amended, the respondent shall have the opportunity to amend this answer within such period as may be fixed by the presiding hearing commissioner.~~

~~(9) Failure to file answer. The hearing commissioners may proceed, notwithstanding any failure of the respondent to file an answer within the time provided herein, to hold a hearing at the time and place specified in the notice of hearing and may make its findings of fact and enter its order upon the testimony taken at the hearing.~~

~~(10) Default. Upon application the chairman may for good cause shown, set aside a default in answering.]~~

Section 5. [7.] Hearings. (1) Appearances. Whenever practicable the complainant or the party on whose behalf the complaint was filed shall appear at the hearing, with or without counsel, the submit testimony. ~~[The respondent may appear at the hearing with or without counsel and if an answer has been filed or the default in answering has been set aside for good cause shown, may examine and cross-examine witnesses and may present evidence.]~~ The complainant, the Attorney General, and in the discretion of the presiding hearing commissioner, any person may intervene, examine and cross-examine witnesses, and present evidence.

(2) Who shall conduct. Hearings shall be conducted before one (1) or more hearing commissioners to be appointed by the chairman. In the event more than one (1) hearing commissioner is appointed, the chairman shall designate one (1) of the hearing commissioners to act as presiding hearing commissioner.

(3) Power and duties of the presiding hearing commissioner. The presiding hearing commissioner shall have full authority to control the procedure of a hearing, to admit or exclude testimony or other evidence, and to rule upon all motions and objections. The presiding hearing commissioner shall make full inquiry into all the facts in issue and shall obtain a full and complete record of all facts necessary for a fair determination of the issues. ~~[The presiding hearing commissioner may call and examine witnesses, direct the production of papers or documents, and introduce the same into the record of proceedings.]~~

(4) Procedure.

~~(a) [The case in support of the complaint shall be presented before the hearing commissioners by a commission attorney or staff member. The complainant or his counsel may also present any case in support of the complaint.~~

~~(b)] Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons [men] in the conduct of their affairs. However, irrelevant, immaterial, or unduly repetitious evidence shall be excluded and the rules of privilege shall be given effect.~~

~~[(c) All testimony shall be given under oath or affirmation, and~~

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record of the proceedings shall be made and kept.

~~(d) No testimony or evidence shall be given or received at any hearing concerning any offers or counteroffers made in an effort to conciliate any alleged unlawful discriminatory practice.~~

~~(b) [(e)] Two (2) or more proceedings under the act may be joined by the commission [in its discretion].~~

(5) Stipulations. The parties may file a stipulation as to the facts, in which event the same shall be numbered and used at the hearing. A ~~[Such]~~ stipulation shall not preclude the offering of additional evidence by any party.

(6) Continuation and adjournments. The hearing commissioners may continue a hearing from day to day or adjourn it to a later date or to a different place by announcement thereof at the hearing, or by appropriate notice to all parties.

(7) Motions and objections. Motions made during a hearing and objections with respect to the conduct of a hearing, including objections to the introduction of evidence, shall be stated in writing or orally and shall be included in the record of the hearings.

(8) Oral arguments and briefs. The presiding hearing commissioner shall permit the parties, their attorneys, or the members of the commission's staff presenting the case in support of the complaint, to argue orally before the hearing commissioners and to file briefs ~~[within such time limits as the presiding hearing examiner may determine]~~. Oral arguments shall not be included in the record unless the presiding hearing commissioner shall so direct.

(9) Improper conduct. The presiding hearing commissioner may exclude from the hearing room or from further participation in the proceeding any person who engages in improper conduct before the hearing commissioners.

(10) Waiver of hearing. With the consent in writing of the respondent and notice to all parties, an order may be entered without holding any hearing or the making of any findings of fact or conclusion of law.

(11) Public hearings. All commission hearing shall be open to the public unless the chairman or the presiding hearing commissioner~~;~~ in his discretion, directs a closed hearing.

(12) Written transcript of the record. The written transcript of the record upon the hearing before the hearing commissioners shall consist of the notice of the hearing, the sworn complaint, as the same may have been amended, the answer, as the same may have been amended, the transcript of the testimony taken at the hearing, the exhibits and depositions offered in evidence, written applications, briefs, orders, motions, oral arguments if directed by the hearing examiner, stipulations, the findings of fact, conclusions of law, and the final order of the commission.

### Section 6. ~~[8-]~~ Discovery. ~~[(4)]~~ Subpoenas.

~~[(a)] Issuance of subpoena. Whenever it is deemed necessary to compel the attendance of witnesses or the production for examination of any books, payrolls, personnel records, correspondence, documents, papers, or any other evidence relating to any matter under investigation or in question before the commission, any commissioner or the executive director may issue a subpoena or subpoena duces tecum and thereby compel such attendance of witnesses or production for examination of books, papers, and records.~~

~~[(b)] Issuance of subpoena at instance of party. Any commissioner or the executive director may issue such subpoena or subpoena duces tecum at the instance of any party to a hearing or other proceedings. The issuance of such subpoena and subpoena duces~~

tecum at the instance of a party shall depend upon a showing of the necessity therefor.

~~[(c)] Fees.~~ Where a subpoena or subpoena duces tecum is applied for and issued at the instance of any party to a hearing or other proceeding, the cost of service, witness and mileage fees, if any, shall be borne by the party at whose instance it has been requested and issued. Where a subpoena or subpoena duces tecum is issued at the instance of any commissioner or the executive director, the cost of ~~[such]~~ service, witness, and mileage fees, if any, shall be borne by the commission.

### ~~[(2)] Depositions and interrogatories.~~

~~[(a)] Depositions of witnesses, including any party may be taken as prescribed by the Kentucky Rules of Civil Procedure.~~

~~[(b)] Interrogatories. The commission may, at any time after the complaint is filed, require any party or witness to answer interrogatories. The procedure for interrogatories shall conform to the Kentucky Rules of Civil Procedure, as far as is practicable.~~

~~[(3)] Refusal to make discovery. If a person fails to permit access, fails to comply with a subpoena, refuses to have his deposition taken, refuses to answer interrogatories, or otherwise refuses to make discovery, the commission or any party may request an order of the circuit court requiring discovery.]~~

Section 7. ~~[9-]~~ Filing of Orders. ~~[(1)] Contents of order. An order of the commission issued after hearing shall set forth the findings of fact and conclusions of law of the hearing commissioners, the commission's final decision, and in the discretion of the commission, opinion containing the reasons for said decision.~~

### ~~[(2)] Issuance of orders.~~

~~[(a)] If upon all the evidence, the hearing commissioners shall find that a respondent had engaged in any unlawful discriminatory practice, the hearing commissioners shall state its finding of fact, conclusion of law and shall make a recommendation on the basis of which the commission may issue and cause to be delivered to respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action as in the judgment of the commission will carry out the purpose of the act. Affirmative action orders may include the remedies enumerated in KRS 344.230.~~

~~[(b)] If upon all the evidence, the hearing commissioners shall find that a respondent has engaged in an unlawful discriminatory practice, the hearing commissioner shall state its findings of fact, conclusion of law and shall make a recommendation on the basis of which the commission may similarly issue an order dismissing the complaint.~~

~~[(3)] Filing.] All orders issued by the commission after a hearing shall be filed in the commission's office in Louisville.~~

~~[Section 10. Reopening of Proceedings. (1) Who may open. After hearing and the issuance of a final order, the commission or the hearing commissioners may, upon its own motion or upon application of any party or intervenor, for good cause shown, or whenever justice so requires, or where an order or determination or decision was made upon default of a party affected thereby, reopen any closed proceeding upon notice of all parties, intervenors and the Attorney General, and take such action as it may deem necessary.]~~

~~[Section 11. Judicial Review. (1) Who may apply. A complainant, respondent, or intervenor aggrieved by an order of the commission, including an order dismissing a complaint or stating the terms of a~~

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conciliation agreement, may obtain an order of the court for enforcement of its order.

(2) ~~Forum.~~ A proceeding for judicial review may be brought in the circuit court in a county in which the alleged unlawful practice which is the subject of the order or complaint occurs or in which a respondent resides or had his principal place of business.

(3) ~~Filing of written transcript of the record by the commission.~~

(a) Upon receipt by the commission of a copy of the court's order so directing, the commission shall cause to be certified and delivered to the clerk of the court the entire record made before the commission, together with the findings of fact, conclusions of law and order of the commission thereon.

(b) The commission's copy of the written transcript of the record shall be available during the regular office hours of the commission to all parties for examination without cost, and for the purpose of appeal to the circuit court from the order of the commission. The commission's copy of the testimony shall, in the discretion of the commission or the chairman, also be available to intervenors and other persons for such purpose and to such extent as the commission or the chairman may determine.]

Section 8. ~~[10.]~~ [12.] Certification. The chairman[, the secretary of the commission] or the executive director is authorized and empowered to certify all documents or records which are a part of the files and records of the commission.

~~[Section 11. [13.] Availability of Rules. Rules of practice and procedure [The rules and regulations] of the commission [and any amendments, additions, or modifications thereof,] shall be available to the public at the office of the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m. [in Frankfort or at any other commission office.]]~~

Section 9. ~~[12.]~~ [14.] Construction of **Administrative Regulations** [Rules] and Pleadings. (1) **Administrative regulations** [Rules of practice and procedure] [These rules and regulations] shall be liberally construed to effectuate the purposes and provisions of KRS 334.010 to 344.450 and 344.990 [Chapter 344] and the policies of the Kentucky Commission on Human Rights.

(2) All pleadings shall be liberally construed with a view to effect justice between the parties. The [, and the commission and] hearing commissioners shall [will], at every stage of any proceeding, disregard errors or defects in the pleadings or proceedings which do not affect the substantive [substantial] rights of either [the] parties.

Section 10. ~~[13.]~~ Creation [15. Amendment] of Rules. [New] Rules of practice and procedure may be adopted, [and any rule may be] amended, or rescinded by the commission at a regular or special meeting, [, provided that] Notice of the proposed adoption, amendment, or rescission shall be [has been] given in writing to all members of the commission at least ten (10) days before the meeting [at which action is to be taken]; except that [said] ten (10) days notice shall not be required when two-thirds (2/3) of the membership of the commission shall approve in writing any [such] adoption, amendment, or rescission. Provided further, all [such] amendments and the process for amending commission administrative regulations shall comply with

KRS Chapter 13A. [Kentucky statutes governing the amendment of Kentucky administrative regulations.]

Section 11. ~~[14.]~~ [16.] General Investigations. The commission may[, in its discretion,] conduct [such] general investigations into the problems of discrimination [as it deems necessary or desirable] and may study and report upon the problems of the effect of discrimination on any field of human relationships.

EDGAR S. GOINS, Chairperson

APPROVED BY AGENCY: February 7, 1992

FILED WITH LRC: February 13, 1992 at 8 a.m.

### GENERAL GOVERNMENT CABINET Department for Commission on Human Rights (As Amended)

104 KAR 1:030. Employer records and reports.

RELATES TO: KRS Chapter 344

STATUTORY AUTHORITY: KRS 13A.100, 344.250

NECESSITY AND FUNCTION: This administrative regulation sets forth the procedure established by the Kentucky Commission on Human Rights with respect to the maintenance of employment records. [KRS 344.250 provides that persons subject to the Civil Rights Act shall make and keep records and make such reports therefrom as the commission shall require by regulation. The act provides for such records and reports to conform with federal reports, and this regulation provides that where federal employment reports are filed and timely made available to the commission, duplicate reports will not be required. Where the reports are not available through the federal government the commission reserves the right to require the information directly in its case investigations.]

[Section 1. Every employer in the Commonwealth of Kentucky who is subject to the Kentucky Civil Rights Act (KRS Chapter 344) and who is also subject to the jurisdiction of the United States Equal Employment Opportunity Commission shall file the appropriate standard employer information report Form (EEG-1-5) with the United States Equal Employment Opportunity Commission in accordance with that commission's instructions and regulations.]

Section 1. Definitions. (1) "Personnel records relevant to the complaint" means all:

(a) "Personnel or employment records of other employees holding positions similar to that held or sought by the complainant;

(b) Application or test results of other applicants for the same position; and

(c) Personnel or employment records relating to the complainant.

(2) "Final disposition of the complaint" means the expiration of the statutory period for an appeal of an administrative or judicial order.

Section 2. (1) [Required Records.] An employer [employee] may substitute federal government employee workforce breakdown report. [2. Employers subject to the jurisdiction of the United States Equal

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Employment Opportunity Commission shall not be required to furnish information to the Kentucky Commission which is duplication of that filed on the appropriate standard employer information report form (EEG-15). The Kentucky Commission on Human Rights reserves the right to require reports about the employment practices of individual employers or groups of employers, whenever such information has not been furnished to the Equal Employment Opportunity Commission. In connection with the investigation of a complaint [The commission reserves the right to require the employer to update or modify [provide such] information]

(2) If the report does [where it has not been received by the commission, or is information more than six (6) months out of date, and where the appropriate EEG form job categories do] not provide a current breakdown descriptive of the employer's actual job categories, the employer shall update or modify the information contained in the report. [the commission may require a more descriptive workforce breakdown].

[Section 3. The provisions respecting confidentiality of information contained in Section 709(e) of the United States Civil Rights Act of 1964 and KRS 344.250(6) shall be observed by all commissioners and staff of the Kentucky Commission on Human Rights.]

Section 3. [2.] Retention of Records. (1) [4.] Any personnel or employment record made or kept by an employer [(including but not necessarily limited to application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship)] shall be preserved by the employer for a period of six (6) months from the date of the making of the record or [and] the personnel action involved, whichever occurs later.

(2) [In case of involuntary termination of an employee,] The personnel records of a [the individual] terminated employee shall be kept for a period of six (6) months from the date of termination.

(3) If [Where] a complaint of discrimination has been filed, the respondent employer shall preserve all employee personnel records relevant to the complainant until final disposition of the complaint.

[(a) The term "personnel records relevant to the complaint," [for example, would] includes all personnel or employment records relating to the complainant; all personnel or employment records of any [and to] all other employees holding positions similar to that held or sought by the complainant; any [and] application or test results of [forms or test papers completed by an unsuccessful applicant or by all] other applicants [candidates] for the same position [as that for which the complainant applied and was rejected].

[(b) The date of "final disposition of the complaint" means the expiration of the statutory period for an appeal of any administrative or judicial order.] [date of the statutory period within which the complainant, the Attorney General, and the intervenor, or the commission may bring an action in the circuit court, or the date on which such litigation is terminated, whichever date is later.]

[Section 5. If a person fails to make, keep, or preserve records or make reports in accordance with this regulation, the circuit court for the county in which such person is found, resides or has his principal place of business, upon application of the commission, may issue an order requiring compliance.]

EDGAR S. GOINS, Chairperson

APPROVED BY AGENCY: February 7, 1992

FILED WITH LRC: February 13, 1992 at 8 a.m.

### GENERAL GOVERNMENT CABINET Department for Commission on Human Rights (As Amended)

#### 104 KAR 1:040. Guidelines for employment advertisement.

RELATES TO: KRS Chapter 344

STATUTORY AUTHORITY: KRS ~~[13A.100.]~~ 344.190, 344.080, 29 CFR 1604.5

NECESSITY AND FUNCTION: This regulation [pursuant to KRS 344.080 and 344.190] is designed to eliminate job advertisements [ads] which discriminate against persons covered under KRS 344.010 to 344.450 and 344.990. [on the basis of sex, as well as other coverages in the civil Rights Act. Employers may not use discriminatory language in job ads, nor may the ads be segregated under headings which discriminate. The regulation provides a procedure by which employers may obtain a "bona fide occupational qualification" exemption. Suggested substitutes for discriminatory terms are provided.]

[Section 1. It shall be a violation of KRS 344.080 for any employer, labor organization, licensing agency, or employment agency to cause to be published, printed, circulated or displayed any advertisement or notice relating to employment, employment opportunities, job openings, union membership, apprentice programs, job training programs, licensing opportunities, or any of the terms, conditions or privileges thereof under an employment advertisement or notice column which is segregated on the basis of race, color, religion, national origin, sex or age or under any column heading which expresses overtly or subtly, directly, or indirectly, any preference, specification or limitation.]

Section 1. Help Wanted Notices or Advertisements. [2.-(1) It shall be a violation of KRS 344.080 for any employer, labor organization, licensing agency, or employment agency to cause to be published, printed, circulated or displayed any advertisement or notice relating to employment, employment opportunities, job openings, union membership, apprentice programs, job training programs, licensing opportunities, or any of the terms, conditions or privileges thereof the language of which advertisement or notice expresses any limitation, specification, discrimination or preference as to race, color, religion, national origin, sex or age. A limitation, specification, discrimination or preference as to religion, national origin, sex or age is not a violation where such limitation, specification, discrimination or preference is a bona fide occupational qualification for the particular job advertised as defined in Section 2.]

(1) [(2)] An advertisement or notice shall utilize a neutral job title, term, phrase or description if the job is not a job for which sex, religion, age forty (40) to seventy (70), or national origin is not a bona fide occupational qualification.

(2)(a) "Listing of Terms Considered Discriminatory With Regard to Employment Advertising" (February, 1992) is incorporated by reference.

(b) This document may be inspected, copied, or obtained at

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the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky 40202, Monday through Friday, 8 a.m. through 4:30 p.m. [When ever a "help wanted" advertisements or notices [is to] contain any job title, terms, phrases or job description which indicate a preference [is not clearly neutral] in terms of sex, religion, age forty (40) to seventy (70) or national origin and [to] the job advertised is not one for which sex, religion, age forty (40) to seventy (70) or national origin is a "bona fide occupational qualification" [as defined in this regulation], then the advertisements or notices shall [should] instead utilize a neutral job title.] [when ever practicable. If the use of a neutral job title is not practicable, then the advertisement or notice may contain the nonneutral job title provided, however, that the advertisement or notice also includes: (i) the job title which is the counterpart of the nonneutral job title or (ii) the designation "MAW." Newspapers which print employment advertisements are encouraged to voluntarily print a box on their employment advertising pages indicating that the abbreviation "MAW" when used means men or women.]

[(2) (3)] The commission's [staff has] prepared [a] listing of terms considered discriminatory and suggested nondiscriminatory substitutes is available for review at the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m. [and make it available for the guidance of those who come under these provisions, which is filed herein by reference.]]

Section 2. (1) An employer, labor organization, licensing agency, or employment agency shall have the burden of establishing with the commission that sex, religion, age forty (40) to seventy (70), or national origin is a bona fide occupational qualification.

(2) A sex or gender-based bona fide occupational qualification shall:

(a) Be necessary for reasons of personal modesty or privacy; and

(b) Comply with EEOC "Guidelines on Job Opportunity Advertising on the Basis of Sex";

(c) This document may be inspected, copied, or obtained at the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky 40202, Monday through Friday, 8 a.m. to 4:30 p.m. It may also be obtained from EEOC, 600 Dr. Martin Luther Jr. Place, Suite 260, Louisville, Kentucky 40202. [Bona Fide Occupational Qualifications. (3.) (1) For the purpose of this regulation, [the] "bona fide occupational qualification" [exception shall include only those vocational qualifications which are reasonable necessary to the normal operation of the particular business, enterprise, or apprentice, or other training programs]. The exemption [exception] shall be narrowly construed [interpreted] so that individuals shall [will] be considered for employment on the basis of their individual capacities [and not on the basis of any characteristics generally attributable to their group]. The employer, labor organization, licensing agency, or employment agency asserting a BFOO defense has the burden of establishing with the Kentucky Commission on Human Rights that religion, national origin, sex or age between forty (40) and seventy (70) is a bona fide occupational qualification.

(2) [The application of the exception is not warranted where

based on, for example: assumptions of the comparative general employment characteristics of persons of a particular religion, national origin, sex or age, such as their turnover rate; stereotyped characteristics of the aforementioned classes, such as their mechanical ability or aggressiveness; customer, client, coworker or employer preference, or historical usage, tradition or custom, or the necessity of providing separate facilities of a personal nature, such as rest rooms or dressing rooms.] In regard to sex, the application of the exception may be authorized by the [Kentucky] commission [on Human Rights] where it can be demonstrated that gender based exclusions are necessary for reasons of personal modesty or privacy. 29 CFR 1604.5, "Guidelines on Job Opportunity Advertising on the Basis of Sex" is incorporated by reference and may be obtained or copied at the Kentucky Commission on Human Rights, 332 West Broadway, Louisville, Kentucky 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m.] [is necessary for authenticity or genuineness, such as for an actor or actress, or fitters of intimate apparel.]

Section 3. [4.] (1) A person who intends to publish, print, circulate, or display a job advertisement may request the commission to determine whether sex, religion, age forty (40) to seventy (70), or national origin is a bona fide occupational qualification for the job to be advertised.

(2)(a) Within three (3) workdays of receipt of the request, the commission shall:

1. Make a determination in writing; and

2. Forward its written determination.

(b) The determination of the commission shall be based on:

1. The specific job;

2. Whether the qualification is reasonably necessary to the normal operation of the business; and

3. All other pertinent facts. [Any person who intends to cause to be published, printed, circulated, or displayed a job advertisement [employer, labor organization, licensing agency, or employment agency] may make an inquiry of the Kentucky Commission on Human Rights, The Heyburn Building, 332 West Broadway, Suite 700 [701 West Walnut Street], Louisville, Kentucky, 40202, (502) 588-4024 or toll-free 1-800-292-5566 [585-3363; or in Frankfort, Kentucky, 828 Capital Plaza Tower, 564-3550], as to whether religion, national origin, sex or age between forty (40) and seventy (70) may be [is] a bona fide occupational qualification for a particular job [which they intend to cause to be published, printed, circulated or displayed]. The [Kentucky] commission [on Human Rights] shall, within three (3) [one (1)] working days, give written opinions in response to [such] inquiries. Whether or not an occupational qualification may be deemed to be "bona fide" to a specific job and reasonably necessary to the normal operation of the particular business will be determined on the basis of all the pertinent facts surrounding each particular situation.] [An opinion rendered orally or in writing by the commission prior to the publication or display of any advertisement in response to such an inquiry shall be binding on the commission for the purpose of this regulation, except in those instances in which the inquiry has not fully and accurately disclosed the relevant facts regarding the particular job in question. The commission shall maintain records as to each inquiry made pursuant to this section, to include the name, title and address of the inquiries, a summary of the job and job duties, the basis for the exception claimed and time, date, identification



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number and disposition of the inquiry.]

[Section 5. It shall be a violation of KRS 344.280 for any newspaper or other publication published or circulated within this Commonwealth to print, publish or circulate employment advertisements under headings or columns that are segregated on the basis of race, color, religion, national origin, sex or age or under any column or heading which expresses overtly or subtly, directly or indirectly a preference, specification or limitation on the basis of race, color, religion, national origin, sex or age.]

Section 4. [6.] Newspapers and other publications which print employment advertisements are encouraged to maintain lists of nondiscriminatory terms [and permissible substitutes] and to instruct their employees to advise advertisers of nondiscriminatory terms. [employers, labor organizations, licensing agencies, or employment agencies of these terms and to have copies of these regulations available for distribution to advertisers upon request.]

[Section 7. The use of language including but not limited to "black," "Negro," "colored," "white," "restricted," "interracial," "segregated," "Christian," "Jewish," "men," "women," "boy," "gal," "young," "under 40," or any other word, term, phrase or expression which tends to influence, persuade or dissuade, encourage or discourage, attract or repel, any person or persons because of race, color, religion, national origin, sex, or age between forty (40) and sixty-five (65) shall be considered discriminatory advertising in violation of KRS 344.080.]

Section 5. [8.] (1) In a conciliation agreement or order, the commission may include a provision requiring the term "equal employment opportunity", or a substantially similar term, in a notice or advertisement of employment or licensing opportunity.

(2) A person may use the terms specified in subsection (1) of this section in a notice or advertisement on his own authority. [Nothing contained in this administrative regulation shall be deemed to prohibit the [Kentucky] commission from including in any conciliation agreements or [of its] orders [against any respondent employer, labor organization, licensing agency, or employment agency] a provision requiring a person [said respondent] to include in any advertisement or notice of [regarding any] employment or licensing opportunity the term "equal employment opportunity," or any substantially similar term. Nor shall this administrative regulation be deemed to prohibit persons from voluntarily using the term "equal employment opportunity," or any substantially similar term in any notice or advertisement.]

[Section 9. The Kentucky Commission on Human Rights will follow the above guidelines in determining whether or not a general advertisement or advertising practice violates KRS Chapter 344.]

EDGAR S. GOINS, Chairperson

APPROVED BY AGENCY: February 7, 1992

FILED WITH LRC: February 13, 1992 at 8 a.m.

### GENERAL GOVERNMENT CABINET Department for Commission on Human Rights (As Amended)

#### 104 KAR 1:050. Guidelines on discrimination because of sex, religion, employment selection, and national origin.

RELATES TO: KRS 344.010 to 344.450, 344.990, 29 CFR 1604.1 to 1604.4, 1604.6 to 1604.11, 1605.1 to 1605.3, 1606.1 to 1606.8, 1607.1 to 1607.16 [Chapter 344]

STATUTORY AUTHORITY: KRS 13A.100, 344.190, 29 CFR 1604.1-1604.11, 1605, 1607

NECESSITY AND FUNCTION: [Pursuant to KRS 344.020 which states the purpose of the chapter to provide for execution within Kentucky of the various federal civil rights acts and KRS 344.190, this regulation adopts the guidelines on religious discrimination, the guidelines on sex discrimination, and the guidelines on employment testing of the Equal Employment Opportunity Commission.] This regulation is designed to give Kentucky employers and employees the benefit of consistent interpretations of law by the Kentucky Commission on Human Rights, the Equal Employment Opportunity Commission [EEOC], and the federal courts.

Section 1. Religious Discrimination. [29 CFR 1605.] [The] EEOC "Guidelines on [religious] Discrimination because of Religion" is [promulgated by the United States Equal Employment Opportunity Commission as last amended on July 10, 1967, which appears in 29 CFR 1605, are adopted and] incorporated by reference and may be obtained or copied at the Kentucky Commission on Human Rights, 332 West Broadway, Suite 700, Louisville, Kentucky, 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m.

Section 2. Sex Discrimination. [29 CFR 1604.] [The] EEOC "Guidelines on Sex Discrimination Because of Sex" is [promulgated by the United States Equal Employment Opportunity Commission as last amended on November 10, 1980, which appears in 29 CFR 1604.1 through 1604.11 excepting Section 1604.5 on job opportunities advertising which subject is already covered by 104 KAR 1:040, are adopted and] incorporated by reference. A copy may be inspected, copied, or obtained or copied at the Kentucky Commission on Human Rights, 332 West Broadway, Suite 700, Louisville, Kentucky, 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m.

Section 3. Employment Selection Procedure. [29 CFR 1607.] EEOC "Uniform [The] Guidelines on Employee Selection Procedure" is [employment testing issued by the United States Equal Employment Opportunity Commission, as last amended on July 21, 1970, which appears in 29 CFR 1607, are adopted and] incorporated by reference and may be obtained or copied at the Kentucky Commission on Human Rights, 332 West Broadway, Suite 700, Louisville, Kentucky, 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m.

Section 4. National Origin Discrimination. [29 CFR 1606] EEOC "Guidelines on National Origin Discrimination" is incorporated by reference and may be inspected, copied, or obtained at the Kentucky Commission on Human Rights, 332 West Broadway, Suite 700,



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Louisville, Kentucky, 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m.

EDGAR S. GOINS, Chairperson

APPROVED BY AGENCY: February 7, 1992

FILED WITH LRC: February 13, 1992 at 8 a.m.

### GENERAL GOVERNMENT CABINET Department for Commission on Human Rights (As Amended)

#### 104 KAR 1:060. Records and reports for multiple dwelling developments and reporting form.

RELATES TO: KRS Chapter 344

STATUTORY AUTHORITY: KRS 13A.100, 13A.120, 344.190(10), (11), 344.250(2)

NECESSITY AND FUNCTION: [As provided in KRS 344.250.] This administrative regulation establishes the requirements governing records and submission of annual reports by owners of multiple dwelling developments covered by KRS 344.360. [requires the owner of apartment buildings with twenty five (25) or more units to keep records and to file annual reports with the commission indicating their racial occupancy and application experience. The information obtained is used by the commission in accordance with KRS 344.190(10) and (11) to provide technical assistance to the real estate industry to facilitate compliance with the fair housing provisions.]

#### Section 1. Definitions. [As used in this rule:]

(1) "Multiple dwelling [apartment] developments" means one (1) or more buildings situated:

(a) At the same general location and either [of] operated under one (1) management or with ownership in common; or

(b) Two (2) or more [than one (1)] buildings located [situated in various locations] within the Commonwealth of Kentucky if they are under the same management or are owned by the same person or persons.

(c) The building(s) shall contain in the aggregate at least twenty-five (25) units;

(d) It shall include, but not be limited to, an apartment building [or buildings], garden apartment, townhouse, or [and] condominium.

(2) "Racial designation" means white, black, or [and] other.

(3) "Leaseholder" means the party with whom the landlord has entered into an agreement [contracted] for the apartment rental. [whether] The agreement may [contracting] be either oral or written [orally or in writing]. It shall include the name of the [any] sublettee or assignee of the agreement if [contract where] notice or approval of subletting or assignment is a condition of the agreement [contract].

(4) "Apartment turnover" means a change of leaseholder or purchaser.

(5) "Applicant" means any person who, for the purpose of either renting or purchasing a unit within a multiple dwellings development, appears before either the owner, leaser, agent or other principal or operator [of a multiple apartment development for the purpose of renting or purchasing an apartment].

[(6) Unless the context indicates to the contrary all terms used in this rule have the same meaning as in KRS Chapter 344.]

Section 2. Persons required to report. The owner [or owners] of any [every] multiple dwelling [apartment] development which has [have] twenty-five (25) [units] or more units shall file an annual report with the Kentucky Commission on Human Rights. The report shall contain both [concerning] the racial composition of each occupant of the multiple development including [dwelling and] factors affecting the composition. Where there are multiple owners of a development and the development is operated as one (1) unit, a consolidated report may be filed. The manager, agent, or any other person responsible for management [of apartments] may file for the owner. Reports for condominiums shall be filed by the development manager.

Section 3. Multiple Dwelling Report. [Form and contents of report:] The report shall be submitted on the "Multiple Dwelling Report" (February, 1992 edition) form incorporated by reference. This form may be obtained or copied at [approved by] the Kentucky Commission on Human Rights, the Heyburn Building, 332 West Broadway, Suite 700, Louisville, Kentucky, 40202, Monday through Friday, between the hours of 8 a.m. and 4:30 p.m. A "Suggested Form for Recording Applicant Information" is also incorporated by reference. [in accordance with Exhibit A; and said forms shall be available at any office of the Kentucky Commission on Human Rights.]

Section 4. Filing of reports. One (1) copy of the "Multiple Dwelling Report" shall be filed with the Kentucky Commission on Human Rights by July 1, of each year. The "Multiple Dwelling Report" shall include cumulative information for a period of one (1) year prior to the month of filing. [The commission may waive submission of all or a part of a report for hardship situations as provided in KRS 344.250(4). The executive director of] The commission may [in his discretion] postpone or waive the filing of any required report [required under this rule].

Section 5. Maintenance of records. The owner [or owners] of the multiple dwelling [apartment] development shall [be responsible to have] maintain[ed at all times] the following records:

(1) Racial designation of each applicant for an apartment;

(2) Racial designation of each new apartment leaseholder or purchaser;

(3) Racial designation of each new leaseholder or purchaser;

(4) Apartment rental or sales recruiting techniques [employed]; and

(5) All [Such other records as the Kentucky Commission on Human Rights determines is necessary to effectuate the purpose of KRS Chapter 344. Such] records shall be kept on file for a period of two (2) years and shall be available [produced] for inspection and review upon request between the hours of 8 a.m. and 4:30 p.m. [of the Kentucky Commission on Human Rights during business hours.]

[Section 6. Violation. If a person fails to make, keep or preserve records or make reports in accordance with this regulation, the circuit court for the county in which such person resides, or has his principal place of business, upon application of this commission in accordance with KRS 344.250(7), may issue an order requiring compliance.]

EDGAR S. GOINS, Chairperson

APPROVED BY AGENCY: February 7, 1992

FILED WITH LRC: February 13, 1992 at 8 a.m.

## ADMINISTRATIVE REGISTER - 3188

### GENERAL GOVERNMENT CABINET State Board of Accountancy (As Amended)

#### 201 KAR 1:100. Continuing professional education requirements.

RELATES TO KRS 325.330

STATUTORY AUTHORITY: KRS 325.240

NECESSITY AND FUNCTION: This regulation pertains to continuing professional education requirements for renewal of the permit to practice public accounting in the state.

Section 1. Definitions. ~~[(4)]~~ A continuing professional education hour means a fifty (50) minute period excluding meals, breaks and business sessions. For university or college courses, each unit of credit shall equal the following continuing education contact hours: semester hour equals fifteen (15) CPE hours; quarter hour equals ten (10) CPE hours.

~~[(2) The practice of public accounting means anyone performing or offering to perform one (1) or more types of services specified in KRS 325.220(6), even when otherwise employed on a full-time basis in another capacity].~~

Section 2. Requirements for Continuing Education Credit. (1) At permit renewal on or before July 1, 1991:

(a) Each permit holder shall report to the board successful completion of twenty (20) hours of continuing professional education earned during the 1990 calendar year.

(b) Upon successful completion of the continuing professional education and all other renewal requirements, one-half (1/2) of the licensees shall receive a one (1) year permit to practice; the remaining half shall receive a two (2) year permit to practice.

(2) At permit renewal on or before July 1, 1992, ~~[(2)]~~

~~[(a)]~~ each permit holder renewing the one (1) year permit to practice whose primary occupation at the time of renewal is with a public accounting firm which is or should be registered by the board or who performs audits or reviews [and who engaged in the practice of public accounting at any time during the 1991 calendar year] shall report to the board successful completion of forty (40) hours of continuing professional education earned during the 1991 calendar year. All others shall obtain thirty (30) hours.

~~[(b) Each permit holder renewing the one (1) year permit to practice who did not engage in the practice of public accounting at any time during the 1991 calendar year shall report to the board successful completion of thirty (30) hours of continuing professional education earned during the 1991 calendar year.]~~

(3) Effective with permit renewal on or before July 1, 1993 and subsequent years, ~~[(2)]~~

~~[(a)]~~ each permit holder whose primary occupation at the time of renewal is with a public accounting firm which is or should be registered by the board or who performs audits or reviews ~~[who engaged in the practice of public accounting at any time during the preceding two (2) calendar years]~~ shall report to the board successful completion of eighty (80) hours of continuing professional education earned during the preceding two (2) calendar years. All others shall obtain sixty (60) hours.

~~[(b) Each permit holder who did not engage in the practice of public accounting at any time during the preceding two (2) calendar~~

~~years shall report to the board successful completion of sixty (60) hours of continuing professional education earned during the preceding two (2) calendar years.]~~

Section 3. Each permit holder who held a certificate and a permit to practice for less than a full two (2) calendar year ~~[permit]~~ period shall be required to obtain three (3) hours of continuing professional education for each full month a permit was held not to exceed the total number of required hours for the reporting.

~~[Section 4. Requests for Extensions of Time to Complete Continuing Professional Education Requirements. (1) A request for an extension shall be in writing, state sufficient cause supported by attached statements from physicians or other appropriate sources, and be submitted with the renewal fee.~~

~~(2) Sufficient cause means medical, psychological, financial or personal problems which have prohibited the permit holder from obtaining the necessary continuing education hours. Extensions may not be granted because of heavy workloads or desire to attend a later course.~~

~~(3) Following a review of the request, a ninety (90) day extension until September 30 may be given and a new permit shall be issued. The permit holder shall submit documentation or certify course completion on or before September 30.~~

~~(4) No further extensions may be granted.]~~

Section 4. ~~[(6)]~~ Waivers From Continuing Professional Education.

(1) The request for a waiver from the continuing professional education requirements shall be submitted on a form provided by the board.

(2) Waivers may be granted by the board if the permit holder meets one (1) of the following:

(a) Is physically or psychologically unable to complete the continuing professional education requirements and submits statements from licensed physicians or other appropriate authorities; or

(b) Has encountered a severe personal hardship which has made it extremely difficult or impossible to meet the continuing professional education requirements and such hardship has been described in writing on the waiver form; or

(c) Is completely retired from practice and is fifty-five (55) years of age or older. Completely retired means not performing accounting services in the practice of public accounting, education, government or industry except for management of personal assets or investments. [Is retired or not performing accounting services for a fee or salary and is fifty-five (55) years of age or older. Retired means cessation of employment from the practice of public accounting or employment in government, education or industry with the exception of managing personal assets or investments.]

(3) The board shall respond in writing, accepting or rejecting all waiver requests. Rejections shall specify the reasons for the rejection.

(4) All permit holders granted waivers shall reaffirm the basis of the waiver when the permit to practice is next renewed.

(5) If the circumstances which form the basis of the waiver change, the permit holder shall notify the board within thirty (30) days from the date of the change and resume compliance with the continuing professional education requirements from the date of the change.

Section 5. ~~[(6)]~~ Programs Which Qualify. (1) The overriding

consideration in determining whether a specific program qualifies as acceptable continuing education shall be whether it is a formal program of learning which contributes directly to the professional competence of an individual licensed to practice as a certified public accountant in this state.

(2) Continuing professional education programs may qualify only if:

(a) An outline of the program is prepared in advance and preserved; and

(b) The program is at least one (1) continuing professional education hour in length; and

(c) The program is conducted by a qualified instructor. A qualified instructor or discussion leader means anyone whose background training, education or experience makes it appropriate for him to lead a discussion on the subject matter of the particular program; and

(d) A record of registration or attendance is maintained and a course completion document is given to the attendee.

(3) Acceptable subject matter.

(a) The following general subject matters are acceptable if the programs meet the criteria established by this regulation: accounting and auditing; taxation; management services; computer science; communication arts; mathematics; statistics; probability and quantitative applications in business; economics; business law, functional fields of business - finance, production, marketing, personnel relations, business management and organizations; specialized areas of industry (i.e., real estate, farming, etc.); administration practice (i.e., engagement letters, personnel, etc.).

(b) Areas other than those listed in paragraph (a) of this subsection may be acceptable if the permit holder can demonstrate that they contribute to his professional competence. The responsibility for substantiating that a particular program is acceptable and meets the requirements rests solely upon the registrant.

(4) Acceptable programs. The following group programs qualify for credit if they meet the standards specified in this regulation: professional education and development programs of national, state and local accounting organizations; technical sessions at meetings of national, state and local accounting organizations and their chapters; university or college courses (both credit and noncredit courses); formal in-firm education programs; programs of other organizations (accounting, industrial, professional, etc.); and firm meetings for staff or management groups which are structured as formal education programs. Portions of such meetings devoted to the communication and application of general professional policy or procedure may qualify. However, portions devoted to firm administrative, financial and operating matters shall not qualify.

(5) Formal individual study programs. The amount of credit to be allowed for correspondence and formal individual study programs, including taped study programs, shall be recommended by the program sponsor based upon one-half (1/2) the average completion time under appropriate field tests. Permit holders claiming credits for such correspondence or formal individual study courses shall obtain evidence of satisfactory completion of the course from the program sponsor. Evidence of satisfactory completion in this section means a sponsor verification of completion of a workbook or examination on the subject matter. Credit shall be allowed in the renewal period in which the course was completed.

(6) Service as lecturer, discussion leader, or speaker. Instructors, discussion leaders and speakers may claim continuing professional education credit for both preparation and presentation time. Credit

may be claimed for actual preparation time up to two (2) times the class contact hours. Credit as an instructor, discussion leader or speaker may be claimed if the session is one which would meet the continuing professional education requirements of those attending. No credit shall be granted for repetitious presentations of group programs unless it can be demonstrated that the program content was substantially changed and such change required significant additional study or research. Maximum credit for such preparation and teachings shall not exceed sixty (60) percent of the renewal period requirement.

(7) Published articles, books. Credit may be awarded for published articles or books provided they contribute to the professional competence of the individual. Credit for preparation of such publications may be given on a self-declaration basis up to twenty-five (25) percent of the total education hours required. In exceptional circumstances, a permit holder may request additional credit by submitting the article or book to the board with an explanation of the circumstances which he feels justifies a greater credit. The board shall determine the amount of credit to be granted.

Section 6. [7-] Reporting and Controls. (1) Primary responsibility for documenting the requirements rests solely with the permit holder, and evidence to support fulfilling those requirements shall be retained for a period of five (5) years after completion of educational courses.

(2) The board shall verify on a test basis, information submitted by permit holders for renewal of their permit to practice.

(3) If an application for permit renewal is not approved, the permit holder shall be notified and he may be granted a period of time by the board in which to correct the deficiencies noted. Permit holders shall provide a statement of completion of the required education requirements under penalty of perjury on forms designated by the board.

(4) Course completion evidence shall be a document indicating participation in a formal program of learning which includes:

(a) Name of sponsor; and

(b) Title and description of course content; and

(c) Dates attended; and

(d) Location; and

(e) Number of continuing professional education contact hours.

Section 7. [8-] Preapproved Continuing Professional Education Sponsors. (1) All program sponsors may preregister with the board on an advance approval form which constitutes an agreement between the sponsor and the board that the programs sponsored shall conform to the continuing professional education regulations. All programs and subject areas not covered by this regulation shall have separate approval by the board. Detailed records of each program shall be kept by the sponsor which shall include:

(a) The date and location of the program presentation; and

(b) The names of each instructor or discussion leader; and

(c) A listing of licensees attending each program presentation; and

(d) A written outline of the program presentation.

(2) Records shall be kept by the sponsor for a period of five (5) years following the date each program is presented.

The sponsors of approved programs may advise attendees of such approval and the number of hours of continuing education credit allowable.

(3) The failure by sponsors to comply with the regulations of the board may result in revocation of approval of programs and such action may be made public to all permit holders. The board may

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select an advisory committee on continuing education and request permit holders to participate as members in the capacity of offering advice on the acceptability of such programs.

(4) Sponsors who have been approved for the Continuing Professional Education Registry of the National Association of State Boards of Accountancy may be considered as approved sponsors for the purposes of this regulation.

JOHN A. THOMPSON, President

APPROVED BY AGENCY: February 13, 1992

FILED WITH LRC: February 13, 1992 at 2 p.m.

### TOURISM CABINET Department of Fish and Wildlife Resources (As Amended)

**301 KAR 2:047. [~~Specified areas~~] Seasons, limits for upland game birds, furbearers and small game on specified wildlife management areas and refuges.**

RELATES TO: KRS 150.010, 150.015, 150.021, 150.025, 150.092, 150.170, 150.175, 150.180, 150.300, 150.340, 150.360, 150.370, 150.399, 150.400, 150.410, 150.415, 150.416, 150.417, 150.990

STATUTORY AUTHORITY: KRS 13A.350, 150.015, 150.021, 150.025

NECESSITY AND FUNCTION: This regulation pertains to the hunting seasons, bag and possession limits for upland game birds, furbearers and animals on specified wildlife management areas and refuges. This regulation is necessary for the continued protection of these species and to insure a permanent and continued supply of wildlife resources for present and future residents of the state. The function of this regulation is to provide for the prudent taking of upland game birds, furbearers and small game [animals] within reasonable limits based upon an adequate supply. This amendment is necessary because of changes in season dates and the opening or closure of certain wildlife management areas to hunting.

Section 1. All provisions of 301 KAR 2:250 shall apply to wildlife management areas and refuges unless specifically exempted pursuant to Section 3 of this regulation [~~exceptions are listed~~].

Section 2. Any person, except waterfowl hunters, using a wildlife management area during periods when firearms are allowed for deer hunting shall wear hunter orange garments of a solid unbroken pattern as outer coverings on at least the head, chest and back. Any mesh weave opening shall not exceed one-fourth (1/4) inch by any measurement. Garments may display a small section of another color provided the section does not significantly obscure the hunter orange color of the garment. Camouflage pattern hunter orange garments do not meet these requirements.

Section 3. [2.] Exceptions to 301 KAR 2:250 for Wildlife Management Areas and Refuges. (1) West Kentucky Wildlife Management Area located in McCracken County.

(a) Quail and rabbit: November 1 through January 31 on Tracts 2, 3, 6 and 7; January 1 through 10 or January 1 until maximum

acceptable harvest levels have been reached as determined from hunter use data on Tracts 1, 4 and 5. Signs announcing closure will be posted at the hunter check station at least twenty-four (24) hours prior to the closure.

(b) Squirrel (gray and fox): from the third Saturday in August [~~opening of Western zone squirrel season~~] through December 31 [~~October 31~~] on Tracts 1 through 7, [~~6~~ November 1 through December 31 on Tract 6 only.]

(c) Raccoon and opossum: tracts 1 through 7 [~~6 only~~]. [~~There is no~~] Shakeout season is closed on this area.

(d) All hunters and dog trainers shall check in and out daily at the designated check station.

(e) Hunting is prohibited on all tracts designated by numbers followed by the letter "A". [~~All tracts designated by numbers followed by the letter "A" are closed to hunting.~~]

(f) [~~No~~] Rifles or ball or slug ammunition of any type [~~shall be allowed~~] for taking small game is prohibited.

(g) Unleashed dogs are prohibited April 1 until [~~through~~] the third Saturday in August [~~opening of Western Zone squirrel season~~], except during permitted field trials.

(h) [~~Tract 6 is closed to~~] Vehicular traffic on Tract 6 is prohibited February 1 through April 16.

(i) [~~There shall be no~~] Upland game bird, small game or furbearer hunting, trapping or unleashed dogs are prohibited [~~allowed~~] during periods when breech-loading firearms are allowed for deer hunting [~~the deer quota hunts~~].

(2) Land Between the Lakes Wildlife Management Area (LBL) located in Trigg and Lyon Counties. Areas open to hunting for the following species are located north of the state line to Barkley Canal, except that [~~no~~] hunting is prohibited [~~allowed~~] in developed public use areas, safety zones and posted areas unless otherwise noted:

(a) Squirrel (gray and fox): from the third Saturday in August [~~opening of Western Zone squirrel season~~] through the fourth Friday in September [27], December 1 through January 31; and during deer archery season only by legally licensed and equipped deer archery hunters.

(b) Quail and rabbit: December 1 through the third Sunday in February [~~last day of February~~].

[~~(c) Rabbit: December 1 through the last day of February.~~]

(c) [~~(d)~~] Raccoon and opossum: Tuesday, Thursday, Friday and Saturday nights only during the period December 1 through January 31. Daily bag limit one (1) person per night. Raccoon and opossum hunters shall check in and out nightly at designated check station. Harvest report cards shall be displayed in vehicle windshield while hunting and submitted at the check station upon completion of each night's hunt. Season shall be closed in some hunt areas as posted at designated hunter check stations.

(d) [~~(e)~~] Field trials: September 1 through March 31. Scheduled basis only. Written requests shall be received by LBL at least ten (10) days prior to the proposed hunt date. Approval shall be obtained from LBL and the Department of Fish and Wildlife Resources First District Captain [Supervisor]. Field trials shall be recognized club hunts and each participant shall be on a club roster for that hunt.

(e) [~~(f)~~] Fox chasing: from sunset to sunrise; third Saturday in August through the third Saturday in September south of Highway 68 to state line.

(f) [~~(g)~~] Fox (gray and red) and bobcat taking: gun and archery on December 1 through January 31.

(g) [~~(h)~~] Groundhog: daylight hours only. March 15 through March

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31 and during the LBL deer archery season only by legally licensed and equipped deer archery hunters. All harvested animals shall be removed from the area. Gun hunting is prohibited in Hunt Area 8 and in that portion of Hunt Area 9 designated as the ORV area.

(h) ~~(h)~~ Coyote: daylight hours only by legally licensed hunters during any LBL open season with weapons specified for that season.

(i) ~~(i)~~ Bird dog, beagle and raccoon hound training season: during the entire month of October only in areas designated in the LBL Hunting and Angling Guide.

(j) ~~(j)~~ All dogs shall wear a collar bearing the owner's name, address, and telephone number. Dogs shall not be used for hunting October 1 through November 11, except in authorized field trials and designated dog training hunt areas.

(k) ~~(k)~~ Trapping for furbearers (including bobcats).

1. No person ~~[Only those persons issued trapping permits]~~ shall trap furbearers on LBL without a trapping permit. Permits shall be issued by public drawing, with unissued permits made available on a first-come first-served basis.

2. Authorized trappers shall trap in assigned areas only and shall report their harvest in accordance with LBL instructions.

3. Trapping season: January 4 ~~[7]~~ through January 17 ~~[20]~~ for all furbearers.

4. Trapping devices. No. 3 or smaller foothold traps, padded foothold traps and snares without self-locking devices are permitted. The jaws of No. 1 1/2 and larger foothold traps used on land shall be offset three-sixteenths (3/16) inch or be padded foothold traps. Water sets are restricted to No. 3 or smaller foothold traps, padded foothold traps, No. 330 or smaller Conibear-type traps, and nonlocking snares.

(l) ~~(m)~~ Bobcat: bobcats may ~~[shall]~~ be taken only by gun, archery or trapping.

1. The limit is two (2) bobcats per person per season by any legal method.

2. The bobcat harvest quota is twenty-four (24). Should it be determined that the quota of twenty-four (24) bobcats will ~~[shall]~~ be filled prior to January 31, the season shall close. ~~[Notice shall be given]~~ A minimum of twenty-four (24) hours notice of the time and date of closure shall be given ~~[in advance of the time and date of closing]~~.

3. All bobcats shall be tagged before leaving LBL and within forty-eight (48) hours of harvest. Bobcats shall be tagged by LBL personnel upon presentation of the entire animal, skinned or unskinned, at LBL check stations, Golden Pond Administrative Office, or Patrol Office.

4. Bobcats shall be taken by hunting or by calling during daylight hours only. Callers shall use only hand or mouth operated calls.

(m) ~~(n)~~ Weapons restrictions. The use of crossbows, center-fire rifles, center-fire handguns, and shotguns with slugs or shot larger than BBs is prohibited for the taking of all species listed in this subsection except that groundhogs may be taken with center-fire rifles during the specified spring season.

(3) Reelfoot National Wildlife Refuge located in Fulton County.

(a) Squirrel (gray and fox): fourth Saturday in August through October 15 only in areas designated by signs as open to public hunting.

(b) Raccoon: four (4) consecutive nights beginning on the last Wednesday in September and four (4) consecutive nights beginning on the first Wednesday in October on the Long Point Refuge unit, with hunting allowed only during the hours of 7:30 p.m. to 12 midnight. No bag or possession limits.

(c) Hunters shall check in and out at designated check stations.

(4) Ballard Wildlife Management Area located in Ballard County. Areas designated by signs are closed to hunting.

(5) Central Kentucky Wildlife Management Area located in Madison County.

(a) This area is closed to all upland game bird, furbearer and small game hunting except squirrel.

(b) Unleashed dogs are prohibited April 1 until [through] the third Saturday in August ~~[opening of the Western Zone squirrel season]~~, except during permitted field trials. In addition, unleashed dogs are limited to Tuesdays, Thursdays, Saturdays and Sundays, except for permitted field trials.

(c) Furbearers shall be taken by trapping only. All trappers shall obtain written permission from the area manager.

(d) All hunters and dog trainers shall check in and out daily at the designated check station.

(6) Curtis Gates Lloyd/Mullins Wildlife and Recreation Area located in Grant and Kenton Counties.

(a) Areas closed to hunting are designated by refuge signs.

(b) Quail and rabbit: November 1 through January 31 except during periods when breech-loading firearms are allowed for deer hunting ~~[the deer gun season]~~.

(c) Unleashed dogs are prohibited April 1 until [through] the third Saturday in August ~~[opening of the Western Zone squirrel season]~~, except during permitted field trials.

(d) All hunters and dog trainers shall check in and out daily at the designated check station.

(7) Pioneer Weapons Wildlife Management Area located in Bath and Menifee Counties. Hunters on this area shall use ~~[are restricted to]~~ pioneer weapons only. These include muzzle-loading rifles, muzzle-loading pistols, muzzle-loading shotguns, longbows, recurve bows or compound bows and crossbows. Muzzle-loading shotguns for taking squirrels, quail, grouse and rabbits shall not be used with shot larger than No. 2.

(a) Unleashed dogs are prohibited March 1 through August 31 except during permitted field trials.

(b) Breech-loading firearms shall be unloaded in both the chamber and magazine unless possessed by authorized personnel.

(8) Fort Campbell Wildlife Management Area located in Christian and Trigg Counties. There shall be no hunting on Tuesdays or Wednesdays except when Tuesday or Wednesday is a federal holiday or as follows: December 18-19 and 26. There shall be no hunting on December 25 and January 1.

(a) Seasons, bag and possession limits.

1. Squirrel (gray and fox): third Saturday in August through the last day in January. ~~[August 17 through September 27, November 28 through December 13, December 14 through 31 on selected areas; January 2 through January 31.]~~

2. Quail: Thanksgiving day through the last day of February ~~[November 28 through December 13, December 14 through 31 on selected areas; January 2 through February 29].~~

3. Rabbit: Thanksgiving day through the last day of February; ~~[November 28 through December 13, December 14 through 31 on selected areas; January 2 through February 29;]~~ bag limit five (5); possession limit ten (10).

4. Raccoon, foxes and opossum: taking with gun or dogs, Thanksgiving day through the last day of January; ~~[November 28 through December 13, December 14 through 31 on selected areas; January 2 through February 29;]~~ limit one (1) per person.

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5. Coyote and groundhog: May 13 through August 17 and during any other authorized hunt.

(b) Permission shall be obtained for each hunt at building #6645 and hunters shall stay within their assigned area. Hunters shall obtain a hunting permit costing fifteen (15) dollars [is required].

(c) All hunters between the ages of twelve (12) and eighteen (18) shall possess a valid hunter safety certificate.

(9) Clay Wildlife Management Area located in Nicholas County.

(a) Quail and rabbit: November 1 through December 31.

(b) Grouse: October 1 through December 31.

(c) Squirrel (gray and fox): Saturday preceding Labor Day [First Saturday in September] through December 31.

(d) All hunters and dog trainers shall check in and out daily at the designated check station.

(e) Unleashed dogs are prohibited March 1 through August 31 except during permitted field trials.

(f) ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting, trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during deer quota hunts.]

(10) Pine Mountain Wildlife Management Area located in Letcher County. Unleashed dogs are prohibited March 1 through August 31 except during permitted field trials.

(11) Dewey Lake Wildlife Management Area in Floyd County, Paintsville Lake Wildlife Management Area in Johnson and Morgan Counties, Fishtrap Lake Wildlife Management Area in Pike County and Redbird Wildlife Management Area in Clay and Leslie Counties.

(a) Squirrel (gray and fox): Saturday preceding Labor Day [First Saturday in September] through December 31.

(b) Grouse: October 1 through December 31.

(c) Quail and rabbit: November 1 through December 31.

(d) Furbearer: the tenth day after the second Saturday in November through [Closes] December 31.

(e) ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting or trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed when these areas are open to deer gun hunting.]

(f) Unleashed dogs are prohibited March 1, through August 31 except during permitted field trials.

(g) Shotguns only.

(h) Shakeout season is closed on these areas.

(12) Beaver Creek Wildlife Management Area located in McCreary and Pulaski Counties, Mill Creek Wildlife Management Area in Jackson County and Cane Creek Wildlife Management Area in Laurel County and all private in-holdings within these areas.

(a) Squirrel (gray and fox): Saturday preceding Labor Day [First Saturday in September] through December 31.

(b) Grouse: October 1 through December 31.

(c) Quail and rabbit: November 1 through December 31.

(d) Furbearer: December 5 through December 31. All trappers shall obtain and complete a harvest survey form obtained from the area manager.

(e) ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting or trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed when these areas are open to deer gun hunting.]

(f) Unleashed dogs are prohibited March 1 through August 31 except during permitted field trials.

(g) Shakeout season is closed on these areas.

(13) Higginson-Henry Wildlife Management Area located in Union County.

(a) Quail and rabbit: November 1 through January 31.

(b) Unleashed dogs are prohibited April 1 until [through] the third Saturday in August, [opening of the Western Zone squirrel season] except during permitted field trials.

(c) All hunters and dog trainers shall check in and out daily at the designated check station.

(d) ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting, trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during deer quota hunts.]

(14) Yellowbank Wildlife Management Area located in Breckinridge County.

(a) Quail and rabbit: November 1 through January 31.

(b) All hunters and dog trainers shall check in and out daily at the designated check station.

(c) Unleashed dogs are prohibited April 1 until [through] the third Saturday in August, [opening of the Western Zone squirrel season] except during permitted field trials.

(d) ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting, trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during deer quota hunts.]

(e) Areas within Tract 1 designated by signs are closed to all hunting, fishing, boating and trespassing from October 15 through March 15.

(15) Kleber Wildlife Management Area located in Owen and Franklin Counties.

(a) Quail and rabbit: November 1 through January 31.

(b) All hunters and dog trainers shall check in and out daily at the designated check station.

(c) Unleashed dogs are prohibited April 1 until [through] the third Saturday in August, [opening of the Western Zone squirrel season] except during permitted field trials.

(d) ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting, trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during deer quota hunts.]

(16) Westvaco Public Hunting Areas. Persons hunting on Westvaco Public Hunting Areas shall possess a valid Westvaco Hunting Permit.

(17) Sloughs Wildlife Management Area located in Henderson and Union Counties. Frank Sauerheber Unit: areas designated by signs are closed to all hunting, fishing, boating and trespassing from October 15 through March 15.

(18) Peal Wildlife Management Area located in Ballard County.

(a) Squirrel (gray and fox): third Saturday in August through the Friday before the second Saturday in November [deer gun season] and the tenth day after the second Saturday in November [the day following the deer gun season] through December 31.

(b) Furbearer hunting: twenty (20) day taking season commencing the tenth day after the second Saturday in November. [day following the deer gun season. There is no] Shakeout season is closed on this area.

(c) Furbearer trapping: December 1 through 10; water sets only; trappers selected by drawing conducted by the area manager.

(d) Quail and rabbit: November 1 through January 31.

(e) ~~[There shall be no]~~ Upland game bird, small game or furbearer



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hunting or trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during the deer gun season.]

(19) Big South Fork National River and Recreation Area located in McCreary County.

(a) Squirrel (gray and fox): Saturday preceding Labor Day [first Saturday in September] through December 31.

(b) Grouse: October 1 through December 31.

(c) Quail and rabbit: November 1 through December 31.

(d) Unleashed dogs are prohibited March 1 through August 31 except during permitted field trials.

(e) ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting or trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during the deer gun season.]

(20) Taylorsville Lake Wildlife Management Area in Spencer, Anderson and Nelson Counties.

(a) East of Van Buren Boat Ramp. Areas closed to all hunting, fishing, boating and trespassing the day after the deer quota hunt through March 15 are designated by refuge signs.

(b) Quail and rabbit: November 1 through January 31.

(c) ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting or trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during the deer quota hunts.]

(21) Fleming Wildlife Management Area located in Fleming County.

(a) Quail and rabbit: November 1 through December 31.

(b) Grouse: October 1 through December 31.

(c) Squirrel (gray and fox): Saturday preceding Labor Day [first Saturday in September] through December 31.

(d) Unleashed dogs are prohibited March 1 through August 31 except during permitted field trials.

(e) ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting or trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during the deer gun season.]

(22) Grayson Lake Wildlife Management Area in Carter and Elliott Counties.

(a) Areas designated by signs are closed to hunting.

(b) Quail and rabbit: November 1 through December 31.

(c) Grouse: October 1 through December 31.

(d) Squirrel (gray and fox): Saturday preceding Labor Day [first Saturday in September] through December 31.

(e) Unleashed dogs are prohibited March 1 through August 31 except during permitted field trials.

(f) ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting or trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during deer quota hunts.]

(g) All hunters and dog trainers shall check in and out daily at a designated check station.

(23) Robinson Forest Wildlife Management Area located in Breathitt, Perry and Knott Counties is closed to all hunting.

(24) Lake Cumberland Wildlife Management Area - All Kentucky Department of Fish and Wildlife Resources managed lands on the north side of Lake Cumberland.

(a) Grouse: October 1 through December 31.

(b) Quail and rabbit: November 1 through December 31.

(c) Unleashed dogs are prohibited March 1 through August 31 except during permitted field trials.

(d) ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting or trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during deer gun season.]

(25) Green River Lake Wildlife Management Area in Taylor and Adair Counties.

(a) Quail and rabbit: November 1 through January 31.

(b) Grouse: closed to hunting.

(c) Unleashed dogs are prohibited March 1 through August 31 except during permitted field trials.

(d) ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting or trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during deer gun season.]

(26) Barren River Wildlife Management Area in Allen and Barren Counties ~~[and Nolichucky Reservoir Wildlife Management Area in Edmonson, Grayson and Hart Counties].~~

(a) Quail and rabbit: November 1 through January 31.

(b) ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting or trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during deer gun season.]

(27) Yatesville Wildlife Management Area located in Lawrence County.

(a) All hunters and dog trainers shall check in and out daily at a designated check station.

(b) Areas designated by signs are closed to all hunting, fishing, boating and trespassing.

(28) Daviess County Wildlife Management Area located in Daviess County.

(a) Area closed to hunting and trapping for upland game birds, small game and furbearers.

(b) Unleashed dogs are prohibited April 1 until [through] the third Saturday in August [opening of the Western Zone squirrel season] except during permitted field trials.

(29) Fort Knox Wildlife Management Area located in Bullitt, Meade and Hardin Counties.

(a) Furbearer: trapping is prohibited.

(b) Unleashed dogs are prohibited April 1 until [through] the third Saturday in August [opening of the Western Zone squirrel season] except during permitted field trials.

(c) Area requirements.

1. Permission to hunt shall be obtained for each hunt at the hunt control office.

2. ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting or trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during deer gun hunts.]

3. Hunters shall stay in their assigned areas.

4. All hunters thirty-seven (37) years of age and younger shall possess a valid hunter safety certificate.

5. Pistols, center fire rifles and crossbows are prohibited.

6. Vehicles are prohibited off maintained roads, except as otherwise authorized.

7. All firearms shall be unloaded while in a vehicle, being carried in a nonhunting area, during nonhunting hours or after a hunter has taken the legal game bag limit.



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(30) Pennyrile Forest Wildlife Management Area located in Christian, Caldwell and Hopkins Counties and Tradewater Wildlife Management Area located in Christian and Hopkins Counties. ~~[There shall be no]~~ Upland game bird, small game or furbearer hunting, trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting. [allowed during deer quota hunts.]

(31) Nolin Reservoir Wildlife Management Area in Edmonson, Grayson, and Hart Counties.

(a) Quail and rabbit: November 1 through January 31.

(b) Upland game bird, small game or furbearer hunting, trapping or unleashed dogs are prohibited during periods when breech-loading firearms are permitted for deer hunting.

DON R. McCORMICK, Commissioner

DAVID H. GODBY, Chairman

BRENDA FRANK, Acting Secretary

APPROVED BY AGENCY: December 3, 1991

FILED WITH LRC: January 14, 1992 at 3 p.m.

### ECONOMIC DEVELOPMENT CABINET Department of Business Development (As Amended)

#### 306 KAR 1:020. Application process.

RELATES TO: KRS 154.660

STATUTORY AUTHORITY: KRS 154.680(4) ~~[278-280(2)]~~

NECESSITY AND FUNCTION: This administrative regulation is being amended to comply with the deficiencies found during quadrennial review by the Task Force on Economic Development. [KRS 154.660 et seq. establishes and directs the Enterprise Zone Authority of Kentucky to organize and regulate the implementation of the Enterprise Zone Act.] This administrative regulation sets forth the procedures by which an application is to be made [and the application process used by the authority in the administration of this program]. This administrative regulation also established a procedure to alter [after] the zone's boundary.

Section 1. Application Process. (1) The authority shall make ~~available~~ application forms.

(2) As part of the application review process, the authority may:

(a) Require applicants to submit oral presentations;

(b) Inspect and evaluate the proposed zone area; and

(c) Request additional information as they deem necessary.

~~[devise application forms and shall review each application as submitted by the applicant and request such additional information as they deem necessary. Subsequent to said review, the authority may require oral presentations by the applicants and may visit the proposed zone area.]~~

(3) ~~[(2)]~~ Failure of an applicant to receive a designation does not preclude future applications ~~[application in the following years.]~~

FRANK A. CLAY, JR., Chairman

APPROVED BY AGENCY: February 14, 1992

FILED WITH LRC: February 14, 1992 at noon

### ECONOMIC DEVELOPMENT CABINET Department of Business Development (As Amended)

#### 306 KAR 2:010. Economic development bond project reporting requirements.

RELATES TO: KRS Chapter 152

STATUTORY AUTHORITY: KRS Chapters 13A, 152

NECESSITY AND FUNCTION: KRS Chapter 152 provides that all economic development bond projects shall be presented to the General Assembly Capital Projects and Bond ~~[Oversight]~~ Committee (hereinafter "committee") for review and recommendation prior to the issuance of bonds. This administrative regulation is being amended to comply with the deficiencies found during quadrennial review by the Task Force on Economic Development. [This regulation establishes requirements for the reporting of information to the committee by the Economic Development Cabinet (hereinafter "cabinet").]

Section 1. Definitions of terms or phrases used in this regulation relating to the issuance of economic development bonds are the same as those stated in applicable sections of KRS Chapter 152.

Section 2. The cabinet shall submit the following information to the committee prior to its consideration of economic development bond projects:

(1) A copy of the written commitment from the public or private organization which has requested state bonds and a copy of the final proposed written agreement between the cabinet and the public or private organization requesting state bonds;

(2) The project estimated job creation and job retention;

(3) The estimated percentage of public and private local involvement;

(4) The projects estimated payback and contribution in retiring the associated debt obligation;

(5) The amount of the proposed funding;

(6) The terms of repayment including the interest rate, term, and schedule of payments;

(7) An explanation of the funding terms;

(8) The degree to which the project would compete with similar businesses within the area;

(9) A list of the principal owners, partners, and stockholders that own twenty (20) percent or more of the business, and of the officers and directors of the project to be funded.

Section 3. A written report shall biennially be submitted by the cabinet with the budget request that includes the amount of economic development bond fund proceeds still available, the amount of interest earned on unused proceeds, any refundings of economic development bonds, a list of loans, grants or other forms of assistance made and to whom, the original and remaining amount of each loan, the principal and interest repaid in that fiscal year and the disposition of these funds.

Section 4. The cabinet shall annually prepare and submit to the committee a written report which evaluates each economic development bond fund project which has been funded by said cabinet under the criteria stated in Section 2 of this regulation. This report shall

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evaluate in summary fashion the nature of the financing provided on each project and compliance of the organization that requested state bonds with the agreement it entered into with the cabinet. This report shall also delineate the amounts paid back from projects and the remaining balance outstanding.

PAUL E. PATTON, Chairman

APPROVED BY AGENCY: February 14, 1992

FILED WITH LRC: February 14, 1992 at noon

### TRANSPORTATION CABINET Department of Vehicle Regulation Division of Motor Carriers (As Amended)

#### 601 KAR 1:040. Application for operating authority.

RELATES TO: KRS Chapter 281

STATUTORY AUTHORITY: KRS 281.600, 281.620 ~~[281.640]~~

NECESSITY AND FUNCTION: This regulation describes the procedure to follow in applying for intrastate operating authority in the Commonwealth.

Section 1. ~~[(4)]~~ Kentucky Intrastate Authority. (1) All applications for operating authority to engage in Kentucky intrastate commerce shall be made on the forms prescribed and furnished by the department and shall be accompanied by a filing fee of twenty-five (25) dollars. The required form, "Application for Authority" form TC 93-13 effective March ~~[February]~~, 1992 ~~[November, 1994]~~ is incorporated by reference as a part of this regulation. All applications for operating authority to engage in Kentucky intrastate commerce shall be made on the forms prescribed and furnished by the department and shall be accompanied by a filing fee of twenty-five (25) dollars. All applications and exhibits shall be filed in duplicate with answers typewritten or printed legibly in ink. Each question shall be fully answered and all instructions with the application shall be read and fully complied with.

(2) When the applicant is a corporation ~~[that has never held operating authority in Kentucky]~~, a copy of the corporation's certificate of good standing from the Secretary of State in the jurisdiction in which it was incorporated ~~[and if a foreign corporation, a certificate to do business in Kentucky from the Kentucky Secretary of State]~~ shall be submitted with the application. This certification ~~[Neither of these certifications]~~ shall be no more than thirty (30) days old at the time the application is submitted to the department. ~~[articles of incorporation shall be filed as part of the application.]~~

(3) The application shall be accompanied by the applicant's financial statement prepared in accordance with 601 KAR 2:010.

(4) All applications shall ~~[must]~~ be sworn to by the applicant or a responsible official acting for the applicant. No hearing shall be called or authority issued upon an incomplete application.

(5) The form TC 93-13 may be obtained free of charge from the Transportation Cabinet's Office of General Counsel located on the tenth floor of the State Office Building, 501 High Street, Frankfort, Kentucky 40622. Their hours of operation are 8 a.m. until 4:30 p.m., local prevailing time on days state government is working. The telephone number is (502) 564-7650.

Section 2. ~~[(2)]~~ Temporary Authority Applications. (1) ~~[(a)]~~

Applications for temporary authority shall be made to the department by petition filed in duplicate. The ~~[which]~~ petition shall set forth the facts relied on by the applicant as showing an immediate and urgent need for the authority sought. All existing carriers having authority to perform the proposed service between any of the points sought in the petition shall be fully identified and the authority of each as affected by the application shall be stated. The applicant shall have the burden of proof in showing that any ~~[and/or all]~~ existing carriers with authority are not capable of meeting the need for service. In lieu of meeting this burden, applicant may submit a waiver from each carrier authorized to serve the area sought or any part thereof by filing a letter from each of the ~~[such]~~ carrier waiving any objection to the temporary grant of authority.

(2) There shall also be filed with the ~~[such]~~ petition verified statements from a supporting shipper or shippers. The supporting statement shall contain at least the following information:

(a) Name and address of the motor carrier who has filed the application for temporary authority;

(b) Statement of character and reputation of the applicant and a brief history of the applicant's work history, including any experience in providing transportation services;

(c) Name, address and interest of each person filing a supporting affidavit;

(d) Description of the specific commodity or passengers to be transported;

(e) Points or areas to, from, or between which the commodities or passengers are to be transported. An estimate of the volume of traffic that will be involved and the frequency of this traffic. If service is needed to or from a territory or area rather than a specific point, a description of the territory or area and evidence of a need to justify the territorial grant of authority is required;

(f) A statement of how the transportation service, if any, is now obtained and how it was obtained in the past;

(g) How soon the transportation service is needed and the reasons for the time limit;

(h) How long the need for the transportation service likely will continue and if the person making the supporting statement would support a permanent service application;

(i) Statement of the consequences if this transportation service is not made available and the circumstances which create an immediate and urgent need for the requested service; and

(j) Whether efforts have been made to obtain the service from existing motor carriers and the dates and results of these efforts; name and address of all existing carriers who have either failed or refused to provide the service; and the reasons given for the failure or refusal. ~~[describing the commodity or commodities to be transported, the frequency of the need for service, the approximate volume of freight to be transported and that there is no available service, or if there is available service, that same is not capable of meeting the need, and if same is not capable of meeting the need, the reasons therefor and the particulars thereof shall be stated.]~~

(3) ~~[(b)]~~ If there are no ~~[not]~~ existing carriers with authority within the scope and area of the application, if all existing carriers with authority within the scope and area of the application issue waivers for the issuance of temporary authority, if there are unusual and emergency conditions, or if the application is for temporary approval under KRS 281.632(2), the department may issue temporary authority without following any of the requirements listed above.

(4) ~~[(c)]~~ If no application for corresponding permanent authority is

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made, applications for temporary authority shall be accompanied by a filing fee of twenty-five (25) dollars and the financial statement of the applicant prepared in accordance with 601 KAR 2:010.

Section 3. Application for Approval of Transfer of Certificate or Permit. (1) All applications for approval to transfer a certificate or permit issued by the Department of Vehicle Regulation authorizing Kentucky intrastate commerce shall be made on the forms prescribed and furnished by the department and shall be accompanied by a filing fee of twenty-five (25) dollars. The "Application for Approval of Transfer of Certificate of Permit" form TC 93-17, effective March [February], 1992 [November, 1994] is incorporated by reference as a part of this regulation. All applications and exhibits shall be filed in duplicate with answers typewritten or printed legibly in ink. Each question shall be fully answered and all instructions with the application shall be read and fully complied with.

(2) When the applicant is a corporation, a copy of the corporation's certificate of good standing from the Secretary of State in the jurisdiction in which it was incorporated [and if a foreign corporation, a certificate to do business in Kentucky from the Kentucky Secretary of State] shall be submitted with the application. This certification [Neither of these certificates] shall be no more than thirty (30) days old at the time the application is submitted to the department.

(3) The application shall be accompanied by the transferee's financial statement prepared in accordance with 601 KAR 2:010. All applications shall be sworn to by the applicant or a responsible official acting for the applicant. No hearing shall be called or authority issued upon an incomplete application.

(4) A copy of the executed transfer agreement and a copy of the certificate or permit sought to be transferred shall accompany the application.

(5) If the application is for the transfer of contract carrier authority, a copy of the contract to be transferred and a duly executed assignment by the original shipper shall be attached to the application.

(6) The form TC 93-17 may be obtained free of charge from the Transportation Cabinet's Office of General Counsel located on the tenth floor of the State Office Building, 501 High Street, Frankfort, Kentucky 40622. Their hours of operation are 8 a.m. until 4:30 p.m., local prevailing time on days state government is working. The telephone number is (502) 564-7650.

Section 4. [2-] Interstate Operating Authority. (1) All for-hire carriers shall before engaging in the interstate transportation of persons or property in Kentucky secure from the department a certificate or permit authorizing this [such] interstate transportation. All applications for this [such-a] certificate or permit shall be made on the forms prescribed and furnished by the department and shall be accompanied by a filing fee of twenty-five (25) dollars. The form, TC 95-12, effective October, 1985, "FORM A, Uniform Application for Registration of Operating Authority Issued by ICC or Those Carriers Exempt from ICC Regulations". The application shall be accompanied by a copy of the applicant's operating authority issued by the Interstate Commerce Commission, except where the [such] transportation activities are exempted from federal regulation, in which event the application shall be for authority to transport persons or property under the particular exemption or exemptions of the Federal Motor Carrier Act.

(2) All applications and exhibits shall be typewritten or printed legibly in ink. Each question shall be fully answered and all instructions

with the application shall be read and fully complied with. All applications must be sworn to by the applicant or a responsible official acting for the applicant.

(3) The department may issue a Kentucky interstate common carrier certificate, a Kentucky interstate irregular route common carrier certificate, and a Kentucky interstate contract carrier permit, all pursuant to the interstate authority. In the event the carrier is engaged solely in transportation activities exempted by federal law from regulation, the department shall issue any qualified applicant a Kentucky interstate irregular route common carrier certificate or permit restricted to the [such] federally exempted activities as may be appropriate.

(4) The form TC 95-12 may be obtained free of charge from the Transportation Cabinet's Department of Vehicle Regulation, Division of Motor Carriers located on the third floor of the State Office Building, 501 High Street, Frankfort, Kentucky. Their mailing address is Division of Motor Carriers, Qualification/Permit Branch, P.O. Box 2007, Frankfort, Kentucky 40602. Their hours of operation are 8 a.m. until 4:30 p.m., local prevailing time on days state government is working. The telephone number is (502) 564-4540.

Section 5. [3-] Contract Carrier Permit; Intrastate. All applications for operating authority to engage in intrastate commerce as a contract carrier shall be made on the form[s] incorporated by reference in Section 1 of this regulation [furnished and prescribed by the department] and shall be accompanied by a filing fee of twenty-five (25) dollars and be in conformity with this administrative regulation [601 KAR 1:040] and 601 KAR 1:045. Each application shall include two (2) copies of the contract [or contracts] under which the applicant desires to operate. The contracts shall [must] be executed by the applicant and shipper, and shall set out, among other things, the rates applicable and the extent and scope of the activity covered by the contract and the minimum amount of freight to be shipped. Reference to a published common carrier tariff shall not be acceptable in defining rates or compensation. At least one (1) of the contract copies shall have original signatures. The extent of the authority of the contract carrier permit shall [will] be limited to the scope of the contract [or contracts] on file with the department, made a part of the permit and be briefly set out on the vehicle identification card carried in the vehicle operated by the contract carrier.

Section 6. [4-] Kentucky Intrastate Authority by a Single State Operator who Intends to Register with the ICC. [(4-)] All applications for a certificate of public convenience and necessity authorizing motor common carrier operations in the transportation of property or passengers in intrastate commerce, by an applicant who [which also states that applicant] is a single state operator but also [-] desires to engage in transportation in interstate and foreign commerce shall file a copy of its final Interstate Commerce Commission authority with the application for intrastate authority. [and requests that the application be filed with the Interstate Commerce Commission, Washington, DC, for a motor carrier certificate of registration, shall be made on forms prescribed and furnished by the cabinet, and shall be accompanied by a filing fee of twenty-five (25) dollars, and in all other respects fully comply with 601 KAR 1:040.]

[(2) All applications, pursuant to 601 KAR 1:040, shall be filled out not less than thirty-five (35) days before the date of a hearing with the cabinet. On or before the first day of the thirty-five (35) day period, the clerk of the Office of General Counsel shall assign the application

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~~a docket number and set the same on a day certain for hearing and shall immediately prepare, sign and mail a notice of the filing of the application for publication in the Federal Register under Section 206(a)(6) of the Interstate Commerce Act as amended October 15, 1962, the same to be sent to the Bureau of Operating Rights, Interstate Commerce Commission, Washington, DC, and otherwise shall proceed to give notice in the usual manner to all intrastate carriers and other parties as now required by KRS 281.625 and the regulations of the department.}~~

~~{(3) When applications are made under this section of the regulations, the same shall be reported and transcribed in accordance with 601 KAR 1:030 for compliance with Part 1100 General Rules of Practice, Interstate Commerce Commission, Section 1100.00. Provisions for copies of the record shall be made with the reporter in advance of the same being transcribed at the cost of the party requesting the same.}~~

~~{(4) Pursuant to the same section of the above mentioned general rules of practice, protests by interstate carriers shall be filed and placed in the docket, and all inquiries for information made by such carriers shall be promptly answered, and requests for copies shall be handled in accordance with 601 KAR 2:040. All protests or other filings shall be made in the form and manner prescribed by 601 KAR 2:040.}~~

LEWIS H. DOTSON, Commissioner

DON C. KELLY, Secretary

APPROVED BY AGENCY: March 2, 1992

FILED WITH LRC: March 6, 1992 at 10 a.m.

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

#### 704 KAR 3:006. Annual performance reports and standards of student, program, service, and operational performance.

RELATES TO: KRS 158.6453, 158.650 to 158.710

STATUTORY AUTHORITY: KRS 156.160, 158.6453, 158.650, 158.685

NECESSITY AND FUNCTION: KRS 158.650 to 158.710 mandate a program of annual performance reports, educational improvement plans, performance standards, and assistance and various sanctions by the Department of Education pursuant to regulations of the State Board for Elementary and Secondary Education. This regulation implements the state board duty to promulgate administrative regulations.

Section 1. (1) The annual performance report which KRS 158.650 requires each local school district to publish shall be submitted to the State Board for Elementary and Secondary Education by September 15 of each year and shall be published in the newspaper with the largest circulation in the county by October 1. The purpose of the October 1 publishing requirement is to inform the public in each school district regarding the operation and performance of each school district.

(2) The annual performance report shall include local district data for the following factors:

(a) Student data. Results of the [biennial] state-mandated testing program; results of Scholastic Aptitude Test and American College Board Test; dropout rate; retention rate; percentage of average daily attendance; number and percentage of students entering the workforce, military service, going to college or other postsecondary training; number and percentage of students with disabilities receiving specially designed instruction and related services according to individual education programs; and percentage of enrollment classified as economically deprived shall be reported and published.

(b) Staff data. Percentage of attendance by professional staff; student/teacher ratio; teacher/administrator ratio; salary data by rank; the number of teachers teaching out of their field of specialty and the number of classes taught by teachers out of their field of specialty; and average cost per professional staff for staff development activities shall be reported and published.

(c) Management data. Transportation cost per pupil transported; current expenses per pupil in average daily attendance; cost per pupil for instruction; cost per pupil for administration; percentage of district revenue received from local, state and federal sources; local revenue per child in average daily attendance; assessed property value per child in average daily attendance; and district goals for the succeeding year shall be reported and published.

Section 2. Each local district board of education shall achieve and maintain minimum performance standards established by the State Board for Elementary and Secondary Education in student, program, service and operational performance, as follows:

(1) Program and service performance standards. A local school district shall have a deficiency in program and service performance when one (1) or more of the following standards are not met:

(a) The local school district and each school within the district shall be in compliance with all applicable federal and state statutes and regulations and with federal, state, and local ordinances pertaining to the health and safety of pupils, faculty, and staff of the school district.

(b) Each local district board of education shall adopt and implement, by September 1, 1992, a continuous student assessment program designed to monitor student progress toward attaining the valued outcomes as defined by the state board. The continuous assessment program shall include but not be limited to at least one (1) of the following assessment strategies: performance tasks, portfolios, open-ended questions, and multiple choice questions.

(c) The local school district and schools within that district providing vocational education programs shall meet the requirements as established in 705 KAR 4:230, general program standards for secondary vocational education programs, and shall meet any additional requirements imposed by federal or state law.

(d) The local school district and schools within that district shall have special education programs and related services for children and youth who have educational disabilities. These programs and services shall meet the requirements of 707 KAR Chapter 1 programs for exceptional children, and shall meet any additional requirements imposed by federal or state law.

(e) The local school district and each school within the district shall, by July 1, 1992, have policies and procedures to assist in the reduction of physical and mental health barriers to learning. The policies and procedures shall provide for:

1. Systematic efforts to define and identify physical and mental health barriers to learning which may impede the successful attain-

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of the goals and capacities specified in KRS 158.645 and 158.6451:

2. Systematic screening of students to identify physical and mental health barriers impacting the learning of individual students;

3. Referral of students for medical, educational, social, mental health, and family support services, including prevention, evaluation and intervention, in in-school and district programs and public and nonpublic agencies;

4. Coordination with existing community, regional, and state resources for provision of services to students; and

5. Development of a written plan to assist in reducing physical and mental health barriers to learning which includes:

a. A systematic needs assessment process to provide current data for long-term and annual planning, including data on the service needs of the district and its schools' student population;

b. Strategies and activities designed to reduce physical and mental health barriers to learning; and

c. Evaluation of the implementation of the plan and effectiveness of the activities and strategies for reducing the identified physical and mental health barriers to learning.

(2) Student performance standards. The determination of district performance and individual school performance within the district shall be based on data collected through an individual student identification system. A local school district shall have a deficiency in student performance when one (1) or more of the following standards are not met, after any applicable percentage figures are rounded to the nearest one-tenth (.1) of one (1) percent:

(a) Academic performance. Academic performance shall be based on student performance, and standards shall be established by administrative regulation, based on the Council on School Performance Standards' definition of the statutory goals in measurable terms under KRS 158.6451, once that task is completed.

(b) Attendance standard. The percentage of attendance shall be calculated by dividing the aggregate days attendance by the aggregate days membership. The local school district shall achieve an annual attendance rate of ninety-four (94) percent or above.

(c) Dropout standard. The dropout rate shall be defined as the annual percentage of students leaving school prior to graduation in grades 7-12 and include withdrawals in attendance accounting codes W6 (child turns sixteen (16) years of age and drops out), W10 (pupil discharged), W11 (drop out on account of marriage), and W14 (drop out on account of birth of child). The local school district shall achieve an annual dropout percentage equal to or less than five (5) percent.

(d) Completion rate. The percentage of first grade students completing the 12th grade, with this standard to be established by administrative regulation after the implementation of an individual student identification system.

(e) Retention rate. The percentage of the schools' pupils who are retained shall decrease each year until the percentage retained in the district does not exceed four (4) percent.

(f) Transition to work, postsecondary education and military. The annual percentage of the district's students completing a program of studies who enter the workforce, postsecondary training, or military service shall equal seventy-five and four-tenths (75.4) percent or above.

(3) Operational performance standards. A local school district shall have a deficiency in operational performance when one (1) or more of the following standards are not met. By October 1 of each year each school district shall be notified regarding their performance

according to the previous year data.

(a)1. The total cost of maintenance and operation of a school district, less the cost of salaries, shall not have a deviation of more than one and one-tenth (1.1) standard deviation above the average per pupil per year costs as compared to the statewide average for comparably sized school districts.

2. Line item codes, excluding salaries that deviate significantly (more than one and one-tenth (1.1)) above state averages for comparably sized school districts shall be reason for the state department to provide consultation to assist the district in eliminating the line item deviation.

3. The following average daily attendance ranges shall constitute the size groups within which county and independent districts are placed for comparative deviation analysis:

County Districts	Independent Districts
10,000 and up	16,000 and up
5,000 to 9,999	900 to 1,599
3,000 to 4,999	500 to 899
2,200 to 2,999	0 to 499
1,500 to 2,199	
0 to 1,499	

4. Approval for major deviations (more than one and one-tenth (1.1) standard deviation) due to renovations, improvements, and additional programs with long-range planning requirements may be authorized annually by the Commissioner of Education.

(b)1. The adjusted total cost of transportation of a school district, as defined in 702 KAR 5:020 shall not have a deviation of more than one and one-tenth (1.1) standard deviations above the per pupil per year cost of transported pupils as compared with the statewide average for comparable density school districts.

2. Line item codes, excluding salaries that deviate significantly (more than one and one-tenth (1.1) standard deviations) in a district above the [applicable] state average cost per mile shall be cause to be provided Department of Education consultation to promote efficiency.

3. The buses in operation in a school district, less the spare units, shall have a load capacity of students that shall not vary more than one and one-tenth (1.1) standard deviations as compared with statewide comparable density averages. Approval shall be authorized by the Commissioner of Education for contract buses prior to the beginning of each school year.

4. The following transported pupil density per square mile of area served shall constitute the size groups within which county and independent districts are placed for comparative deviation analysis:

County Districts	Independent Districts
0 - 4.0	0 - 15.0
4.1 - 5.0	15.1 - 30.0
5.1 - 6.0	30.1 - 50.0
6.1 - 7.0	50.1 - 70.0
7.1 - 9.0	70.1 - 100.0
9.1 - 12.0	100.0 - 150.0
12.1 - 16.0	150.1 - 200.0
16.1 - 40.0	All over 200
40.1 - 75.0	
All over 75	

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5. Approval for major deviations (more than one and one-tenth (1.1) standard deviations), due to major single year improvements of equipment or vehicles, or implementation of new, expanded or required programs, may be authorized annually by the Commissioner of Education.

Section 3. (1) Local school districts failing to attain a minimum performance level on one (1) standard as defined in Section 2 of this regulation shall be identified as having a deficiency and shall prepare a district improvement plan to correct the deficiency.

(2) Local school districts failing to attain a minimum performance level on two (2) or more standards as established in Section 2 of this regulation shall be identified as failing to meet minimum student, program, service or operational standards pursuant to KRS 158.685(2).

Section 4. ~~[3-]~~ (1) The Kentucky Department of Education shall identify and present to the state board for formal declaration those districts failing to meet minimum student, program, service or operational standards as defined in Section 3 ~~[2]~~ of this regulation.

(2) The performance of districts failing to meet minimum standards and such other information as may be required by this regulation shall be reviewed by the Educational Improvement Advisory Committee quarterly.

Section 5. ~~[4-]~~ (1) The State Board for Elementary and Secondary Education shall declare a school district to be educationally deficient when, in any school year, the district fails to meet ~~[any of the]~~ minimum student, program, service, or operational standards as defined in Section ~~3(2)~~ ~~[2]~~ of this regulation.

(2) Each local school district declared educationally deficient by the State Board for Elementary and Secondary Education shall submit a district improvement plan for approval to the state board, within thirty (30) working days from the date of declaration. The district improvement plan as adopted by the local board shall address each deficiency area in accordance with KRS 158.650, 158.685, and 158.710. The initial plan shall address a period of not less than twelve (12) months.

Section 6. ~~[6-]~~ The Commissioner of Education shall determine the extent of and provide appropriate consultation and assistance to any school district which has been declared educationally deficient by the State Board for Elementary and Secondary Education. These services shall be provided in accordance with KRS 158.685(3) and shall be included in the contract of services required in KRS 158.685(3).

Section 7. ~~[6-]~~ Failure by an educationally deficient school district to meet the process goals, interim performance goals, or timeliness set in the district improvement plan shall constitute grounds for the Commissioner of Education to initiate action in accordance with KRS 158.685(4).

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the State Board for Elementary and Secondary Education, as required by KRS 156.070(4).

THOMAS C. BOYSEN, Commissioner

JOSEPH W. KELLY, Chairman

APPROVED BY AGENCY: January 10, 1992  
FILED WITH LRC: January 10, 1992 at 4 p.m.

### WORKERS' COMPENSATION BOARD Department of Workers' Claims (As Amended)

803 KAR 25:011. Procedure ~~[in applications]~~ for adjustments of claims.

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS Chapter 13A, 342.260

NECESSITY AND FUNCTION: KRS 342.260 requires the Workers' Compensation Board to prepare such rules and regulations as it considers necessary to carry on its own work and the work of the administrative law judges and for carrying out the provisions of KRS Chapter 342. The function of this proposed administrative regulation is to regulate practice and procedure before the administrative law judges and the Workers' Compensation Board.

Section 1. Definitions. (1) "Board" means the Workers' Compensation Board created pursuant to KRS 342.215(1).

(2) "Commissioner" means the individual employed by the board pursuant to KRS 342.230(2).

(3) "Administrative law judge" means an individual appointed pursuant to KRS 342.230(3).

(4) "Employer" means and includes individuals, partnerships, voluntary associations and corporations.

(5) "An employer who has not secured payment of compensation" means any employer who employs covered employees as defined by KRS 342.640 but has not complied with KRS 342.340.

(6) "Date of filing" means the date a pleading, motion, or other document is received by the board at its office in Frankfort, Kentucky.

Section 2. Parties. (1) The parties to any application for adjustment of claim filed with the board pursuant to KRS 342.270 shall be designated as "plaintiff" and "defendant." The party filing the original application in such proceedings shall be designated as the "plaintiff" and the adverse party (parties) as "defendant" ("defendants").

(2) All parties shall join as plaintiffs in whom any right to any relief pursuant to KRS Chapter 342, arising out of the same transaction or occurrence, is alleged to exist. If any such person should refuse to join as a plaintiff, he shall then be joined as a defendant, and the fact of his refusal to join as a plaintiff shall be pleaded.

(3)(a) All persons shall be joined as defendants against whom the ultimate right to any relief pursuant to KRS Chapter 342 may exist, whether jointly, severally, or in the alternative. The administrative law judge to whom the matter is assigned may order upon a proper showing that any additional party be joined when the administrative law judge deems the presence of the party necessary or that any party be dismissed when the administrative law judge deems the presence of the party unnecessary.

(b) The special fund shall be joined as a defendant in accord with the provisions of KRS 342.120.

(c) Additional parties may be joined upon motion made as soon as practicable after legal grounds for joinder are known. The administrative law judge may, in his discretion, overrule any motion for joinder which is untimely made. Upon joinder of an additional party,



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a copy of the file shall be served on the party joined as ordered by the administrative law judge. Upon order of the administrative law judge, the commissioner shall provide notice of the joinder to the party joined.

Section 3. Pleadings. (1) Any application for adjustment of claim for compensation, answer, or ~~and~~ other pleading shall be typewritten, and the printed forms prescribed by the board shall be used whenever applicable. All forms shall be furnished by the commissioner to any person who requests them, without charge.

(2) The original application for adjustment of claim shall be fully completed and filed in triplicate with the commissioner. The original and sufficient copies for serving all named parties and the administrative law judge shall be furnished. The commissioner shall serve the application upon all named parties other than the plaintiff by first class mail. The commissioner shall return unfiled to the plaintiff or his attorney any application which is not fully completed or which does not have attached all forms required to be filed with the application. If the application is resubmitted in proper form within twenty (20) ~~ten (10)~~ days of the date it was returned by the commissioner, the filing date shall relate back to the date the application was first received by the commissioner. Otherwise, the second date of receipt shall be the filing date.

(3) All pleadings filed with the commissioner subsequent to the original application shall include the certificate of the party or attorney who filed the pleading stating the date and manner of service of a copy of the pleading upon the other parties. Service of these pleadings shall be made in one of the ways provided by Rule 5.02, Kentucky Rules of Civil Procedure. Copies of all pleadings filed after the application has been assigned to an administrative law judge and the parties have received notice of the assignment shall also be served upon the administrative law judge at his office address, and the certificate of service shall so show. Service of all pleadings and transcripts of proof by deposition upon the administrative law judge and the commissioner is required.

~~(4) If issues not raised by the pleadings are tried by express or implied consent of the parties, they may be treated in all respects as if they had been raised in the pleadings. Amendment of the pleadings necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after opinion, award, or order, but not later than the time within which a petition for reconsideration may be filed. The claim or defense asserted in the amended pleading shall relate back to the date of the original pleading.~~

Section 4. Motions. (1) Every application for an order of the administrative law judge shall be by typewritten motion, served and filed in the manner prescribed by Section 3(3) of this regulation. The party filing a motion shall tender with the motion a proposed order granting the relief requested by the motion.

(2) When a motion is filed, the party may file with it a short memorandum supporting the motion, and the opposing party may file a short memorandum in reply. No further memoranda in support of a motion may be filed.

(3) Every motion, the grounds of which depend upon the existence of facts not appearing in evidence at the time of the filing of the motion, shall be supported by affidavits evidencing such facts, which shall be served and filed with the motion. Contrary affidavits may likewise be served and filed by the opposing party.

(4) Every motion, the grounds of which depend upon the existence of one (1) or more facts which the movant contends are shown in evidence or are admitted by the pleading of the adverse party, shall contain a reference to the hearing transcript, or deposition transcript, or medical report containing the evidence and to the page where it is to be found, or to the pleading containing the admission.

(5) A motion may be considered by an administrative law judge ten (10) days after the date of filing of the motion. A response to a motion will be considered if filed prior to the tenth day after the date of filing of the motion.

(6) Every motion for the allowance of an attorney's fee shall be served upon the adverse party and also upon the attorney's client and the fact of such service certified as provided in Section 3(3) of this regulation. Every motion for the allowance of an attorney's fee shall set forth the amount of money requested and the percentage of the award represented by the fee. Every motion shall be accompanied by an affidavit of the attorney setting forth in detail the services rendered and the amount of time expended. Every motion shall also be accompanied by a completed Form 109 signed by the attorney and his client, and notarized, as required by KRS 342.320(3). Every motion for allowance of an attorney's fee shall be submitted within thirty (30) days following finality of the last appealable order of the administrative law judge.

Section 5. Application for Adjustment of an Injury Claim. (1) The original application for adjustment of injury claim (Form 101) shall be filed with the following attachments:

- (a) A complete work history of the plaintiff (Form 104);
- (b) A complete relevant medical history of the plaintiff (Form 105);
- (c) One (1) medical report describing the injury which is the basis of the claim; and
- (d) A signed waiver and consent to release relevant medical information in compliance with KRS 342.020(4) (Form 106).

The medical report required to be filed under paragraph (c) of this subsection may consist of the notes of a treating physician and other materials provided by the physician so long as the notes and materials are legible. Medical reports presented in this form and not on Form 107 shall not be considered as the direct testimony of a physician through a medical report pursuant to KRS 342.033, except that the administrative law judge may, in his discretion, permit the introduction of a medical report not submitted on Form 107 or Form 108 if the report contains substantially all of the information required by the forms.

(2) A defendant may file an answer to the plaintiff's application for adjustment of an injury claim (Form 101) within twenty (20) days after the date of service upon him of the application, but no such answer is required. If ~~and if~~ none is filed, all of the allegations of the application will be deemed to be denied. If, however, an answer other than a special answer under subsection (3) of this section is filed, only those allegations which are specifically denied by the answer shall be deemed to be in disagreement.

(3) If any defendant in an application for adjustment of injury claim relies upon an affirmative special defense, he shall plead the defense in a special answer filed within twenty (20) days after the date of issuance of the scheduling order by the Department of Workers' Claims ~~[service upon him of the application]~~, or within ten (10) days after the defense is discovered if the defense could not have been discovered earlier in the exercise of reasonable diligence.



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If, in the exercise of reasonable diligence, the defense could not have been discovered until the introduction of proof, the pleading shall be filed to conform with the proof within ten (10) days after the proof is taken.

(4) Upon the issuance of a scheduling order by the Department of Workers' Claims, all parties may begin discovery and proof. All parties may take discovery and proof before or within [for] sixty (60) days from the [filing] date of the scheduling order [application]; the defendants may then take discovery and proof for an additional thirty (30) days; thereafter, [following the defendant's discovery and proof time] the plaintiffs may take rebuttal discovery and proof for an additional fifteen (15) days.

All parties shall be furnished with copies of all medical reports and vocational evaluation reports ~~[resulting from medical examinations and evaluations by vocational experts]~~ within thirty (30) days of the examination or evaluation by the party requesting the examination or evaluation.

(5) Within thirty (30) days after an application for adjustment of an injury claim is filed, the commissioner shall assign the case to an administrative law judge and schedule the time and place for the prehearing conference. The prehearing conference shall be scheduled at least fifteen (15) days after the last day of discovery and proof time in order for transcripts of proof by deposition to be filed prior to the prehearing conference. All parties shall be notified of the assignment and schedule by the commissioner.

Section 6. Application for Adjustment of an Occupational Disease Claim. (1) The original application for adjustment of an occupational disease claim (Form 102) shall be filed with the following attachments:

- (a) A complete work history of the plaintiff (Form 104);
- (b) A complete relevant medical history of the plaintiff (Form 105);
- (c) A signed waiver and consent to release of relevant medical information (Form 106);
- (d) Two (2) written medical reports supporting the claim (Form 108) in compliance with KRS 342.316(2)(b)1.

~~[An application for an adjustment of an occupational disease claim (Form 102) may be used to apply for retraining incentive benefits if the plaintiff does not wish to use the expedited procedure described in KRS 342.732 and this section. Retraining incentive benefits may be awarded as an adjustment of an occupational disease claim if the evidence supports such an award, even though this benefit was not requested.]~~

(2) Within sixty (60) days after the date of service upon him of an application for adjustment of an occupational disease claim (Form 102), unless for good cause shown the administrative law judge has granted an extension of time, each defendant shall file a notice of election to resist the application pursuant to KRS 342.316(2)(c)3, or eligibility of the plaintiff for benefits shall be deemed to be conceded.

(3) If any defendant in an application for adjustment of an occupational disease claim relies upon an affirmative special defense, he shall plead the defense in a special answer filed within sixty (60) days after the date of service upon him of the application or within ten (10) days after the defense is discovered if the defense could not have been discovered earlier in the exercise of reasonable diligence. If the affirmative special defense is not so pled, it is waived. If, in the exercise of reasonable diligence, the defense could not have been discovered until the introduction of proof, the pleading shall be filed to conform with the proof within ten (10) days after the proof is taken.

Failure of the plaintiff to file and pursue in good faith a claim under the federal Coal Mine Health and Safety Act as required by KRS 342.800 when pneumoconiosis or silicosis benefits are sought shall not be an affirmative special defense when retraining incentive benefits are sought.

(4) Upon being served with an application for adjustment of an occupational disease claim pursuant to KRS 342.316(2)(6)1a or KRS 342.732 (Form 102), a defendant may have the plaintiff examined by medical experts and evaluated by vocational experts, at the defendant's expense. All parties shall be furnished with copies of all [the resulting] medical reports and vocational evaluations within thirty (30) days of the date of the examination or evaluation and within the sixty (60) day discovery time. During this sixty (60) day discovery time, the defendants may depose the plaintiff for discovery purposes. If at the end of the sixty (60) day discovery time the commissioner has received one (1) or more notices of election to resist an application, the commissioner shall assign the case to an administrative law judge, shall schedule the time and place for the prehearing conference, and at the same time issue a schedule for the taking of discovery and of proof by deposition prior to the prehearing conference. All parties shall be notified of this assignment and schedule by the commissioner. The schedule for taking discovery and proof by deposition shall provide that all parties may take discovery and proof for sixty (60) days from the date of filing of the scheduling order; the defendants may then take discovery and proof for an additional thirty (30) days; following the defendants' discovery and proof time, the plaintiffs may take discovery and proof for an additional fifteen (15) days. The prehearing conference shall be scheduled at least fifteen (15) days after the last day of discovery and proof time in order for transcripts of proof by deposition to be filed prior to the prehearing conference.

(5) When an application for adjustment of an occupational disease claim (Form 102) is filed and one (1) or more of the medical reports filed with the application pursuant to KRS 342.316 contains the findings of more than one (1) physician, the findings of one (1) physician concerning the x-ray examination, one (1) physician concerning the spirometric testing, and one (1) physician concerning the comprehensive clinical examination shall together constitute one (1) "written medical report", and cross-examination by deposition may be taken of all the three (3) physicians contributing to any "written medical report" and be introduced as the "direct testimony" of one (1) physician for the purposes of KRS 342.033. Up to three (3) "written medical reports" may be introduced by any party to an occupational disease claim or application for retraining incentive benefits without prior consent from the administrative law judge, as required by KRS 342.033.

Section 7. Application for Retraining Incentive Benefits. (1) The original application for retraining incentive benefits ~~[(expedited procedure)]~~ (Form 103) shall be filed with the following attachments:

- (a) A complete work history of the plaintiff (Form 104);
- (b) A complete relevant medical history of the plaintiff (Form 105);
- (c) A signed waiver and consent to release of relevant medical information (Form 106) in compliance with KRS 342.020(4);
- (d) Two (2) x-ray reports complying with KRS 342.316.

(2) Within sixty (60) days after the date of service upon him of an application for retraining incentive benefits ~~[(expedited procedure)]~~ (Form 103), each defendant shall file a notice of election to resist the application pursuant to KRS 342.316(2)(c)3 or eligibility of the plaintiff

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for benefits shall be deemed to be conceded.

(3) If any defendant in an application for retraining incentive benefits ~~[(expedited procedure)]~~ relies upon an affirmative special defense, he shall plead the defense in a special answer filed within sixty (60) days after the date of service upon him of the application or within ten (10) days after the defense is discovered if the defense could not have been discovered earlier in the exercise of reasonable diligence. If the affirmative special defense is not so pled, it is waived. If, in the exercise of reasonable diligence, the defense could not have been discovered until the introduction of proof, the pleading shall be filed to conform with the proof within ten (10) days after the proof is taken. Failure of the plaintiff to file and pursue in good faith a claim under the federal Coal Mine Health and Safety Act as required by KRS 342.800 when pneumoconiosis or silicosis benefits are sought shall not be an affirmative special defense when rehabilitation incentive benefits are sought ~~[in an expedited procedure]~~.

~~[(4) When an application for retraining incentive benefits (expedited procedure) (Form 103) has been filed, the commissioner shall appoint a physician to conduct a comprehensive clinical examination, radiographic testing and spirometric testing of the plaintiff, or may appoint up to three (3) physicians if any one (1) physician is not qualified to conduct all these procedures. The findings of this physician or these physicians shall constitute a report of the "examination" which the claimant may elect pursuant to KRS 342.732(1)(a). The examination shall be conducted and the findings filed and served on all parties within fifty (50) days of the appointment. No other medical examination shall be conducted.]~~

(4) ~~[(5)]~~ If at the end of the sixty (60) day discovery time the commissioner has received one (1) or more notices of election to resist the application, the commissioner shall assign the case to an administrative law judge, shall schedule the time and place for the hearing, and at the same time shall issue a schedule for the taking of proof. During this proof-taking time, direct testimony may be taken from the physicians who conducted the examination, and proof may be taken by deposition concerning any special defenses pleaded by the employer at the time of filing of the notice of election to resist ~~(Resistance)~~. All parties shall be notified of this assignment and schedule by the commissioner. The schedule for taking discovery and proof by deposition shall provide that all parties may take discovery and proof for sixty (60) days from the date of filing of the scheduling order; the defendants may then take discovery and proof for an additional thirty (30) days; following the defendants' discovery and proof time, the plaintiff may take discovery and proof for an additional fifteen (15) days. The hearing shall be scheduled at least fifteen (15) days after the last day of discovery and proof time in order for transcripts of proof by deposition to be filed prior to the hearing. ~~[There shall be no prehearing conference in a claim which is initiated by an application for retraining benefits [(expedited procedure)]]~~.

Section 8. Prehearing Conference. (1) The purposes of the prehearing conference are to expedite the processing of contested cases and to avoid whenever possible the need for a formal hearing. The conference is an informal procedure, presided over by the administrative law judge. No transcript of the proceedings of the conference shall be made. At the conference, every effort shall be made by all parties to dispose of controversies whenever possible, to narrow and define issues, and to facilitate prompt settlement of the claim. The parties shall exchange lists of known witnesses fifteen (15) days before the prehearing conference and final additions, if any, to

the respective witness lists shall be made at least seven (7) days before the prehearing conference. The witness list shall give the name of each proposed witness together with a summary of the prior testimony or anticipated testimony of the witness. For medical witnesses, this summary shall include at a minimum a description of the diagnosis made by the witness and the physical findings and diagnostic studies upon which the diagnosis is based, as well as the functional impairment rating assessed by the witness and any work-related restrictions imposed.

(2) Within sixty (60) days after the date of the commissioner's scheduling order, the defendant employer shall file with the administrative law judge, with copies to opposing parties, the plaintiff's payroll records with the defendant employer for each of the fifty-two (52) weeks preceding the date of the alleged injury or the date of the alleged last exposure in accordance with the provisions of KRS 342.140 unless good cause is shown for the failure to file the payroll records or the parties, by joint stipulation, agree upon the employee's average weekly wage. Such payroll records or stipulation shall constitute evidence in the case.

(3) At the prehearing conference, the administrative law judge may limit witnesses for good cause shown.

(4) ~~[(2)]~~ The plaintiff and his representative, the defendant employer/insurer or its representative, and the representatives of all other parties shall attend the prehearing conference. The representative of any party must have authority to resolve disputed issues and settle the claim at the conference. The administrative law judge may upon motion waive the requirement that the plaintiff shall attend the conference but only for good cause shown in the motion and with a showing that the plaintiff's representative will attend the conference with full authority to settle the claim.

(5) ~~[(3)]~~ The representative of a party may seek rescheduling or postponement of a prehearing conference by motion filed at least fifteen (15) days prior to the schedule date of the conference, stating the reason for the request. A motion to postpone or reschedule shall be sustained only upon good cause shown at the discretion of the administrative law judge.

(6) ~~[(4)]~~ If all parties agree upon a settlement prior to the prehearing conference, the settlement agreement shall be filed for the approval of the administrative law judge. If the agreement is approved by the administrative law judge, the prehearing conference shall be cancelled and notice of the cancellation served on all parties.

~~[(5) If the parties reach agreement on all issues at the prehearing conference and the claim is settled, the administrative law judge shall summarize the terms of the agreement using a Form 110. This record of the terms of the agreement shall be signed by the parties. The administrative law judge may approve the agreement at the conference or retain it for review for up to ten (10) days prior to approval. The administrative law judge shall cause copies of the agreement form to be served on all parties, and the claim will thereafter be closed.]~~

(7) ~~[(6)]~~ If at the conclusion of the conference the parties have not reached agreement on all the issues, the administrative law judge shall prepare a stipulated summary of all contested and uncontested issues, which shall be signed by representatives of the parties and by the administrative law judge. This stipulation shall be filed, and only the contested issues shall be the subject of further proceedings before the administrative law judge.

(8) ~~[(7)]~~ In the sole discretion of the administrative law judge upon motion of a party with good cause shown, the administrative law

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judge may order that additional discovery or proof by deposition be taken on a contested issue between the prehearing conference and the hearing. Taking of this proof shall not automatically be a valid reason for continuing the date for the hearing.

(9) [(8)] If the claim is not settled, the administrative law judge shall schedule a date for the hearing on the claim at the prehearing conference. The date for the hearing shall be within sixty (60) days from the date of the prehearing conference. Representatives of the parties shall come to the prehearing conference prepared to schedule a hearing during the conference. The hearing date will not be changed except for good cause shown on motion of the representative requesting the change.

(10) [(9)] If the parties agree upon a settlement at or after the prehearing conference but before the hearing, the settlement agreement (Form 110) shall be filed for the approval of the administrative law judge. The administrative law judge shall approve or disapprove the settlement agreement within ten (10) days of filing. If the agreement is approved by the administrative law judge, the hearing shall be cancelled and notice of the cancellation served on all parties.

Section 9. Interlocutory Relief. (1) The plaintiff may seek three (3) forms of interlocutory relief while his claim is in the process of consideration for adjustment.

(a) If the plaintiff is totally disabled, he may seek to have income benefits paid pursuant to KRS 342.730 while the claim is pending.

(b) He may seek to have medical and hospital bills paid pursuant to KRS 342.020 while the claim is pending.

(c) He may seek provision of rehabilitation services pursuant to KRS 342.710 while the claim is pending. The defendants may also request rehabilitation services for the plaintiff while the claim is pending.

(2) The plaintiff may seek one (1) or more forms of interlocutory relief by completing the appropriate section of the application for adjustment of claim. The plaintiff or defendants may seek interlocutory relief by motion if the need for interlocutory relief arises after the application is filed.

(3) If the plaintiff seeks interlocutory relief in his application for adjustment of claim or by motion at least twenty (20) days prior to the prehearing conference or if there is agreement of all parties, the request for interlocutory relief may be considered at or before the prehearing conference. If the motion is filed within twenty (20) days of the prehearing conference or after the prehearing conference but before the hearing, it may be considered at or before the hearing.

(4) One (1) or more of the forms of interlocutory relief described in Section 9 [(7)](1) of this regulation may be granted by the administrative law judge if the plaintiff shows by means of affidavits, ~~or~~ his own deposition, or other evidence of record that he is eligible for the interlocutory remedies being sought under KRS Chapter 342 and that if he does not receive the interlocutory relief sought he will suffer immediate and irreparable injury, loss, or damage pending a final decision on the application. A defendant may be granted the right to provide rehabilitation services to the plaintiff while the claim is pending upon a showing that the plaintiff will benefit from the services and have a better chance of returning to work as a result.

(5) When the plaintiff seeks interlocutory relief, the defendant shall file his response, if any, and supporting affidavits, as appropriate, within twenty (20) days from the date of the issuance of the scheduling order by the Department of Workers' Claims, or within

twenty (20) days of the filing of any subsequent motion [as herein provided].

(6) When the plaintiff seeks interlocutory relief, the administrative law judge shall review all pleadings, affidavits, and other evidence in the record and at the prehearing conference or hearing may, in his discretion, hear oral arguments in support of each party's position. The administrative law judge shall render his decision, file it in the record, and serve it on all parties.

(7) When the administrative law judge awards to the plaintiff interlocutory relief in the form of income benefits while he is totally disabled, the application shall be placed in abeyance, unless the plaintiff shows that he will be irreparably harmed thereby. While the application is in abeyance, the parties shall submit in writing to the administrative law judge a report on the plaintiff's continued total disability every sixty (60) days. If, in the administrative law judge's discretion, new evidence shows that the plaintiff is no longer totally disabled, the administrative law judge may revoke the interlocutory payment of income benefits based on total disability and remove the claim from abeyance.

(8) No interlocutory relief may be sought or granted when the claim is an application for retraining incentive benefits ~~[(expedited procedure)].~~

(9) When the administrative law judge awards to the plaintiff interlocutory relief in the form of income benefits while he is totally disabled, an attorney's fee in the amounts authorized by KRS 342.320 but in no case to exceed twenty (20) percent of the weekly income benefit awarded may be ordered by the administrative law judge upon motion of the attorney. The administrative law judge may award the fee on a sixty (60) day basis, renewable for additional sixty (60) day periods if the interlocutory benefit is renewed pursuant to Section 9(7) of this regulation. All provisions of KRS 342.320 and Section 4(6) of this regulation must be complied with. The fee awarded shall be deducted in equal amounts from the weekly income benefits awarded and paid directly to the attorney awarded the fee at the beginning of each sixty (60) day period.

Section 10. Hearings. (1) If the parties have not arrived at a settlement prior to the scheduled hearing date, a hearing shall be held to complete proof on all contested issues set forth in the stipulated summary filed pursuant to Section 7(8) [(6)] of this regulation.

(2) The administrative law judge to whom the case has been assigned shall conduct the hearing. No proof shall be taken following the hearing.

(3) The plaintiff shall appear at the hearing and shall present his testimony concerning the contested issues still before the administrative law judge, even if the plaintiff's testimony has previously been taken by deposition. Defendants may cross-examine. Other proof may be taken at the hearing only if it has not previously been taken by deposition.

(4) If the plaintiff fails to appear at the hearing of his claim and no good cause is shown for his failure to appear, the administrative law judge may dismiss the case for want of prosecution. If good cause is shown, the case may be continued until the plaintiff is able to appear.

(5) When a defendant or his representative fails to appear at the hearing, the hearing may proceed as scheduled.

(6)(a) At the conclusion of the hearing, the administrative law judge may take the application under submission immediately or request briefs from the parties to be filed according to a schedule

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announced by the administrative law judge at the hearing. Upon filing of the last brief scheduled or passage of the due date for that brief, the case shall stand submitted. Briefs filed with the administrative law judges shall not exceed fifteen (15) ~~twenty-five (25)~~ pages in length. Reply briefs shall be limited to five (5) pages in length. Permission to increase the length of a brief shall be sought by motion. Cause must be shown for the increase. The administrative law judge may announce his decision at the conclusion of the hearing and subsequently file his written opinion, serving it on the parties when filed, or the administrative law judge may defer his decision until he files the written opinion. In either case, a decision shall be rendered no later than ninety (90) days following the hearing, and the time for filing a petition for reconsideration shall not begin to run until the date of filing of the written opinion.

(b) A persistent or continuous failure to comply with paragraph (a) of this subsection may be considered by the board as cause for removal of the administrative law judge pursuant to KRS 342.230.

Section 11. Petitions for Reconsideration. (1) Within fourteen (14) days from the date the written opinion announcing an order, award, or decision is filed, any party may file a petition for reconsideration of the award, order, or decision. The petition shall clearly identify the error "patently appearing upon the face" of the award, order, or decision which the petitioner seeks to have corrected and set forth arguments and authorities supporting the correction sought.

(2) Any party may file a response to the petition within ten (10) days after the date of filing of the petition.

(3) The administrative law judge shall by order overrule or sustain the petition for reconsideration within ten (10) days after the date the responses are due.

(4) If the administrative law judge finds that the petition is frivolous, he may assess costs and attorney fees against the petitioner or his attorney.

(5) The filing of a timely petition for reconsideration shall suspend the finality of any order, decision, or award until the ruling is made thereon. Any notice of appeal filed prior to filing of a petition for reconsideration shall be held in abeyance until a ruling is made on the petition.

Section 12. Appeals to the Workers' Compensation Board. (1) Within thirty (30) days after the date of filing of a written opinion, order or decision finally adjudicating a case, a party aggrieved by the opinion, order, or decision may appeal the opinion, order, or decision to the Workers' Compensation Board. Opinions, orders, or decisions of administrative law judges and of the (old) Workers' Compensation Board established pursuant to KRS 342.215(5) shall be appealed in this manner. A final adjudication as used in this section shall be determined according to the provisions of Civil Rule 54.02(1) and (2).

(2) The appeal shall be initiated by the filing of a notice of appeal. The notice of appeal shall style the appealing party first as the "petitioner" and all other parties against whom the appeal is being taken as the "respondents." The Workers' Compensation Board case number shall be retained in the petition and in all other pleadings related to the appeal to the board. The administrative law judge who rendered the opinion, order or decision appealed from or the (old) Workers' Compensation Board shall be named as a "respondent." If appropriate, the Director of the Special Fund shall be named as a "respondent" pursuant to KRS 342.316(10)(b) [(6)].

(3) Any party other than the petitioner in the appeal may file a

~~cross-appeal [against a party who has taken an appeal against him].~~ All cross-appeals shall be filed by notice of cross-appeal within ten (10) days after notice of appeal is served [filed]. If a cross-appeal is filed, the style of the appealed and cross-appealed case shall designate the parties as appropriate (i.e., petitioner-cross-respondent). The Workers' Compensation Board number shall remain the same.

(4) The notice of appeal or cross-appeal, and enough copies for service on all respondents, shall be filed with the commissioner. The commissioner shall cause all respondents to be served by first class mail with a copy of the notice of appeal or cross-appeal. All subsequent pleadings shall be served on the respondents as provided in Section 3(3) of this regulation.

(5) When a notice of appeal is filed, the record in the case shall be transferred to the Workers' Compensation Board in its entirety, unpaginated. All references to specific evidence in the record shall be by the title of the evidence referenced and the page number at which the specific entry occurs (i.e., Deposition of Dr. A. B., p. 17.)

(6) If a ground for the appeal is fraud or misconduct pursuant to KRS 342.285(2) [(3)], the board shall immediately schedule a hearing on that issue before the board. All testimony concerning the issue shall be transcribed and placed in the record, and notice of filing of the transcript shall be given to all parties by the commissioner. All subsequent time in such a case shall be calculated from the date the transcript is filed instead of the date of filing of the notice of appeal.

(7)(a) The petitioner's brief shall be filed with the board within thirty (30) days of filing of the notice of appeal. The organization and contents of the petitioner's brief shall be as provided in Rule 76.12(4)(c) of the Kentucky Rules of Civil Procedure except that no index shall be required and the only appendix shall be a copy of the decision appealed from, including the decision of the administrative law judge, all petitions for reconsideration of the opinion, [and] all rulings on petitions for reconsideration, and copies of all cited cases from federal courts and foreign jurisdictions.

(b) The failure of the petitioner to file petitioner's brief within the time provided by paragraph (a) of this subsection may be grounds for one (1) or more of the following penalties absent a showing of good cause:

1. A dismissal of the appeal after failure to respond to a show cause order served upon the attorney and client;

2. The striking of the petitioner's brief;

3. The imposition of a fine on petitioner's counsel of not more than \$500.

(8)(a) The respondent's brief shall be filed with the board within thirty (30) days of the date the petitioner's brief was filed or due. The organization and contents of the respondent's brief shall be as provided in Rule 76.12(4)(d) of the Kentucky Rules of Civil Procedure, except that no index shall be required and the only appendix shall be a copy of any response filed to a petition for reconsideration and copies of all cited cases from federal courts and foreign jurisdictions. If a respondent is also a cross-petitioner, a combined brief shall be filed addressing issues raised by the petitioner's brief and by the cross-appeal.

(b) The failure of the respondent to file respondent's brief within the time provided by paragraph (a) of this subsection may be grounds for one (1) or more of the following penalties absent a showing of good cause:

1. The reversal of the opinion and award if the petitioner's brief and the record reasonably appear to sustain such action;

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2. The striking of the respondent's brief;

3. The imposition of a fine on respondent's counsel of not more than \$500.

(9) The petitioner's reply brief may [shall] be filed within fifteen (15) days after the date on which the last respondent's brief was filed or due, whichever is earlier. The organization and contents of the petitioner's reply brief shall be as provided in Rule 76.12(4)(e) of the Kentucky Rules of Civil Procedure, except that no appendix, index, or contents page shall be required. If the petitioner is also a cross-respondent, a combined brief shall be filed addressing issues raised by the response and issues raised by the cross-petitioner's brief.

(10) If a cross-appeal has been filed, the cross-petitioner's reply brief may [shall] be filed within fifteen (15) days after the date on which the last cross-respondent's brief was filed or due, whichever is earlier. The organization and contents of the cross-petitioner's reply brief shall be as provided in Rule 76.12(4)(e) of the Kentucky Rules of Civil Procedure, except that no appendix, index, or contents page shall be required.

(11) The petitioner's brief and the respondent's brief shall be limited to fifteen (15) pages each in overall length. Reply briefs shall be limited to five (5) pages in overall length. Combined briefs shall be limited to twenty (20) pages each in overall length. The requirements of this rule with respect to a "statement of points and authorities" shall not apply to any brief of five (5) pages or less. Permission to increase the length of a brief shall be sought by motion. Cause must be shown for the increase. All pleadings shall be typewritten and conform to the requirements set forth in Rule 7.02(4) of the Kentucky Rules of Civil Procedure. Pleadings shall be filed without covers, but the style of the case, including the board number and the title of the pleading, shall appear on the first page of the pleading.

(12) When all briefs have been filed or the due date is past on the last brief due, any party may [shall] by motion move for submission of the appeal to the board for decision. Upon issuance of the board's order, the case shall stand submitted.

(13) Within thirty (30) days of the filing of the board's order of submission, the board shall enter its decision affirming, modifying, or setting aside the decision, order, or award appealed from, or, in its discretion, remand[ing] the claim to the administrative law judge for further proceedings in conformity with the direction of the board. There shall be no motion for reconsideration.

(14) The decision of the board may be appealed to the Kentucky Court of Appeals as provided in Rule 76.25, Kentucky Rules of Civil Procedure.

(15) Every application for an order of the board shall be by typewritten motion, served and filed in the manner prescribed by Section 3(3) of this regulation.

(16) When a motion is filed, the party may file with it a short memorandum supporting the motion, and the opposing party may file a short memorandum in reply. No further memoranda in support of a motion may be filed.

(17) All motions filed with the board subsequent to the original notice of appeal shall include the certificate of the party or attorney who filed the motion stating the date and manner of service of a copy of the motion upon the other parties. Service of these motions shall be made in one of the ways provided in Rule 5.02, Kentucky Rules of Civil Procedure.

(18) The opposing party may file a response, accompanied by a certificate of service, within ten (10) days after the date the motion was filed with the board.

~~[(19) Three (3) copies of motions and responses in the Workers' Compensation Board shall be filed.]~~

(19) ~~[(20)]~~ Except for motions that call for final disposition of an appeal before [in] the board, any member of the board designated by the chairman may dispose of any motion; and any intermediate order of a procedural nature pending final disposition of a proceeding pending before the board may be issued on the signature of any member of the board.

Section 13. Medical Reports. (1) As provided in KRS 342.033, any party may introduce direct testimony (proof) from a physician through a written medical report, subject to the limitations of KRS 342.033, Section 5(3) of this regulation, and the scheduling order issued by the commissioner [administrative law judge] pursuant to Section 5 of this regulation.

(2) Any written medical report sought to be introduced as evidence shall be submitted on a Form 107 (injury) or Form 108 (occupational disease) whichever is appropriate, except that the administrative law judge may, in his discretion, permit the introduction of a medical report not submitted on Form 107 or Form 108 if the report contains substantially all of the information required by the forms.

(3) Any written medical report sought to be introduced as evidence shall be signed by the physician making the report, bearing an original signature. A reproduced medical report which is not originally signed is not admissible as evidence unless accompanied by an originally signed affidavit from the physician or the submitting attorney verifying the contents of the report.

(4) Any written medical report sought to be introduced into evidence shall include within the body of the report or as an attachment a statement of qualifications of the person making the report. If the qualifications of the physician who prepared the written medical report have been filed with the commissioner and the physician assigned a medical qualifications index number, this section may be complied with by a statement of the physician's medical qualifications index number on the record in lieu of attaching a statement of the physician's qualifications.

(5) Any narrative in a written medical report on a Form 107 or Form 108 sought to be introduced into evidence shall be typewritten. Any written medical report or any attachment to a written medical report, such as spirometric tracings, shall be clearly legible in the original and on the copies served on other parties.

(6) The written medical reports required by KRS 342.316(2)(b)1a shall be filed with the application for adjustment of an occupational disease claim as required by that section but shall not be considered evidence unless a motion for that purpose is made.

(7) Any party may file, with notice to the other parties, the testimony of three (3) physicians, taken either by deposition or medical report, which shall be admitted into evidence without further order [motion]. If any party objects to the admissibility of the evidence, the administrative law judge shall then rule on its admissibility.

(8) ~~[(7)]~~ All other written medical reports shall be introduced by motion for admission. The written medical report shall be attached to the motion. The party seeking admission of the report may also file a memorandum in support of the motion. The administrative law judge shall rule on the motion for admission within fifteen (15) days of the filing of the motion.

(9) ~~[(8)]~~ Any objection to the filing of a written medical report shall be filed within ten (10) days of the filing of the report or the motion for

admission. Grounds for the objection shall be stated with particularity. The objecting party may file a memorandum in support of his objection.

~~{(9) The administrative law judge shall rule on the motion for admission within fifteen (15) days of the filing of the motion.}~~

(10) If a written medical report is admitted as direct testimony, any adverse party may depose the physician making the written report as cross-examination concerning it, and the deposition shall be filed as proof without a motion.

Section 14. Continuances, Extensions, and Motions to Hold in Abeyance. (1) Continuances of hearings and prehearing conferences may be granted by the administrative law judge upon motion supported by affidavits stating facts making a proper showing of good cause for a continuance. A motion for a continuance must be filed no later than twenty (20) days prior to the conference or hearing unless there is a showing of emergency or circumstances beyond the control of the requesting party which prohibited timely filing of the motion. The opposing parties may have ten (10) days from the filing date of the motion to respond with a brief memorandum with affidavits in support of their [his] position.

(2) Extensions of time for the taking of discovery or proof by deposition shall not be granted except upon showing of circumstances preventing the party moving for an extension from timely taking discovery or proof by deposition. The motion for extension of time must be filed no later than five (5) days before the deadline sought to be extended. The motion for extension of time and supporting affidavits must clearly set forth the following:

(a) A showing of timely and diligent efforts by counsel to take the discovery or proof by deposition in question must be detailed.

(b) The facts which prevent taking of the needed discovery or proof by deposition must be detailed.

(c) The date of availability of the evidence needed and the probability of its production must be detailed.

(d) Where possible, supporting documentation giving rise to the need for the extension should be filed with the motion.

(3) In the absence of unusual circumstances, only one (1) thirty (30) day extension shall be granted to each side for completion of discovery or proof by deposition.

(4) The granting of an extension of time for completion of discovery or proof shall enlarge the time to all plaintiffs if the extension is granted to a plaintiff or to all defendants should an extension be granted to a defendant.

(5) The provisions of this section shall apply to motions requesting that a claim be held in abeyance pending settlement or for any other reason.

Section 15. Stipulation of Facts and Judicial Notice. (1) Stipulation of facts which are not in issue is mandatory, and the refusal without good cause to stipulate facts which are not in [at] issue, within the sound discretion of the administrative law judge, may result in assessment of costs against the party who without good cause has refused to stipulate to routine matters not in issue. The assertion of the fact that a party has not had sufficient time or opportunity to ascertain the facts will not be necessarily considered "good cause" within the meaning of this regulation.

(2) Every party to a stipulation shall be considered bound to the same. For good cause shown, however, any party may be relieved of a stipulation he has made provided that the motion for relief is filed

at least ten (10) days prior to the date of the hearing. Upon granting relief from a stipulation, the administrative law judge shall grant a continuation of the hearing and shall schedule additional discovery or proof time for the opposing party or parties to complete their discovery or proof so as to prevent prejudice or surprise.

(3) At the prehearing conference, the administrative law judge shall ask the appropriate questions in order to determine the reasons for an inability or unwillingness to stipulate. The plaintiff and the defendants have the joint responsibility of resolving jurisdictional issues and preaward payment of compensation and explaining why these cannot be stipulated.

(4) The administrative law judge will take judicial notice that the Act is mandatory except for those employers exempted by KRS 342.650 and those employees rejecting the Act pursuant to KRS 342.395 and 342.400.

(5) Upon the filing of a claim, the commissioner shall ascertain whether the employer or any other person against whom a claim is filed and who is not exempted by KRS 342.650 has secured payment of compensation by obtaining insurance coverage or qualifying as a self-insurer pursuant to KRS 342.340. Should the employer or any other person against whom a claim is filed not have insurance coverage or qualify as a self-insurer, the commissioner within thirty (30) days after the filing of the claim shall certify to the file that the defendant or any other person against whom a claim has been filed has failed to secure payment of compensation as required by KRS Chapter 342 and shall notify the administrative law judge and all parties by service of a copy of the certification of no coverage.

Section 16. Evidence: Rules Applicable. (1) The same rules of evidence that apply in judicial proceedings and that are governed by the common law and the statutes in effect in this Commonwealth apply in all hearings and depositions taken to be used in cases before the administrative law judges.

(2) An exception to the above rule applies in medical reports submitted by and depositions taken of evaluating physicians who are nontreating physicians. In those instances, the nontreating physician is permitted to use the case history related to him by the patient and the subjective symptomatology related to him by the patient in arriving at and formulating his opinion as to causation and disability.

Section 17. Discovery and Depositions. (1) The parties may obtain discovery and take depositions in accordance with the provisions of Rules 26 to 37, inclusive, of the Kentucky Rules of Civil Procedure, except for Rules 27, 33, and 36 which are not adopted by the board and which shall not apply to practice before the administrative law judges or the board.

(2) Depositions may be taken by telephone provided the reporter administering the oath to the witness and reporting the deposition is physically present with the witness at the time the deposition is given and provided the notice of deposition contains the following information:

(a) That the deposition is being taken by telephone;  
(b) The address and telephone number from which the telephone call will be placed to the witness;

(c) The address where the witness will be giving the deposition and the number of the telephone on which the witness will receive the deposition call; and

(d) That all opposing parties may appear to participate at the deposition either at the place from which the deposition is being given



## ADMINISTRATIVE REGISTER - 3207

by the witness or at the place the telephone call is placed to the witness.

(3) After a party has served notice of its intention to take a deposition by telephone, any opposing party may participate in the deposition for cross-examination by conference call from places other than where the deposition is given by the witness or where the call is placed to the witness but must contribute its proportionate cost of the conference telephone call.

(4) The commissioner shall establish a medical qualifications index, and an index number will be assigned to a physician upon the filing by the physician of his qualifications. Any physician who has been assigned an index number may testify to the assigned number at deposition in lieu of stating his qualifications. Previously filed medical qualifications may be revised or updated by submitting such revision to the commissioner. Nothing in this rule shall preclude any party from inquiring further into the qualifications of the physician at the deposition.

~~[Section 19. Depositions of Physicians Appointed under KRS 342.121. (1) An examining physician appointed by an administrative law judge pursuant to KRS 342.121(1) shall make his report to the administrative law judge on either Form 107 or Form 108 as appropriate, and his report shall be filed as direct testimony. An examining physician appointed by the administrative law judge shall not be examined by deposition on his report except by permission of the administrative law judge.~~

~~(2) Motions to join the special fund shall include a designation of the area of medical specialty for appointment of the physician designated pursuant to KRS 342.121.~~

~~Section 19. Examinations by Disinterested Physicians. When a disinterested physician or surgeon has been appointed by an administrative law judge pursuant to KRS 342.315, no party shall furnish to the physician or surgeon any copies of reports previously made or depositions given by any physicians or surgeons who have examined the claimant in the case. Either party, however, may transmit to the appointed physician or surgeon, through the administrative law judge, properly identified x-ray photographs made by another person. The transmittal shall be accompanied by certification of service upon all parties.]~~

Section 18. [20.] Appearances. (1) Only attorneys-at-law duly licensed in Kentucky may appear or practice before the administrative law judges or the board, except that any natural person who is a party to any proceeding may represent himself only but shall not, either directly or indirectly, represent or appear in behalf of any legal entity other than himself, except as provided in subsection (2) of this section.

(2) If no prior application for adjustment of claim has been filed in any dispute involving KRS 342.020 or 342.035, any provider of medical services, employer, insurance carrier, self-insured, self-insured group, self-insured group administrator, insurance adjuster, or surety for employer may contest the same without representation by an attorney through the appearance of a person who is an officer or regularly employed in a managerial capacity by a corporation or partnership which is involved in the dispute.

(3) [(2)] Any party who elects to represent himself without the aid of counsel shall be held accountable in the same manner, and to the same degree, as qualified counsel.

(4) Every pleading shall be signed by the person filing the pleading together with his full address and telephone number(s).

Section 19. [21.] Withdrawal of Records. (1) No paper or other portion of any original record of the board shall be withdrawn except on order of the administrative law judge.

(2) All physical exhibits, including x-rays, will be disposed of sixty (60) days after the case is finally closed, unless the filing party makes arrangements to claim the exhibit prior to that time. If the unclaimed exhibit has no money value, it will be destroyed; if the unclaimed exhibit has a value of more than \$100, it will be sold as surplus property; the unclaimed exhibit will be donated to an appropriate state agency if it has a value of less than \$100; if the unclaimed exhibit has historic or museum value, it will be sent to the state archives.

Section 20. [22.] Routine Records Admission. Any party may file in the record of a case any routine hospital, armed forces and Social Security records. These shall be made part of the record and considered for their statistical content only, and any opinion contained therein shall be stricken and not considered. A party, however, may depose the proper agent in the manner provided in these regulations in order to have these records admitted as to any opinion contained therein.

~~[Section 23. Exceptions. Formal exceptions to rulings or orders of the administrative law judges or the board are unnecessary.]~~

Section 21. [24.] Frivolous Filings. All provisions of Rule 11 and Rule 73.02(4), Kentucky Rules of Civil Procedure, are incorporated into this regulation [rule] by reference.

Section 22. [25.] Retraining Incentive Benefits. If an applicant for retraining incentive benefits is working in the coal industry at the time his application is filed, the insurance company responsible is the one insuring the applicant's employer on the date of the filing. Otherwise, the insurance company responsible is the one insuring the applicant's employer on the date of his last exposure.

Section 23. [26.] Forms. (1) Forms 101, 102, 103 (rev. 1/8/92), 104, 105, 106, 107 (rev. 1/8/92), 108 (rev. 1/8/92), 109, 110, and 112 [444] are hereby adopted by reference.

(2) Incorporation by reference. One (1) copy of Forms 101, 102, 103 (rev. 1/8/92), 104, 105, 106, 107 (rev. 1/8/92), 108 (rev. 1/8/92), 109, 110, and 112 is filed herewith and incorporated by reference.

(3) Information available.

(a) Information and material is available for public inspection and copying at main, regional, and branch offices of the agency:

1. Frankfort - Perimeter Park West - Building C, 1270 Louisville Road, Frankfort, Kentucky 40601;

2. Louisville - Fourth Floor-The Meyer Building, 624 West Main Street, [620 South Third Street,] Louisville, Kentucky 40202;

3. Lexington - 950 Commerce National Building, Lexington, Kentucky 40507;

4. Paducah - 220B North 8th Street, [Suite B, Room 2, 400 Park Avenue,] Paducah, Kentucky 42001; and

5. Pikeville - 412 Second Street, [444 Caroline Avenue,] Pikeville, Kentucky 41501.

(b) Office hours of each office are 9 a.m. to 4 p.m., Monday through Friday, inclusive, for this purpose.



## ADMINISTRATIVE REGISTER - 3208

Section 24. [27.] Payment of Compensation from Uninsured Employers' Fund. (1) Payment from the uninsured employers' fund of compensation which has been awarded a claimant in the case where the defendant-employer, or any other party liable for the payment thereof, has not secured payment of compensation as provided for by KRS Chapter 342 shall be made only after the claimant, or any other party in interest, has filed in the circuit court of the county where the injury occurred an action pursuant to KRS 342.305 to enforce payment of the award against the defendant-employer, or any other person liable for payment of the [said] action, judgment has been rendered thereon, and there has been default in payment of the [said] judgment by the defendant-employer, or any other party liable for payment thereof, except the uninsured employers' fund.

(2) When the procedure provided in subsection (1) of this section has been complied with, the claimant may file a motion with the administrative law judge, together with proof of compliance with the requirement of subsection (1) of this section, requesting that the administrative law judge order payment from the uninsured employers' fund in accordance with KRS 342.760. Upon satisfactory proof of such compliance, the administrative law judge shall enter an order directing payment of compensation or any portion thereof from the uninsured employers' fund.

(3) This section shall not be construed [as] to prohibit the voluntary payment of compensation by an employer, or any other person liable for payment thereof, who has failed to secure payment of compensation as provided for by KRS Chapter 342, the compromise and settlement of a claim or award approved by the board pursuant to KRS 342.265, or the payment of its proportionate share of a claim or award by the special fund.

(4) Compliance with subsection (1) of this section shall not be required and the compensation awarded shall be deemed uncollectible from the defendant-employer upon a showing that the defendant-employer has filed a petition in bankruptcy in the United States Bankruptcy Court under either Chapter 7 or Chapter 11 of the Federal Bankruptcy Code.

Section 25. Use of American Medical Association Guidelines in Coal Workers' Pneumoconiosis Cases. (1) The predicted normal values of FVC and FEV<sub>1</sub>, which are identical in both the 1984 and 1988 editions of the American Medical Association Guidelines, are given in graph form with ages and heights given in even years and

even centimeters. The guidelines are silent as to the determination of the proper predicted values when the plaintiff's age is in an odd year or his height is in odd centimeters.

(2) If the plaintiff's age at the time of the exam is an odd year, the next highest even year shall be used.

(3) The plaintiff's height, as measured in his stocking feet, shall be rounded out to the nearest centimeter. If the plaintiff's height is an odd number of centimeters, the next highest even height in centimeters shall be used.

Section 26. Resolution of Medical Fee Disputes. (1) Any employee, provider of medical services, employer, insurance carrier, self-insured, self-insured group, self-insured group administrator, or surety for employer, whether a natural person, partnership, or corporation, may seek, by request ~~[motion]~~ (Form 112), resolution of a dispute regarding the payment or nonpayment of medical expenses before an application for adjustment of claim is filed.

(2) The movant shall file with his request ~~[motion]~~ affidavits setting forth facts sufficient to show that the movant is entitled to the relief sought. The opposing party may file, within twenty (20) days after notice of the request ~~[motion]~~ a response, if any, along with affidavits setting forth facts sufficient to show that the movant is not entitled to the relief sought.

(3) An administrative law judge shall review all pleadings, affidavits, or other evidence in the record and render a decision which shall be filed of record and served on all parties to the dispute. The administrative law judge shall not be precluded from taking any other action deemed necessary to resolve the dispute, including an order directing the parties to file a formal application for adjustment of claim.

(4) If the administrative law judge determines that such proceedings have been brought, caused to be brought, prosecuted, or defended without reasonable ground, the whole cost of the proceedings may be assessed upon the party who has so brought, caused to be brought, prosecuted, or defended the proceedings without reasonable ground as provided by KRS 342.310.

(5) Any party aggrieved by the decision of the administrative law judge may appeal to the Workers' Compensation Board by following the procedures set out in Section 12 of this regulation.

JUDGE ARMAND ANGELUCCI, Chairman  
APPROVED BY AGENCY: March 4, 1992  
FILED WITH LRC: March 10 at 9 a.m.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, APRIL 15, 1992

BOARD OF EXAMINERS AND REGISTRATION  
OF LANDSCAPE ARCHITECTS  
(Proposed Amendment)

201 KAR 10:060. Renewals.

RELATES TO: KRS 323A.020, 323A.060, 323A.100

STATUTORY AUTHORITY: KRS 323A.100, 323A.210

NECESSITY AND FUNCTION: KRS 323A.100 requires all landscape architects desiring to continue practice to secure a renewal certificate each year and this regulation is designed to set forth the procedure and fix the fees as allowed under KRS 323A.060.

Section 1. Administration. (1) A renewal notice shall be sent to all license holders on May 1 of each year. The application for renewal shall be due on or before June 30 of each year.

(2) Failure to renew within the sixty (60) day grace period as stipulated in the law shall be cause for revocation of the license. Except for cases involving continuing education requirements which shall be governed exclusively by 201 KAR 10:080, the board shall promptly conduct a show cause hearing for all licensees who have failed to secure a renewal certificate by September 1 of each year. [automatically cause the license to expire.]

(3) Before issuing any license or renewal, the board shall collect from the person licensed the full amount of all fees due in accordance with KRS 323A.060 or 323A.100.

MARK E. HORMAN, Chairman

APPROVED BY AGENCY: April 15, 1992

FILED WITH LRC: April 15, 1992 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed regulation will be held on May 21, 1992 at the hour of 10 a.m. at the offices of the Kentucky State Board of Examiners and Registration of Landscape Architects, Route 3, 96-5, Millville Road, Frankfort, Kentucky 40601. Any person interested in commenting on this regulation at that hearing should contact: Larry Perkins, Executive Director, Route 3, 96-5, Millville Road, Frankfort, Kentucky 40601 in writing by May 16, 1992.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry S. Perkins

(1) Type and number of entities affected: All candidates for license renewal.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Minimal

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues:

N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? Tiering is not applicable in this case because all applicants for renewal are treated alike.

KENTUCKY BOARD OF OPHTHALMIC DISPENSERS  
(Proposed Amendment)

201 KAR 13:050. Apprentices.

RELATES TO: KRS 326.020

STATUTORY AUTHORITY: KRS 326.020(3)

NECESSITY AND FUNCTION: To define the terms "Ophthalmic Dispenser" and "Apprentice Ophthalmic Dispenser" and to specify the rights, powers and duties of the board with regard to Apprentice Ophthalmic Dispensers.

Section 1. Definition. The term "ophthalmic dispenser" whenever used herein includes licensed physician, osteopath, optometrist and opticians licensed under KRS Chapter 326.

Section 2. Apprentices. (1) An apprentice ophthalmic dispenser is one who is in training for the vocation of ophthalmic dispenser and as such dispenses ophthalmic lenses, frames and appurtenances thereto to the intended wearer only under the supervision of a licensed ophthalmic dispenser.

(2) An apprentice license shall be required of any person who is not a licensed ophthalmic dispenser, but who is in training as such and while in training works under the direct supervision of a licensed ophthalmic dispenser, and whose duties require that he perform such services as would be normally performed by a licensed ophthalmic dispenser. The board may revoke the apprentice license at any time should either the employer or the apprentice fail to carry out the provisions of this regulation.

(3) A licensed apprentice ophthalmic dispenser shall at all times work under the direct supervision and in the same establishment with a licensed ophthalmic dispenser, and the licensed ophthalmic dispenser shall be responsible for his acts.

(4) The board shall [will] issue a license for a period ending December 31 of the current year, at which time an application for renewal may be presented. The chairman is authorized to issue a temporary apprentice permit which becomes effective as a permanent apprentice license pending approval by the board at its next regular meeting. The permanent apprentice license may be renewed for a period of one (1) year upon application to the board, accompanied by the required fee of ten (10) dollars. In the event the apprentice's employment under the sponsoring ophthalmic dispenser is terminated for any reason, the board shall be notified immediately.

(5) In the interest of adequate training for the apprentice, the sponsor shall file an outline of the training schedule he proposes to follow in training the apprentice, and also shall satisfy the board that the facilities of his establishment are sufficient to provide such training. The board shall [will] limit the number of apprentices to not more than two (2) [~~one (1)~~] apprentices to each licensed ophthalmic dispenser in each establishment.

(6) The applicant shall [~~must~~] give evidence of good faith in his intention to learn the vocation of ophthalmic dispensing; that he intends to apply himself to the subject and at the earliest date possible, after the expiration of two (2) years apprenticeship training,

## ADMINISTRATIVE REGISTER - 3210

he intends to apply to the board for examination and to qualify as a licensed ophthalmic dispenser. The board may at its discretion refuse to further renew the license should he fail to carry out the provisions of this regulation.

(7) The board ~~shall~~ will supply, upon request, a list of approved textbooks covering the subjects on which the examination will be based. For those who are interested in attending a college or university where courses of ophthalmic dispensing are offered, the board ~~shall~~ will cooperate and offer every assistance possible.

(8) The board reserves the right to reject the application for an apprentice license or to rescind a license already issued if, upon inspection, it is found that any of the requirements for an apprentice license, as outlined in the ~~[rules and]~~ regulations are being violated. All rules of conduct, paying of fees, suspensions or revocations and all other ~~[rules and]~~ regulations not specifically excluding apprentice licenses shall apply to the licensed apprentice ophthalmic dispenser.

JON H. DURKIN, Chairman

APPROVED BY AGENCY: April 13, 1992

FILED WITH LRC: April 15, 1992 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed regulation will be held on May 21, 1992 at the hour of 10 a.m. at the offices of the Kentucky Board of Ophthalmic Dispensing, 640 Fourth Street, Louisville, Kentucky 40201. Any person interested in commenting on this regulation at that hearing should contact: Mr. Granville Smith, Secretary, Kentucky Board of Ophthalmic Dispensing, 640 Fourth Avenue, P.O. Box 640, Louisville, Kentucky 40201 in writing by May 16, 1992.

### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Granville Smith

(1) Type and number of entities affected: All apprentice candidates and their sponsors.

(a) Direct and indirect costs or savings to those affected: Employer-sponsors may save by training two apprentices at one time.

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: Minimal

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues:

N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? Tiering is not applicable in this case because all apprentice applicants and sponsors are treated alike.

## FINANCE AND ADMINISTRATION CABINET Board of Registration for Professional Engineers and Land Surveyors (Proposed Amendment)

### 201 KAR 18:040. Fees.

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

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

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

Section 1. Fees. (1) The license fee under KRS 322.040 shall be \$170 ~~[440]~~, of which thirty (30) dollars is payable on application. If approved, the fee for examination shall be \$130 ~~[400]~~. The license fee under KRS 322.120 shall be \$200 ~~[450]~~ all of which is payable on application. The license fee under KRS 322.040(2)(a) shall be \$160 ~~[440]~~ of which thirty (30) dollars is payable as an application fee. If approved, the fee for examination shall be \$120 ~~[400]~~. The amounts specified as application fees shall accompany each application; fees specified as examination fees shall be received in the board office at least two (2) weeks prior to the examination date. All fees shall be transmitted by check or money order made payable to "Kentucky State Registration Board."

(2) Application fees shall be retained by the board as nonrefundable fees.

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

(4) Only one (1) complete application form is required for a license in any one or more branches of engineering or land surveying. However, an updating of the application and an additional examination fee of \$130 ~~[400]~~ and an additional ten (10) dollar final fee is required for each additional branch of engineering or section of the law under which the applicant subsequently applies for licensing. The update must stress the work experience the applicant has had in the branch he wishes to add.

(5) The application fee to take the engineer in training examination shall be forty (40) dollars, and the land surveyor in training examination shall be sixty (60) ~~[forty (40)]~~ dollars.

(6) The annual renewal fee for the license of a professional engineer or a professional land surveyor shall be forty (40) dollars for fiscal year 1992-93 and shall be forty-five (45) dollars thereafter ~~[thirty-five (35) dollars]~~. License renewal shall be on a biennial basis.

(7) The fee for reinstatement of an expired license shall be \$250 ~~[450]~~.

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

ROBERT L. KAISER, Vice Chairman

APPROVED BY AGENCY: April 10, 1992

FILED WITH LRC: April 15, 1992 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed amendment, 201 KAR 18:040, shall be held May 25, 1992, at the office of the Board, The Kentucky Engineering Center, 160 Democrat Drive, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by May 20, 1992, 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 administra-

tive regulation amendment. A transcript of the hearing will not be made unless a written request for a transcript is requested. If you do not wish to attend the public hearing, you may submit written comments on the proposed amendment. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation amendment to: Larry Perkins, Executive Director, State Board of Registration of PE/LS, 160 Democrat Drive, Frankfort, KY 40601.

# REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry S. Perkins

(1) Type and number of entities affected: Approximately 10,000 registrants.

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

1. First year: \$5 per year to 1/2 of the above number. We license on a biennial basis. Additional \$5 the next year, for a total of \$10 per licensee after FY 93-94. Other increases will affect approximately 2,000 examinees and applicants per year.

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

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

(2) Effects on the promulgating administrative body: Increases are needed to meet board expenses. No fee increases since FY 88-89.

(a) Direct and indirect costs or savings: This will not create additional costs to board.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs: No additional increases or decreases due to this amendment.

(b) Reporting and paperwork requirements: Remains the same to board.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected:

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Each class of registrants and applicants are treated equally.

## GENERAL GOVERNMENT CABINET

### Kentucky Board of Nursing (Proposed Amendment)

#### 201 KAR 20:200. Definitions for mandatory continuing education.

RELATES TO: KRS 314.011(11), ~~314.024,~~ 314.073~~, 314.131(1)~~

STATUTORY AUTHORITY: KRS 314.131(1) ~~[Chapter 314]~~

NECESSITY AND FUNCTION: In order to implement a statewide system of mandatory continuing education, it is necessary for nurses, providers, and the board to use common terminology for communication about continuing education. ~~[For the purposes of mandatory continuing education, and regulations pertaining thereto.]~~

Section 1. The definitions of terms used in 201 KAR 20:215 and 201 KAR 20:220 shall be as follows: ~~[Definitions. (1) "Approved" means board recognized.]~~

(1) ~~[(2)]~~ "Completed" means ~~[for the purpose of KRS 314.073(2)]~~ that contact hours have been earned.

(2) "Continuing education activity" means an offering given by a provider of continuing education who has been approved by the board and which relates to the practice of nursing or contributes to the competency of a nurse.

(3) "Health care agency" means an entity whose primary purpose is to provide health care services.

~~[(3) "Contact hour" means that which is defined in KRS 314.073(1).]~~

~~(4) "Continuing education" means that which is defined in KRS 314.011(11).]~~

~~(5) "Educational unit" means a structural entity with designated administrative and nursing personnel, budget, financial support, facilities, and resources to administer and coordinate continuing education functions.]~~

(4) ~~[(6)]~~ "In-service education" means that part of an employing agency's staff development program designed to provide information related to the work setting such as philosophy, policies, procedures, on-the-job training, orientation, basic cardiopulmonary resuscitation, and equipment demonstration as distinguished from an offering designed to meet the approved standards and criteria for continuing education.

~~[(7) "Offering" means an organized learning experience, planned and evaluated to meet behavioral objectives based on assessed learning needs of nurse participants; an offering may be presented in one (1) session or a series of sessions.]~~

(5) ~~[(8)]~~ "Participants' evaluation summary" means the approved form which summarizes participants' evaluations of an offering.

(6) ~~[(9)]~~ "Participant roster" means the ~~[approved]~~ attendance record.

~~[(10) "Program" means the overall organized effort of a provider directed towards accomplishing objectives of a planned continuing education curriculum which consists of offerings.]~~

(7) ~~[(11)]~~ "Provider" means an entity which conducts continuing education activities ~~[program/offering(s)].~~

(8) ~~[(12)]~~ "Provide number" means the permanent, nontransferable number assigned by the board to a provider.

(9) ~~[(13)]~~ "Self-study" means a self-directed learning experience under the guidance of, and monitored by, an approved provider.

(10) ~~[(14)]~~ "Successful completion" means the participant has satisfactorily met the specific requirements of an offering.

M. SUSAN JONES, President

APPROVED BY AGENCY: February 14, 1992

FILED WITH LRC: March 19, 1992 at 8 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1992 at 10 a.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 18, 1992, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nathan Goldman

(1) Type and number of entities affected: app. 41,000 RNs and LPNs; app. 160 CE providers.

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

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: Existing requirements remain substantially the same.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: N/A

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: Existing requirements remain substantially the same.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict: 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: N/A

TIERING: Was tiering applied? Tiering is not applicable.

GENERAL GOVERNMENT CABINET

Kentucky Board of Nursing

(Proposed Amendment)

**201 KAR 20:215. Contact hours, recordkeeping and reporting requirements for renewal of licensure.**

RELATES TO: KRS 314.011(11), [314.024,] 314.073[, 314.131(4)]

STATUTORY AUTHORITY: KRS 314.131(1) [Chapter 314]

NECESSITY AND FUNCTION: For administration of the continuing education requirement, it is necessary for the board to develop procedures and standards [for awarding contact hour(s)].

Section 1. Individuals licensed under KRS Chapter 314 shall complete thirty (30) contact hours of continuing education activities from an approved provider during the earning period of November 1 through October 31 of their current licensure period.

(2) A minimum of two (2) contact hours of the thirty (30) hours shall be an HIV/AIDS education course approved by the Cabinet for Human Resources pursuant to 902 KAR 2:160.

(3) No partial credit for attendance at a continuing education activity shall be given. Individuals attending continuing education activities, whether as teachers, participants or students, shall attend the entire offering to be eligible to receive the number of contact hours for which the activity has been approved.

(4) It is the responsibility of the licensee to determine whether a continuing education activity is offered by an approved provider. [To earn contact hour approval, the nurse shall successfully complete the requirements specified by the provider, or as prescribed by the board for an approved continuing education activity. To satisfy the continuing education requirement for an active Kentucky license, contact hours shall be earned in an approved continuing education activity(ies).]

(1) An offering may be presented in one (1) session (one (1)

contact hour), or a series of sessions.

(a) Fractional parts of a contact hour may be approved for an offering which exceeds the minimum of one (1) contact hour in any given session.

(b) Each five (5) minutes shall equal one tenth (0.1) contact hour.

(2) Academic credit in nursing may satisfy the continuing education requirement. Academic credit may be converted to contact hours as follows:

(a) One (1) semester academic credit hour equals fifteen (15) contact hours.

(b) One (1) quarter academic credit hour equals twelve (12) contact hours.

(3) Self study learning via programming approved by national nursing organizations recognized by the board may satisfy the continuing education requirement.

(4) Contact hours awarded by another organization may be recognized by the board as equivalent, or comparable provided the organization's standards and criteria for continuing education and the approval mechanism have been reviewed and approved by the board.]

Section 2. The following categories of programs shall not qualify as approved continuing education activities regardless of who the provider is:

(1) Course content included in prelicensure nursing programs, except for licensed practical nurses enrolled in prelicensure registered nurse programs;

(2) Business meetings or committee meetings of organizations; and

(3) In-service and orientation to specific institutional policies and practices.

[(1) Courses in nursing which were a part of the nurse's prelicensure preparation. (This does not preclude approval of nursing electives or other courses in nursing science beyond the basic nursing program.)]

(2) Courses in other auxiliary training programs.

(3) In-service education as defined in 201 KAR 20:200, Section 4(6).]

Section 3. [Recordkeeping and Reporting Requirements for Renewal of Licensure:] (1) Each licensee or applicant for licensure by renewal shall maintain records to substantiate earned contact hours, which shall include a certificate [certification] furnished by the provider. Such records shall be retained for at least five (5) [three (3)] years following the earning period [year] in which the contact hours were earned.

(2) Each licensee or applicant for licensure by renewal shall, upon request, furnish to the board or staff, legible copies of the records required to be maintained by subsection (1) of this section. Said copies shall be furnished within thirty (30) days of the date a written request is mailed by first class to the last known address of the licensee or applicant. Failure to furnish records as required by this regulation shall be cause for the issuance of a complaint pursuant to 201 KAR 20:161 for failure to comply with KRS 314.073(2).

(3) Licensees or applicants for licensure by renewal who are determined to be in noncompliance with continuing education requirements shall be allowed to cure the noncompliance by meeting continuing education requirements within ninety (90) days of notification of noncompliance, entering a consent decree with the board and paying a \$400 civil penalty. Consent decrees constitute disciplinary action by the board. This provision shall not apply to cases in which:

(a) The licensee or applicant fails to furnish records as requested pursuant to subsection (2) of this section;

[(b) The licensee or applicant continues to practice subsequent to notification of noncompliance with continuing education requirements;

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or]

(b) [(e)] There is evidence of fraud or deceit in procuring or attempting to procure a license to practice nursing. [In this regard, licensees or applicants who certify compliance with continuing education requirements on the application shall be under a duty to notify the board in writing in the event compliance is not attained by the effective date of license for which the application was filed.]

(4) Cases described in subsection (3)(a) or (b) [or (e)] of this section shall be dealt with pursuant to the complaint procedures of 201 KAR 20:161.

[(5) Licensees or applicants have the right to have questions of regulatory compliance resolved by hearing pursuant to 201 KAR 20:162.]

Section 4. (1) Successful completion of post licensure academic courses at a college, university or postsecondary vocational institution which are relevant to nursing practice and are not excepted by Section 2 of this regulation shall qualify as continuing education activities obtained from an approved provider.

(2) A copy of the transcript or grade reports shall be submitted upon request of the board. A description of the course from the school catalog or institution syllabus may be requested, as needed.

(3) Contact hours are calculated as follows:

(a) One (1) semester or trimester hour of academic credit equals fifteen (15) contact hours.

(b) One (1) quarter hour of academic credit equals twelve (12) contact hours.

(4) The following courses are relevant to nursing practice:

(a) A nursing course, designated by a nursing course number, and beyond the prelicensure curriculum of the individual licensee.

(b) An academic course applicable to nursing practice and appropriate for the nurse engaged in clinical practice, administration, education, or research and which is beyond the prelicensure curriculum of the individual licensee.

(5) A licensee may request course review for approval of applicable nursing content pursuant to Section 5 of this regulation.

Section 5. (1) A licensee may request an individual review of a nonapproved continuing education activity by completing the application for individual review and paying the required fee. The application for individual review is hereby incorporated by reference and may be viewed in the board office during regular business hours. The review shall be based on the standards set forth in this and other applicable regulations.

(2) Approval by the board shall qualify the continuing education activity as one obtained from an approved provider only for that particular offering.

(3) The continuing education activity must have been completed and review requested within thirty (30) days of the end of the earning period.

Section 6. Current certification of advanced registered nurse practitioners as required by KRS 314.042 and 201 KAR 20:056 shall be accepted as documentation of compliance with continuing education requirements for renewal of the ARNP's registered nurse license.

M. SUSAN JONES, President

APPROVED BY AGENCY: February 14, 1992

FILED WITH LRC: March 19, 1992 at 8 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1992 at 10 a.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 18, 1992, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nathan Goldman

(1) Type and number of entities affected: app. 41,000 RNs and LPNs; app. 160 CE providers.

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

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: Existing requirements remain substantially the same.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: N/A

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: Existing requirements remain substantially the same.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict: 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: N/A

TIERING: Was tiering applied? Tiering is not applicable.

### GENERAL GOVERNMENT CABINET

Kentucky Board of Nursing  
(Proposed Amendment)

#### 201 KAR 20:220. Provider approval.

RELATES TO: KRS 314.011(11), 314.073

STATUTORY AUTHORITY: KRS [314.021, 314.031(1), 314.131(1)]

NECESSITY AND FUNCTION: Only those contact hours earned in [approved] programs[offerings] conducted by approved providers shall satisfy the requirements for relicensure. This regulation contains the substance of 201 KAR 20:205 and 201 KAR 20:210.

Section 1. (1) To obtain approval by the board, a provider shall submit an application on a form provided by the board and pay the fee as set by regulation. The application for provider approval is hereby incorporated by reference and may be viewed in the board office during regular business hours.

(2) The board shall review the completed application to determine if the applicant complies with the standards set forth in this regulation and otherwise is competent to offer continuing education activities.



The applicant may show compliance with the standards either by supplying specific information or by showing evidence of approval by an organization which has standards comparable to those set forth in this regulation. The board shall publish a list of those organizations it has determined to have comparable standards, which is hereby incorporated by reference and may be viewed during regular business hours at the board office. Organizations not included on this list may be included after submitting evidence of comparable standards. If the application is approved, a provider number shall be issued.

(3) The provider approval for a health care agency shall initially expire on June 30 of the next succeeding even-numbered year following initial approval.

(4) The approval status for a nonhealth care agency shall initially expire on June 30 of the next succeeding uneven-numbered year following initial approval.

(5) By March 30 at the end of the approval period, approved providers shall submit, on forms provided by the board, a request for renewal of their approval status and pay the fee set by regulation. The renewal form is hereby incorporated by reference and may be viewed in the board office during regular business hours. Providers shall show continued compliance with the standards set forth in this regulation.

(6) Renewal shall be for two (2) years.

(7) The participants' evaluation summary for any continuing education activity which was rated as unsatisfactory by twenty (20) percent or more of the participants shall be submitted with the renewal application.

(8) Participants shall be provided with essential information for review prior to registration. This information shall include, but not be limited to, learning objectives, content overview, presenter, number of contact hours, fee and requirements for successful completion.

(9) All published information about continuing education activities offered by providers approved by the board shall include the provider number and the following statement: "Kentucky Board of Nursing approval of an individual nursing continuing education provider does not constitute endorsement of program content."

(10) A provider shall notify the board in writing within one (1) month of any changes in the administration of the providership, i.e., nurse administrator, mailing address, telephone number or other relevant information.

[Section 1. To administer the continuing education requirement, the board adopts the following standards: Administrative standards. An approved provider shall comply with the following administrative standards:

(1) Educational unit. There shall be within the provider's organizational structure an identifiable educational unit with designated personnel and resources for conducting an organized schedule of continuing education for nurses and for reporting and recording of contact hours according to the requirements of the board's standards and criteria.

(2) Philosophy and objectives. The unit's philosophy and objectives for continuing education shall be consistent with those of the provider organization.

(3) Nurse administrator of continuing education. A nurse, holding a current, active nurse license, with experience in adult and continuing education shall be administratively responsible for the actual planning, development, implementation, and evaluation of the provider's educational unit for continuing education for nurses. The educational qualifications of the nurse administrator shall be as follows:

(a) For the licensed practical nursing groups' educational units, the nurse administrator of continuing education shall hold a diploma, or its equivalent, from an approved school of practical nursing.

(b) Other providers' educational units shall have a nurse administrator who holds a baccalaureate or higher degree in nursing

or a nurse consultant who meets the nurse administrator qualifications. As of January 1, 1985, newly appointed nurse administrators of program approved providerships shall hold a baccalaureate or higher degree in nursing.

(4) Policies and procedures. Written policies and procedures of the provider shall facilitate the efficient operation of the planned continuing education activities and shall clearly define the provider's accountability, financial support, and administrative control necessary to maintain the board's standards and criteria for continuing education and to achieve the objectives of the planned program/ offering(s).

(5) Educational facilities and resources. The provider shall have accessible and available, or arrange for, educational facilities, human resources, necessary instructional aids, and equipment for the planners, faculty/ instructor(s), and/or learners consistent with the educational content, format, teaching methodology, and behavioral objectives of each continuing education offering.

(6) Continuing education planners/committee. A committee composed of nurses holding current, active nurse licenses and qualified by education and expertise in the subject matter, and experience in planning adult and continuing education shall be used in planning and evaluating board approved program/offerings; other advisers or consultants may be used as appropriate.]

Section 2. (1) The board may review continuing education activities or a provider's approval status at any time.

(2) If after a review of a continuing education activity it is determined that the activity does not comply with this regulation, the board shall send the provider, by regular mail, notice of its intent to deny approval status for subsequent offerings of that specific continuing education activity.

(3) If after a review of a provider it is determined that the provider does not comply with this regulation, the board shall send the provider, by regular mail, notice of its intent to deny or limit the provider's approval status.

(4) The provider may request a hearing before the board, at its next regularly scheduled meeting, within ten (10) days of the receipt of the board's notice. Failure to request a hearing shall result in implementation of the action proposed in the notice.

[Section 2. Initial Provider Approval. The potential provider shall request an application for approval as a provider and the board shall assign the potential provider a permanent, nontransferable number. The provider number shall be used to identify all communications, offering announcements, records, and reports:

(1) Applications for approval as a provider may be submitted at any time during the year.

(2) If the potential provider meets the board's standards and criteria, approval shall be granted. An approved provider shall apply for approval of program/offering(s) in accordance with board requirements.

(3) The providership approval period awarded shall be set forth in the approval notification letter sent to the provider by the board. Retroactive approval shall not be granted.]

Section 3. Providers shall comply with the following standards:

(1) Continuing education activities support the promotion of quality continuing education that will enhance the quality of care provided by nurses and which contribute directly to the competence of a nurse.

(2) The content of nursing continuing education shall be designed to present current theoretical knowledge to enhance and expand nursing skills, and to promote the development, or change in attitudes necessary to make competent judgments and decisions in nursing.

(3) The educational content shall flow from, and support achievement of learning objectives that promote safe, effective nursing practice.

(4) Objectives for continuing education activities shall be related



to nursing practice and interventions, stated in clearly defined expected learner outcomes and be consistent with needs assessment data.

(5) The continuing education activity shall reflect cooperative planning between the nurse administrator, faculty and content experts.

(6) The content for each activity shall be documented in provider files as follows:

(a) An agenda delineating the organization of the content; i.e., presentation schedule, presenters, topics, meals, breaks.

(b) Topical outline and corresponding time frames sufficient to appraise relevance and value of the educational activity to safe, effective nursing practice.

(7) Identified teaching methods shall be consistent with the content and learning objectives, and shall reflect the use of adult learning principles.

(8) Faculty for continuing education activities must demonstrate content knowledge and expertise, and be actively involved in planning their presentations.

(9) The name, title and credentials identifying the educational and professional qualifications for each faculty member shall be retained in the provider offering files.

(10) Resources allocated for the continuing education activity shall be adequate in terms of education unit organization, with fiscal support for adequate staff, facilities, equipment and supplies to ensure quality teaching-learning in a comfortable environment that is accessible to the target audience.

(11) Records of continuing education activities shall be maintained for a period of five (5) years, including the following:

(a) Title, date and site of the activity;

(b) Name of the person responsible for coordinating and implementing the activity;

(c) Purpose, documentation of planning committee activities, learner objectives, content outline, faculty, teaching and evaluation methods;

(d) Participant roster, with a minimum of names, Social Security numbers and license numbers, if held;

(e) Summary of participant evaluations;

(f) Number of continuing education contact hours awarded.

(12) Participants shall receive a certificate of attendance that documents participation with the following:

(a) Name of participant;

(b) Offering title, date and location;

(c) KBN's provider's name, approval number and expiration date;

(d) Name and signature of authorized provider representative;

(e) Number of continuing education contact hours awarded.

(13) There shall be a clearly defined method for evaluating the continuing education activity which includes the following:

(a) An evaluation tool that includes participant appraisal of achievement of each learning objective; teaching effectiveness of each presenter; relevance of content to stated objectives; effectiveness of teaching methods; and appropriateness of physical facilities.

(b) A mechanism for periodic, systematic evaluation of the provider's total program of educational activities.

(14) An action plan for resolution of identified deficiencies as revealed in the summary of participant evaluations, which includes the projected time frame for resolution. Identified deficiencies are any learning objectives rated as unsatisfactory by twenty (20) percent or more of the participants.

(15) A nurse, holding a current, active license, with experience in adult and continuing education, shall be administratively responsible for the planning, development, implementation, and evaluation of the continuing education activities. The nurse administrator shall hold a baccalaureate or higher degree in nursing. For the licensed practical nursing groups educational units, the nurse administrator of

continuing education shall hold a diploma or its equivalent, from an approved school of practical nursing.

~~[Section 3. Continued Approval of a Provider. Applications for continued approval as a provider shall be submitted prior to the end of the current approval period.]~~

~~(1) Continued approval of the provider shall be based on the past approval period performance and compliance with board standards.~~

~~(2) The provider's past approval period performance may be evaluated by participant evaluations, provider evaluation, on-site visits, and/or an audit of the provider's reports and records.~~

~~(3) Providership approval awarded by another organization may be recognized by the board as equivalent or comparable, provided the organization's standards and criteria for continuing education and the approval mechanism have been reviewed and approved by the board.~~

~~(a) The board shall assign a permanent nontransferable number to providers approved through this mechanism.~~

~~(b) Provider approval granted through this mechanism shall be subject to board action identified in Section 4 of this regulation.]~~

~~[Section 4. The board may deny, revoke, suspend, or probate approval of any provider, continuing education activity, or other approved entity for just cause.]~~

~~[Section 5. Appeal. If a provider is dissatisfied with a board decision concerning approval and wishes a review of the decision, the following procedure shall be followed:~~

~~(1) Written requests for the review must be filed with the board within thirty (30) days after the date of notification of the board action which the provider contests.~~

~~(2) The board, or its designee, shall conduct a review in which the provider may appear in person and present reasons why the board's decision should be set aside or modified.]~~

Section 4. 201 KAR 20:205, Standards for continuing education offerings and 201 KAR 20:210, Standards for a program of continuing education, are hereby repealed.

M. SUSAN JONES, President

APPROVED BY AGENCY: February 14, 1992

FILED WITH LRC: March 19, 1992 at 8 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1992 at 10 a.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 18, 1992, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nathan Goldman

(1) Type and number of entities affected: app. 41,000 RNs and LPNs; app. 160 CE providers.

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

1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
  - (b) Reporting and paperwork requirements: Existing requirements remain substantially the same.
  - (2) Effects on the promulgating administrative body:
    - (a) Direct and indirect costs or savings: N/A
    1. First year: N/A
    2. Continuing costs or savings: N/A
    3. Additional factors increasing or decreasing costs: N/A
    - (b) Reporting and paperwork requirements: Existing requirements remain substantially the same.
    - (3) Assessment of anticipated effect on state and local revenues: None
    - (4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
    - (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
      - (a) Necessity of proposed regulation if in conflict: 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: N/A
  - TIERING: Was tiering applied? Tiering is not applicable.

**TOURISM CABINET**  
**Department of Fish and Wildlife Resources**  
**(Proposed Amendment)**

**301 KAR 2:170. Seasons for deer hunting.**

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.180, 150.305, 150.330, 150.340, 150.360, 150.370, 150.390, 150.395, 150.400, 150.4111, 150.415, 150.416, 150.990  
 STATUTORY AUTHORITY: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: This regulation pertains to deer seasons in specified counties and on wildlife management areas (WMA). This regulation is necessary to set deer hunting season dates, to specify the counties and management areas open to deer hunting, to prescribe the methods by which deer may be legally taken, and to prescribe procedures by which handicapped persons may apply for exemptions from conventional hunting methods requirements. The function of this regulation is to provide for the prudent taking of deer within reasonable limits, and to insure a permanent and continuing supply of deer for present and future residents of the state. This amendment is necessary to adjust for date, weapon and tag limit changes in the deer seasons.

Section 1. Gun ~~[Firearm (and any other legal method)]~~ Seasons, Zones, Dates, Tags, and Legal Deer. Deer hunting is permitted in the following zones on the dates listed, using any legal method, except as specified in subsection (8) ~~[(7)]~~ of this section and Section 4 of this regulation.

(1) Zone No. 1: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for any deer. The yellow tag is valid only for antlerless deer. Counties in this zone are Boone, Crittenden, Gallatin, Hancock, Hopkins, Jefferson, Livingston, Oldham, and Webster ~~[Caldwell, Crittenden, Hopkins, Jefferson, Livingston, Logan, Oldham, Todd, Union, Webster]~~.

(2) Zone No. 2: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for any deer on the first five (5) days and for antlered deer only on the last five (5) days of the season. The yellow tag is valid only for antlerless deer on the first five (5) days and is not valid on the last five (5) days of the season. Counties in this zone are Allen, Ballard, Breckinridge,

Caldwell, Carroll, Christian, Franklin, Grayson, Henderson, Henry, Kenton, Logan, Lyon, Marion, Meade, Muhlenburg, Nelson, Ohio, Shelby, Spencer, Todd, Trigg, Trimble, and Union. ~~[Ballard, Boone, Breckinridge, Bullitt, Calloway, Carlisle, Christian, Fulton, Gallatin, Graves, Grayson, Hancock, Henry, Hickman, Kenton, Lyon, McCracken, Marion, Meade, Muhlenburg, Nelson, Ohio, Shelby, Spencer, Trigg, and Trimble.]~~

(3) Zone No. 3: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for any deer on the first two (2) days of the season and for antlered deer only on the last eight (8) days. The yellow tag is valid only for antlerless deer on the first two (2) days and is not valid on the last eight (8) days of the season. Counties in this zone are Adair, Anderson, Boyle, Bracken, Bullitt, Butler, Calloway, Carlisle, Fulton, Grant, Graves, Hardin, Harrison, Hickman, Larue, McCracken, Mercer, Owen, Pendleton, Scott, Taylor, Warren, Washington, and Woodford. ~~[Adair, Allen, Anderson, Boyle, Butler, Carroll, Casey, Daviess, Franklin, Grant, Hardin, Harrison, Henderson, Larue, McLean, Mercer, Owen, Pendleton, Scott, Taylor, Warren, Washington, and Woodford.]~~

(4) Zone No. 4: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for antlered deer only on the first nine (9) days and for any deer on the last day. The yellow tag is not valid for the first nine (9) days and is valid for antlerless deer only on the last day of the season. Counties in this zone are Barren, Campbell, Casey, Cumberland, Daviess, Edmonson, Green, Hart, Mason, McClean, Metcalfe, Monroe, Nicholas, Robertson, and Simpson. ~~[Barren, Boyd, Bracken, Campbell, Carter, Cumberland, Edmonson, Elliott, Green, Lawrence, Marshall, Mason, Metcalfe, Monroe, Nicholas, Robertson, and Simpson.]~~

(5) Zone No. 5: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for antlered deer only. The yellow tag is not valid. Counties in this zone are Boyd, Carter, Elliott, Greenup, Lawrence, and Marshall. ~~[Bath, Clark, Clinton, Fleming, Greenup, Hart, Lincoln, McCreary, Madison, Menifee, Morgan, Pulaski, Rowan, Russell, Wayne, and Whitley.]~~

(6) Zone No. 6: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for antlered deer only. The yellow tag is invalid. Counties in this zone are Bath, Clark, Clinton, Fleming, Lincoln, Madison, McCreary, Menifee, Morgan, Pulaski, Rowan, Russell, Wayne, and Whitley.

(7) ~~[(6)]~~ Zone No. 7 ~~[6]~~: open for five (5) consecutive days beginning on the second Saturday in November. The white tag is valid for antlered deer only. The yellow tag is not valid. Counties in this zone are Bell, Bourbon, Breathitt, Clay, Fayette, Floyd east of Hwy. 23 from the Johnson County line to the Pike County Line, Garrard, Harlan, Jackson, Jessamine, Johnson, Knott, Knox, Laurel, Lee, Leslie, Letcher, Lewis, Martin, Montgomery, Owsley, Perry, ~~[Pike]~~, Powell, Rockcastle, and Wolfe.

(8) ~~[(7)]~~ Counties, wildlife management areas, and parks closed to all deer hunting.

(a) Counties: Estill, Floyd west of Hwy. 23 from the Johnson County line to the Pike County line, ~~[and]~~ Magoffin and Pike.

(b) Wildlife management areas: Daviess County Gun Club in Daviess County, Ballard WMA in Ballard County (except that portion south of Terrell Landing Road), Fishtrap WMA in Pike County, Robinson Forest WMA in Breathitt, Perry, and Knott Counties, and Swan Lake WMA in Ballard County.

(c) Deer hunting is prohibited within the boundaries of all national parks.

~~[(8) Exceptions to tag usage. Hunters using special purpose tags as antlerless deer permits issued to landowners, as specified in 301 KAR 2:210 may take only two (2) antlerless deer in addition to the statewide limit, using two (2) special purpose tags. Hunters required to possess a deer permit as specified in Section 6(1) of this regulation shall have this permit in possession when hunting with a special purpose tag.]~~

Section 2. Archery and Crossbow Seasons, Zones, as Specified in Section 1 of this Regulation, Dates, Tags, and Legal Deer. ~~[Except as specified in Sections 1 and 3 of this regulation.]~~ The white tag is valid for any deer and the yellow tag is valid for antlerless deer only in Zones 1, 2, 3, 4, 5, and 6 [6]; in Zone 7 [6] the white tag is valid for antlered deer only and the yellow tag is not valid.

(1) Archery season: longbows, recurve and compound bows only: October 1 through January 15.

(2) Crossbow season: beginning the second Saturday in November and continuing for twenty (20) consecutive days and during the muzzle-loading seasons only.

(3) Archery and crossbow hunting during gun and muzzle-loading ~~[firearms]~~ seasons. Archery and crossbow equipment may be used during any gun and muzzle-loading seasons. Archery and crossbow hunters shall abide by the appropriate gun or muzzle-loading seasons regulations and tag restrictions in effect for the county or WMA in which they are hunting as specified in Sections 1, 3, 4, 6, and 7 of this regulation. Hunters shall not possess both archery or crossbow equipment and firearms while deer hunting except during gun, WMA quota hunt and muzzle-loading seasons.

Section 3. Muzzle-loading Seasons, Zones, as Specified in Section 1 of this Regulation, Dates, Tags, and Legal Deer. The white tag is valid for any deer and the yellow tag is valid for antlerless deer only in Zones 1, 2, 3, ~~[and]~~ 4 and 5 ~~[as specified in Section 1 of this regulation]~~. The white tag is valid for antlered deer only in Zones 6 and 7 ~~[5 and 6]~~. The yellow tag is not valid in Zones 6 and 7 ~~[5 and 6]~~.

(1) Dates: two (2) consecutive days beginning the third Saturday in October and seven (7) consecutive days beginning the second Saturday in December. Hunters shall not possess breech-loading firearms while deer hunting during these periods. [- and during the gun season as specified in Section 1 of this regulation.]

(2) Firearms: only those muzzle-loading firearms specified in Section 8(1) of this regulation are permitted. ~~[Hunters shall not possess breech-loading firearms while deer hunting during this period.]~~

(3) Muzzle-loader hunting during gun seasons: muzzle-loading equipment may be used during any gun season. Muzzle-loader hunters shall abide by the gun regulations and tag restrictions in effect for the county or WMA in which they are hunting as specified in Sections 1, 4, 6, 7, and 8 of this regulation.

Section 4. Exceptions to Deer Hunting Regulations for Wildlife Management Areas. All deer season ~~[firearm, archery and crossbow]~~ regulations apply unless otherwise specified below. When specific hunting dates are given, deer hunting shall be permitted only on those dates; otherwise, applicable dates and harvest restrictions for the zone in which the WMA occurs shall apply. Unless otherwise noted below, the muzzle-loading seasons shall not be in effect on these areas.

(1) Limits. An individual shall take no more than one (1) deer from each of the areas listed below except that two (2) may be taken on West Kentucky and Higginson-Henry WMA's.

(2) Advance application for quota hunts. Advance application is required for all quota hunts. Applications for quota hunts shall be made only on forms provided by the department and shall include the Social Security number of the applicant. All applications shall be accompanied by a three (3) dollar per person nonrefundable certified check or money order. No more than four (4) hunters shall apply as a party. Hunters sixteen (16) years old and older may apply to only one (1) quota hunt, and qualified juveniles (those who on the day of the hunt are at least ten (10) years old and have not reached their 16th birthday) may apply to a maximum of one (1) quota hunt and one (1) youth hunt. Multiple applications to one (1) area or applications in excess of the limits stated in this subsection shall result in

disqualification. Completed applications shall be stamped, self-addressed and postmarked no later than August 31. The August 31 deadline may be extended by the commissioner of the department when problems delay the availability of application forms. Hunters drawn for a quota hunt on Kleber, Higginson-Henry, Dewey Lake, Taylorsville Lake and Yellowbank WMA's shall not apply for a quota hunt to that same area for the following three (3) seasons.

(3) Checking in and out.

(a) Hunters drawn for quota hunts shall hunt only on assigned dates and in assigned areas, and shall check in before, and out at the completion of, the hunt. All hunters shall present their quota hunt permit and show proof of identity and Social Security number when checking in. No other person shall substitute for the person whose name appears on the quota hunt permit. Hunters shall also produce the signature portion of a current deer permit and will be issued a special purpose tag to place on the deer. Hunters on Peabody WMA are not required to check in but successful hunters shall check out their deer at the nearest check station. ~~[Hunters shall take only the kind of deer specified (antlered or antlerless) if so specified on the tag.]~~ Participants in youth hunts shall ~~[also]~~ show valid hunter safety certification and shall be accompanied by an adult as specified in Section 7(1) of this regulation.

(b) All deer hunters shall check in and check out for all hunts on Central Kentucky, Clay, Dewey Lake, Grayson Lake, Higginson-Henry, Kleber, Paintsville Lake, Pennyryle Forest, Redbird, Tradewater, West Kentucky, Yatesville, Yellowbank WMAs, and for the Barren River WMA Youth Hunt.

(4) Hunting on private inholdings within WMAs. Owners of private lands completely surrounded by regulated WMA boundaries, and their guests may hunt on these lands during quota hunts without following the application procedure.

(5) Only persons possessing a valid quota hunt permit shall be allowed to enter a WMA during a quota hunt, except to use established public thoroughfares or other roads or areas designated open by signs, or to the extent provided by subsection (4) of this section. Other areas may be closed to hunting as indicated by signs.

(6) Equipment permitted. On quota hunts and gun hunts any legal method (muzzle-loader and breech-loading firearms, archery, or crossbow) may be used, and all hunters shall wear hunter orange as specified in Section 7(4) of this regulation. Archery hunts are limited to legal longbows, recurve bows and compound bows.

(7) Barren River WMA in Allen and Barren Counties.

(a) Quota youth hunt: any deer, first Saturday in November for two (2) consecutive days.

(b) Gun, archery and muzzle-loading hunting shall conform to statewide regulations.

(8) Beaver Creek WMA in McCreary and Pulaski Counties, and Mill Creek WMA in Jackson County.

(a) Archery hunt: antlered deer only, October 15 through the Friday preceding the second Saturday in November and the Monday following the last quota hunt through December 31.

(b) Quota hunts: antlered deer only, first Saturday in December for two (2) consecutive days, second Saturday in December for two (2) consecutive days and the third Saturday in December for two (2) consecutive days.

(9) Birdsville Island WMA in Livingston County.

(a) Quota hunts: any deer October 10 and 25.

(b) Special drawing procedures: a drawing for the quota hunts will be held on September 5 at 10 a.m. Central Time at the old hotel building in Smithland. Hunters wishing to apply shall be present to enter.

(10) [(9)] Cane Creek WMA in Laurel County.

(a) Archery hunt: antlered deer only, October 1 through the Friday preceding the second Saturday in November and the Monday following the first Sunday in December through December 31.

(b) Gun hunt: antlered deer only, second Saturday in November.

(11) ~~[(10)]~~ Central Kentucky WMA in Madison County.

(a) Archery hunt: any deer, December 18 through January 15.

(b) No firearm deer hunting allowed.

(12) ~~[(11)]~~ Clay WMA in Nicholas County.

~~[(a)]~~ Archery hunt: antlered deer only ~~[any deer]~~, October 15 through the Friday preceding the second Saturday in November.

~~[(b)]~~ Quota hunt: any deer, first Saturday in December for two (2) consecutive days.

(13) ~~[(12)]~~ Dewey Lake WMA in Floyd County.

(a) Archery hunt: antlered deer only, October 1 through the Friday preceding the second Saturday in November and the Monday following the quota hunt through December 31 except during the youth quota hunt.

(b) Archery hunt: any deer, October 15 through October 31.

(c) ~~[(b)]~~ Quota hunt: antlered deer only, first Saturday in December for two (2) consecutive days.

(d) ~~[(e)]~~ Youth quota hunt: any deer, first Saturday in November for two (2) consecutive days.

(14) ~~[(13)]~~ Grayson Lake WMA in Carter and Elliott Counties.

(a) Youth quota hunt: any deer, first Saturday in November for two (2) consecutive days and the first Saturday in December for two (2) consecutive days. Only on that portion west of Route 1496, and east of the line delineated by the following: Bruin Creek, the Bruin Creek fork of Grayson Lake, and Grayson Lake north of the Bruin Creek Fork. This is the only firearm deer hunting permitted on the area.

(b) Archery and crossbow hunt: any deer, except on the portion west of Route 1496, and east of the line delineated by the following: Bruin Creek, the Bruin Creek fork of Grayson Lake, and Grayson Lake north of the Bruin Creek Fork. October 1 through December 31.

(15) ~~[(14)]~~ Higginson-Henry WMA in Union County.

(a) Quota hunt for deer as specified on permit, first Saturday in December for two (2) consecutive days.

(b) Archery hunt: ~~[from October 1 through 15 hunters may only hunt with a special purpose tag valid only during these dates.]~~ only ~~[one (1)]~~ antlerless deer may be taken during the ~~[this]~~ period October 1 through 15. Any deer may be taken with the white tag, or an antlerless deer may be taken with the yellow tag during the period October 15 through December 31, ~~except during the quota hunt~~.

(16) ~~[(15)]~~ Kleber WMA in Owen and Franklin Counties.

(a) Quota hunt: any deer, first Saturday in December for two (2) consecutive days.

(b) Archery hunt: any deer, third Saturday in October through December 31, ~~except during the quota hunt~~.

(17) ~~[(16)]~~ Paintsville Lake WMA in Morgan and Johnson Counties.

(a) Quota hunt: antlered deer only, first Saturday in December for two (2) consecutive days.

(b) Archery hunt: antlered deer only, October 1 through the Friday preceding the second Saturday in November and the Monday following the quota hunt through December 31.

(18) ~~[(17)]~~ Peabody and White City WMA's in Hopkins, Muhlenberg and Ohio Counties.

(a) Archery hunt: October 1 through December 31. Advance application required for all tracts except White City WMA.

(b) Quota hunt 1: the second Saturday in November through the following Wednesday.

(c) Quota hunt 2: the Thursday following the second Saturday in November through the following Monday.

(d) Muzzle-loader hunts: two (2) consecutive days beginning the third Saturday in October and seven (7) consecutive days beginning the second Saturday in December except that no muzzle-loader hunting is allowed on the White City tract. Advance applications required for open ~~[all]~~ tracts ~~[except White City]~~.

(e) Limits: one (1) deer.

(f) All hunters, except White City archery ~~[and muzzle-loader]~~

hunters, shall apply in advance on the standard application form and have the validated portion of this form in their possession while hunting. Archery and muzzle-loader hunters on Peabody Tracts may apply ~~[to hunt]~~ through December 1.

(19) ~~[(18)]~~ Pennyryle WMA in Caldwell, Christian, and Hopkins Counties, and Tradewater WMA in Hopkins County.

(a) Quota hunt: antlered deer only, the first Saturday in December for two (2) consecutive days.

(b) Limits: one (1) antlered deer only.

(c) Archery hunting: conforms to statewide regulations except that only antlered deer shall be taken.

(20) ~~[(19)]~~ Pioneer Weapons WMA in Bath and Menifee Counties.

(a) Legal muzzle-loading firearms only; crossbows may be used during the entire archery season.

(b) Muzzle-loading hunting shall conform to statewide regulations. ~~[Hunting is permitted during the muzzle-loading season as specified in Section 3 of this regulation.]~~

(21) ~~[(20)]~~ Redbird WMA in Clay and Leslie Counties.

(a) Archery hunt: antlered deer only, October 1 through the Friday preceding the second Saturday in November and the Monday following the first Sunday in December through December 31.

(b) Gun hunt: antlered deer only, second Saturday in November.

(22) ~~[(21)]~~ Taylorsville Lake WMA in Anderson and Spencer Counties.

(a) Archery hunt: any deer, October 1 through December 31, ~~except during the quota hunt~~.

(b) Quota ~~[gun]~~ hunt: any deer, first Saturday in November for two (2) consecutive days.

(23) ~~[(22)]~~ West Kentucky WMA in McCracken County.

(a) Archery hunts: any deer, October 1 through November 5 ~~[31]~~, November 9 ~~[4]~~ through 19 ~~[44]~~, November 23 ~~[48]~~ through 27 ~~[22]~~, December 7 ~~[9]~~ through 10 ~~[42]~~ and December 14 ~~[47]~~ through January 15 on all tracts except posted zones.

(b) Posted zones: designated posted zones shall be opened to archery hunts on December 14 ~~[46]~~ through January 15.

(c) Quota hunt 1: any deer, third Saturday in November for two (2) consecutive days.

(d) Quota hunt 2: any deer, second Saturday in December for two (2) consecutive days.

(e) Youth quota hunt: any deer, first Saturday in November for two (2) consecutive days.

(f) All gun hunters are limited to muzzle- or breech-loading shotguns only.

(g) No firearms permitted on any posted zone at any time.

(h) Crossbow hunt: beginning October 24 ~~[26]~~ and continuing for eight (8) consecutive days.

(i) Limits: two (2) deer, one (1) of which shall be antlerless and tagged with the yellow or white tag, the other deer may be antlered or antlerless and tagged with a special purpose tag issued on the area. Only one (1) special purpose tag shall be issued to an individual. A bow hunter who has taken a deer on this WMA with a special purpose tag shall not hunt in the quota hunt.

(24) ~~[(23)]~~ Yellowbank WMA in Breckinridge County.

(a) Quota hunt: any deer, first Saturday in November for two (2) consecutive days.

(b) Archery hunt: antlered deer only October 1 through 14 and any deer, October 15 through December 31, ~~except during the quota hunt~~.

Section 5. Legal Deer, Taking of Other Species, Hunting Hours and Bag Limits. (1) An antlered deer is defined as having one (1) antler at least four (4) inches in length, measured from the skin to the tip of the antler.

(2) Hunting is permitted during daylight hours only.

(3) The limit is two (2) deer per hunter per license year, only one (1) of which may be an antlered deer, except as follows:

(a) Additional deer may be taken during quota hunts using a special purpose tags as specified in Section 4 of this regulation;

(b) Two (2) additional antlerless deer may be taken using two (2) special purpose tags as antlerless permits issued to landowners as specified in 301 KAR 2:210. Hunters shall take only the kind of deer specified (antlered or antlerless) if so specified on the tag. [except that deer may be taken in addition to the limit with the special purpose tag as provided by this and other regulations.]

(4) The taking of coyotes and wild hogs from November 1 through the gun, archery and [special] muzzle-loader season is permitted by deer hunters [possessing a valid deer tag as specified in Sections 1, 2 and 3 of this regulation, and using legal weapons as specified in Sections 7 and 8 of this regulation]. Any wild hog taken shall be reported to an official deer check station and the carcass presented for examination.

Section 6. Hunting License, Deer Permits, Deer Tags and Check Station Requirements. (1) Hunting license and deer permits. All deer hunters, except those exempted by KRS 150.170 shall possess a valid annual Kentucky hunting license and a valid deer permit. Hunters not eligible to purchase a junior hunting license shall purchase the two (2) tag permit. Hunters eligible to purchase a junior hunting license may purchase either the junior deer permit or the two (2) tag permit. The junior permit may be used in place of either the white or yellow tag.

(2) Leaving head attached. Any person possessing a deer shall leave the head attached to the body until the carcass is removed from the field and checked in.

(3) Mandatory deer check stations. Any person taking a deer during any deer hunting season shall present the entire or field dressed carcass to have it checked at the deer check station nearest to where the deer was taken, or by the nearest available conservation officer, no later than 9 a.m. on the day following the day taken. The person taking the deer shall check it in personally. The hunter shall fill out an official game check card and submit it to the check station operator or conservation officer. The hunter's portion of this card shall be retained in the hunter's possession until the deer is taken to the processor. Parts separated for taxidermy shall be accompanied by the taxidermy portion of the game check card as specified in subsection (4)(c) of this section.

(4) Tagging deer carcass and head.

(a) Immediately after taking a deer and before moving the carcass, the hunter shall attach his valid, adhesive backed, paper tag portion of the deer permit or special purpose tag to the deer. This tag shall be attached so that it cannot be removed without destroying the tag or mutilating the carcass and shall remain attached until the carcass is processed and packaged. Before moving any harvested deer from their property or allowing it out of their possession, hunters who are not required to possess a deer permit under the provisions of subsection (1) of this section shall attach to the deer a card or tag containing the following information: name of owner, address, date killed and location killed.

(b) Deer taken in Kentucky shall not be transported outside state boundaries unless they have been checked in at an official check station. Proof of legal harvest shall accompany any deer or parts of deer transported into Kentucky. Any deer entered in the trophy deer list shall be taken legally and within the boundaries of the state.

(c) Heads or other parts from deer taken in Kentucky separated from the carcass for mounting by a taxidermist shall have the taxidermy portion of the official game check card properly filled out and attached to the separated part.

(d) Deer hides may be sold to licensed fur buyers and licensed fur processors.

(e) All individuals, lockers, and plants that process deer shall keep accurate records of name of hunter, address, and date received for deer in their possession. Each deer shall have a tag provided by

the operator stating the above information.

#### Section 7. Requirements for Deer Hunting.

(1) Persons under sixteen (16) years of age shall not hunt deer with a gun unless accompanied by an adult who shall be able to seize immediate control of the juvenile's gun [hunting-weapon].

(2) Deer shall not be taken with the aid of dogs or any domestic animal, or from [by the use of] a boat or any type of vehicle.

(3) A deer shall not be taken while the deer is swimming.

(4) Hunter orange garments shall be worn by all deer hunters while hunting during any deer firearms season permitted by regulation. Garments shall be worn as outer coverings on at least the head, chest and back. They shall be of a solid, unbroken pattern. Any mesh weave opening shall not exceed one-fourth (1/4) inch by any measurement. Garments may display a small section of another color provided the section does not [significantly] obscure the hunter orange color of the garment when viewed from any direction. Camouflage pattern hunter orange garments do not meet these requirements.

(5) On department owned or operated wildlife management areas, Westvaco Public Hunting Areas, the Daniel Boone National Forest, Reelfoot National Waterfowl Refuge and the Big South Fork National River and Recreation Area, the use of any nails, spikes, screw-in devices, wire or tree climbers is prohibited for attaching tree stands or for climbing trees. Only portable tree stands and climbing devices that do not injure trees may be used. Portable stands shall not be placed in trees more than two (2) weeks before opening day of each hunting period and shall be removed within one (1) week following the last day of each hunting period. All portable tree stands shall be marked with the owner's name and address. Existing permanent tree stands shall not be used.

(6) Rattling of antlers or sticks and the use of hand or mouth operated calls are permitted.

(7) No person shall possess a deer taken contrary to this or any other regulation or statute.

#### Section 8. Firearms and Ammunition Restrictions for Gun Deer Hunting.

(1) Permitted: center-fire rifles; muzzle-loading rifles of .40 caliber or larger; and muzzle-loading or breech-loading shotguns of ten (10) gauge maximum and twenty (20) gauge minimum firing a single projectile; handguns with a minimum caliber of .30. Legal handgun cartridges may be used in rifles and legal rifle cartridges may be used in handguns. Muzzle-loading pistols shall be .44 caliber or larger.

(2) Prohibited: any caliber or cartridge that does not meet the requirements given in subsection (1) of this section; any fully automatic weapon or weapon capable of firing more than one (1) round with one (1) trigger pull; semiautomatic and pump rifles or shotguns a magazine capacity exceeding ten (10) rounds fully jacketed ammunition tracer bullet ammunition; buckshot or any type of shot shells.

Section 9. Archery Equipment Restrictions [~~for Archery Deer Hunting~~]. (1) Longbows, recurve and compound bows shall not be fitted with any device capable of holding an arrow at full draw without aid from the hunter.

(2) Arrows shall be barbless without chemical treatment or chemical attachments, with broadhead points at least seven-eighths (7/8) inch wide.

(3) Crossbows shall have a minimum pull weight of 100 pounds and a working safety device. Minimum bolt weight is 380 grains with a barbless broadhead point at least seven-eighths (7/8) inch wide with no chemical treatments or chemical attachments.

Section 10. Hunting Methods Exemptions for Handicapped Hunters. Persons with physical handicaps that would make it

impossible for them to hunt by conventional methods may apply by letter to the commissioner of the department for a hunting methods exemption. The commissioner may authorize any reasonable exception that would permit a handicapped person to hunt when he or she could not otherwise do so because of his or her handicap. Specific exemptions to be allowed shall be described in the letter of authorization, which shall be signed by the commissioner and a conservation officer who shall certify that the applicant for the exemption is, in his opinion, handicapped to such a degree that the requested exemption is necessary to permit the applicant to hunt. Hunting method exemptions shall [will] expire at the end of the license year.

DON R. McCORMICK, Commissioner  
DAVID H. GODBY, Chairman  
BRENDA FRANK, Acting Secretary

APPROVED BY AGENCY: March 2, 1992

FILED WITH LRC: April 15, 1992 at 11 a.m.

**PUBLIC HEARING:** A public hearing on this administrative regulation shall be held on May 26, 1992 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 21, 1992, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Lauren E. Schaaf, Director of Wildlife, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: An estimated 211,000 persons will participate in the white-tailed deer hunting proposed by this regulation.

(a) Direct and indirect costs or savings to those affected: These costs involve the purchase of a state hunting license and a deer permit. Indirect costs are determined by the individual hunter, depending on his level of participation.

1. First year: Persons participating in the hunting proposed for authorization by this regulation would be required to possess a valid hunting license (\$8.50 for residents) and a deer permit (\$17.50) unless exempt by regulations.

2. Continuing costs or savings: Same as first year.

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

(b) Reporting and paperwork requirements: Deer hunters will be asked to check their deer at a county deer check station and fill out a game check card denoting specific information about the deer.

(2) Effects on the promulgating administrative body: Requires time and effort in developing, publishing, reporting on, and enforcing the proposed regulation.

(a) Direct and indirect costs or savings: Primary costs are associated with enforcement of the regulation.

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is \$1,000,000.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Approximately 211,000 deer hunters may be expected to expend money for equipment, transportation, food and lodging. The annual expenditure for these items averages \$32 per day of hunting according to the 1990 National Hunting and Fishing Survey. State and local revenues can be expected to be positively affected due to the necessary expenditures for the required licenses and taxes levied upon items purchased by hunters.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative to regulated hunting is closure of the season. This alternative was rejected as contrary to the conservation ethic which is based on the wise use of renewable resources and the fact that white-tailed deer populations are at levels which can sustain a regulated harvest by Kentucky sportsmen.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: None

**TIERING:** Was tiering applied? Yes. Hunting zones and varying limits were created to account for deer density and habitat variances across the state.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government?

Yes X No    (If yes, complete questions 2-4)

2. State what unit, part or division of local government this administrative regulation will affect. Only parts of local government will be affected.

3. State the aspect or service of local government to which this administrative regulation relates. The County Clerk's office serves as a distribution system for the hunting licenses required by this regulation. The District Courts are where violators of these regulations are prosecuted.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: The County Clerk's office personnel are involved in the sale of hunting licenses and deer tags. This office receives a \$.50 license fee for selling the licenses. The District Courts are utilized for prosecution of cases made against violators of these regulations and recover their costs as the court cost portion of any levied fines.

#### TOURISM CABINET

Department of Fish and Wildlife Resources  
(Proposed Amendment)

301 KAR 2:210. Antlerless deer permits.

RELATES TO: KRS 150.010, 150.025, 150.105, 150.170, 150.175, 150.305, 150.330, 150.340, 150.360, 150.370, 150.390, 150.395, 150.990

STATUTORY AUTHORITY: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: This regulation pertains to the



taking of antlerless deer during deer gun seasons where established county deer hunting seasons are inadequate to control localized agricultural damage caused by deer. Its purpose is to provide a means of alleviating localized agricultural damage until such time as it is appropriate to apply deer herd stabilization or reduction measures on a county wide basis. The function of this regulation is to prescribe the conditions and procedures under which antlerless deer may be taken for this purpose. This amendment is necessary to allow for the use of special purpose deer tags as antlerless deer permits.

Section 1. Antlerless Deer Permit Application, Issuance and Validity. (1) Landowners or their agents may apply for antlerless deer permits by contacting a conservation officer and completing an antlerless deer permit application form.

(2) Applications for permits to be issued in the current year shall be submitted no later than September 30. Applications submitted after September 30 shall be considered for the following year ~~but~~ permits shall ~~may~~ not be issued until the following year.

(3) The conservation officer shall forward completed applications and his recommendations to the Division of Wildlife for consideration.

(4) The Division of Wildlife shall determine the number of permits to be issued for any one (1) landholding through consideration of the extent of damage, the size of the landholding, the number of deer necessary to be removed to alleviate further damage, and the adequacy of the county deer season to address the problem. Permits shall not be issued in instances where the county deer season is adequate to achieve the desired reduction in deer numbers.

(5) Permits shall be issued only to a landowner or his agent.

(6) Landowners or their agents may transfer the permits they have been issued to persons of their choice.

(7) Permits are valid for use only on the landholding for which they were issued.

(8) Permits are valid only during the license year ~~season~~ for which they were issued and may be used during archery, gun or muzzle-loader season according to equipment restrictions in effect at that time.

Section 2. Requirements for Landowners or Their Agents to Whom Antlerless Deer Permits have been Issued. (1) Landowners or their agents shall have the hunter sign the permit prior to transferring the permit to a hunter. Unsigned special purpose tags are invalid.

(2) Landowners or their agents shall return all unused permits to the Division of Wildlife within ten (10) days of the close of the deer season.

(3) Failure to comply with the requirements of this section, conviction for a deer regulation violation, or other abuse of the antlerless permit program shall be grounds for permit revocation and future ineligibility.

(4) Appeals of a revocation or a denial of eligibility shall be submitted in writing to the commissioner of the department within sixty (60) days of any such action. ~~[Any adverse decision of]~~ The commissioner's decision may be appealed to the commission in writing within sixty (60) days of the adverse decision of the commissioner and the appeal ~~[it shall]~~ be heard at the next regularly scheduled meeting.

Section 3. Requirements for Using Special Purpose Tags as Antlerless Deer Permits. (1) Hunters shall comply with all current deer season regulations, including the deer bag and possession limit, except that two (2) antlerless deer per hunter may be taken with two (2) special purpose tags in addition to the statewide limit.

(2) Special purpose tags used in this manner allow the taking of these antlerless deer at anytime during the entire season. [Before moving the carcass, hunters shall attach the adhesive backed special purpose tag to the deer in such a manner that it cannot be removed without destroying the tag or mutilating the deer.]

~~(2) Hunters shall check their deer in accordance with deer season regulations.]~~

(3) ~~[(4)]~~ Special purpose tags issued to landowners shall only be used for antlerless deer.

(4) ~~(6)]~~ Hunters who take an antlered deer while in possession of a special purpose tag shall not affix the special purpose tag to the deer, but shall affix the white state tag to the deer according to the provisions of 301 KAR 2:170.

~~[(6) Unsigned special purpose tags are not valid.]~~

DON R. McCORMICK, Commissioner

DAVID H. GODBY, Chairman

BRENDA FRANK, Acting Secretary

APPROVED BY AGENCY: March 2, 1992

FILED WITH LRC: April 15, 1992 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 26, 1992 at 1 p.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 21, 1992, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Lauren E. Schaaf, Director of Wildlife, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: An estimated 211,000 persons will participate in the white-tailed deer hunting proposed by this regulation. An estimated 94,000 landowners actively engaged in farming may also be affected.

(a) Direct and indirect costs or savings to those affected: These costs involve the purchase of a state hunting license and a deer permit. Indirect costs are determined by the individual hunter, depending on his level of participation.

1. First year: Persons participating in the hunting proposed for authorization by this regulation would be required to possess a valid hunting license (\$8.50 for residents) and a deer permit (\$17.50) unless exempt by regulations.

2. Continuing costs or savings: Same as first year.

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

(b) Reporting and paperwork requirements: Deer hunters will be asked to check their deer at a county deer check station and fill out a game check card denoting specific information about the deer.

(2) Effects on the promulgating administrative body: Requires time and effort in developing, publishing, reporting on, and enforcing the proposed regulation.

(a) Direct and indirect costs or savings: Primary costs are associated with enforcement of the regulation.

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is \$500,000.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues:



Approximately 211,000 deer hunters may be expected to expend money for equipment, transportation, food and lodging. The annual expenditure for these items averages \$25 per day of hunting according to the 1980 National Hunting and Fishing Survey. State and local revenues can be expected to be positively affected due to the necessary expenditures for the required licenses and taxes levied upon items purchased by hunters.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative to regulated hunting is closure of the season. This alternative was rejected as contrary to the conservation ethic which is based on the wise use of renewable resources and the fact that white-tailed deer populations are at levels which can sustain a regulated harvest by Kentucky sportsmen.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Not applicable.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government?

Yes X No    (If yes, complete questions 2-4)

2. State what unit, part or division of local government this administrative regulation will affect. Only parts of local government will be affected.

3. State the aspect or service of local government to which this administrative regulation relates. The County Clerk's office serves as a distribution system for the hunting licenses required by this regulation. The District Courts are where violators of these regulations are prosecuted.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: The County Clerk's office personnel are involved in the sale of hunting licenses and deer tags. This office receives a \$.75 fee for selling licenses and deer tags. The District Courts are utilized for prosecution of cases made against violators of these regulations and recover their costs as the court cost portion of any levied fines.

#### CORRECTIONS CABINET (Proposed Amendment)

##### 501 KAR 6:030. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures, revised April 15, [March 13,] 1992, 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, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

- KSR 01-00-09 Public Information and News Media Relations (Revised 4/15/92)
- KSR 01-00-10 Entry Authorization for All Cameras and Tape Recorders Brought into the Institution
- KSR 01-00-14 Extraordinary Occurrence Report
- KSR 01-00-15 Cooperation and Coordination with Oldham County Court (Revised 4/15/92)
- 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 [(Revised 3/4/92)]
- 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
- 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
- KSR 09-00-09 Contraband, Dangerous Contraband and Search Policy
- KSR 09-00-14 Use of Force
- KSR 09-00-21 Crime Scene Camera
- KSR 09-00-22 Collection, Preservation, and Identification of Physical Evidence
- KSR 09-00-23 Drug Abuse Testing
- 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 10-01-01 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

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KSR 10-01-03	Unit D - Inmate Tracking System and Records System	KSR 15-01-05	Operational Procedures Rules and Regulations for Unit A, B, & C: Institutional Inmate Services
KSR 10-01-04	Unit D - Administrative Segregation	KSR 15-01-06	Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate Honor Housing Criteria and Regulations
KSR 10-01-05	Unit D - Disciplinary Segregation	KSR 16-00-02	Inmate Correspondence and Mailroom Operations [(Revised 3/13/92)]
KSR 10-01-06	Unit D - Protective Custody	KSR 16-00-03	Inmate Access to Telephones
KSR 10-01-07	Unit D - Geriatrics	KSR 16-01-01	Visiting Regulations
KSR 10-01-08	Unit D - Safekeepers	KSR 16-01-02	Lawn Visit Regulations
KSR 10-01-09	Unit D - Hold Ticket Residents	KSR 16-01-03	Night Visit Regulations
KSR 10-00-10	Unit D - and Unit E - Special Management Inmate Legal Access	KSR 17-00-03	Notifying Inmates' Families of Admission and Procedures for Mail and Visiting
KSR 10-01-11	Unit D - Behavior Problem Control	KSR 17-00-05	Dormitory 10 Operations
KSR 10-00-12	Unit D - Designated Staff Visits (Revised 4/15/92)	KSR 17-00-06	Identification Department Admission and Discharge Procedures
KSR 10-00-13	Unit D - Property Room Access	KSR 17-00-07	Inmate Personal Property
KSR 10-02-01	Mental Health Staffing Pattern	KSR 17-00-08	Repair of Inmate Owned Appliances by Outside Dealers
KSR 10-02-02	Unit E Designated Staff Visits	KSR 18-00-04	Returns from Other Institutions
KSR 10-02-03	Unit E-1 Convalescent Care	KSR 18-00-05	Transfer of Residents to Kentucky Correctional Psychiatric Center, and Referral Procedure for Residents Adjudicated Guilty but Mentally Ill
KSR 10-02-04	Unit E-General Operating Procedures	KSR 18-00-06	Classification and Special Notice Form
KSR 11-00-01	Meal Planning for the General Population	KSR 18-00-07	Kentucky State Reformatory Placement Committee
KSR 11-00-02	Special Diets	KSR 19-00-01	Inmate Work Incentives
KSR 11-00-03	Food Service Inspections	KSR 19-00-02	On-the-job Training Program
KSR 11-00-04	Dining Room Rules and Dress Code for Inmates (Revised 4/15/92)	KSR 19-00-03	Safety Inspections of Inmate Work Assignment Locations
KSR 11-00-06	Health Standards/Regulations for Food Service Employees	KSR 19-00-05	Food Service On-The-Job Training and Workers Rules
KSR 11-00-07	Early Chow Line Passes for Medically Designated Inmates	KSR 20-00-01	Technical and Adult Basic Level Learning Center Programs
KSR 12-00-01	Inmate Summer Dress Regulations	<del>KSR 20-00-03</del>	<del>Academic School Program (Deleted 4/15/92)</del>
KSR 12-00-03	State Items Issued to Inmates	KSR 20-00-04	Criteria for Participation in A College Program [(Revised 3/13/92)]
KSR 12-00-07	Regulations for Inmate Barbershop	KSR 21-00-01	Legal Aide Office and Inmate Law Library Services and Supervision
KSR 12-00-09	Treatment of Inmates with Body Lice	KSR 21-00-02	Inmate Library Services
KSR 13-00-02	Hospital Operations, Rules and Regulations	KSR 21-00-03	Library Services for Unit D
KSR 13-00-03	Medication for Inmates Leaving Institution Grounds	KSR 22-00-03	Inmate Organizations
KSR 13-00-04	Medical and Dental Care	KSR 22-00-07	Inmate News Magazine
KSR 13-00-05	Medical Records	KSR 23-00-02	Chaplain's Responsibility and Inmate Access to Religious Representatives
KSR 13-00-08	Institutional Laboratory Procedures	KSR 23-00-03	Religious Programming
KSR 13-00-09	Institutional Pharmacy Procedures	KSR 25-00-01	Discharge of Inmates to Hospital or Nursing Home
KSR 13-00-10	Requirements for Medical Personnel	KSR 25-00-02	Violations of Law or Code of Conduct by Inmates on Parole Furlough
KSR 13-00-11	Health Evaluation	KSR 25-00-03	Preparole Progress Report
KSR 13-00-12	Vision Care/Optomety 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 15-00-04	Restoration of Forfeited Good Time		
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 15-00-10	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		

JACK C. LEWIS , Deputy Secretary

APPROVED BY AGENCY: April 15, 1992

FILED WITH LRC: April 15, 1992 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 26, 1992 at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack Damron and Tom Campbell, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack Damron

(1) Type and number of entities affected: 589 employees of the Kentucky State Reformatory, 1387 inmates, and all visitors to state correctional institutions.

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

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

## CORRECTIONS CABINET (Proposed Amendment)

### 501 KAR 6:050. Luther Luckett Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures, revised on April 15, 1992 [~~October 15, 1994~~] are incorporated by reference and shall be referred to as Luther Luckett Correctional Complex Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

- LLCC 01-08-01 Institutional Legal Assistance
- LLCC 01-09-01 Public Information and News Media Access
- LLCC 01-12-01 Duty Officer Responsibilities
- LLCC 02-01-02 Fiscal Management: Accounting Procedures [~~(Revised 10/15/94)~~]
- LLCC 02-01-03 Fiscal Management: Agency Funds (Revised 4/15/92)
- LLCC 02-01-04 Fiscal Management: Insurance (Revised 4/15/92) [~~(Revised 10/15/94)~~]
- LLCC 02-03-01 Fiscal Management: Audits [~~(Revised 10/15/94)~~]
- [~~LLCC 02-06-01 Property Inventory (Deleted 4/15/92)~~]
- LLCC 08-01-01 Offender Records
- LLCC 08-04-01 Storage of Expunged Records

- LLCC 08-05-01 Psychological and Psychiatric Reports
- LLCC 10-03-09 Duties and Responsibilities of Building 1 and 2 Officer
- LLCC 11-03-01 LLCC Population Categories
- LLCC 11-07-01 Adjustment Procedures for Minor Rule Violations
- LLCC 11-09-01 Rules and Regulations of the Unit
- LLCC 11-13-01 Inmate Dress and Use of Access Areas
- LLCC 11-15-01 Postparole Furloughs
- LLCC 11-16-01 Restoration of Forfeited Good Time
- LLCC 11-18-02 Use of Monitor Telephone
- LLCC 11-19-01 Unit Shakedowns/Control of Excess Property
- LLCC 11-20-01 Program Services for "Special Needs"/Mentally Ill Inmates
- LLCC 12-01-01 Special Management Inmates
- LLCC 12-01-02 Disciplinary Segregation Time Calculation (WTR)
- LLCC 13-01-01 Dining Room Guidelines
- LLCC 13-04-01 Food Service: Meals
- LLCC 13-04-02 Food Service: Menu, Nutrition and Special Diets
- LLCC 13-05-02 Medical Screening of Food Handlers
- LLCC 13-06-01 Food Service: Inspections and Sanitation
- LLCC 13-07-01 Food Service: Purchasing, Storage and Farm Products
- LLCC 13-08-01 OJT Food Service Training Placement
- LLCC 14-01-01 Sanitation, Living Condition Standards, and Clothing Issue
- LLCC 14-05-01 Institutional Inspections
- LLCC 15-01-01 Health Maintenance Services; Sick Call and Pill Call
- LLCC 15-02-01 Mental Health/Psychological Services
- LLCC 15-03-01 Pharmacy
- LLCC 15-03-02 Use of Psychotropic Medications
- LLCC 15-04-01 Dental Services
- LLCC 15-05-02 Licensure and Training Standards
- LLCC 15-06-02 Specialized Health Services
- LLCC 15-06-03 Emergency Medical/Dental Care Services
- LLCC 15-06-04 First Aid/CPR Training Program
- LLCC 15-06-05 Suicide Prevention and Intervention Program
- LLCC 15-07-01 Health Records
- LLCC 15-08-01 Special Diets
- LLCC 15-12-01 Special Needs Unit
- LLCC 15-14-01 Informed Consent
- LLCC 15-15-01 Medical Restraints
- LLCC 15-16-01 Health Education/Special Health Programs
- LLCC 15-17-01 Serious and Infectious Diseases
- LLCC 16-01-01 Inmate Rights and Responsibilities
- LLCC 16-02-01 Inmate Grievance Procedure
- LLCC 16-03-01 Inmate Legal Services
- LLCC 17-01-01 Due Process/Disciplinary Procedure
- LLCC 18-01-01 Inmate Correspondence
- LLCC 18-01-02 Issuance of Legal Mail to Inmate Population
- LLCC 18-02-01 Inmate Visiting
- LLCC 18-02-03 Extended Visit and Furloughs
- LLCC 18-02-04 Meritorious Visits
- LLCC 18-03-01 Entry and Identification of Visitors for Inmate Visitation
- LLCC 18-03-03 Inmate Visiting Disciplinary Segregation Administrative Segregation
- LLCC 20-01-01 Personal Property Control
- LLCC 20-02-01 Authorized Inmate Personal Property
- LLCC 20-03-01 Unauthorized Items
- LLCC 20-04-02 Inmate Canteen
- LLCC 20-04-03 Canteen Purchase Limits
- LLCC 20-05-01 Inmate Control of Personal Funds [~~(Revised 10/15/94)~~]
- LLCC 20-05-02 Storage and Disposition of Monies Received on Weekends, Holidays, and Between 4 p.m. and 8

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	a.m. Weekdays [ <del>Revised 10/15/91</del> ]
LLCC 20-05-03	Theft of Inmate Personal Property [ <del>Added 10/15/91</del> ]
LLCC 20-06-01	Procedure for Sending Appliances to Outside Dealers for Repair
LLCC 21-02-01	Classification/Security Levels
LLCC 21-03-01	Classification Process
LLCC 22-01-01	OJT/Job Assignments
LLCC 23-01-01	Academic School
LLCC 26-01-01	Religious Services
LLCC 28-01-01	Privileged Trips
LLCC 28-03-01	Temporary Release/Community Center Release
LLCC 28-04-01	Parole Progress Report
LLCC 28-04-02	Parole Eligibility Dates

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: April 15, 1992

FILED WITH LRC: April 15, 1992 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 26, 1992, at 9 a.m., in the Auditorium of the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack Damron and Tom Campbell, Corrections Cabinet, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack Damron

(1) Type and number of entities affected: 283 employees of the Luther Luckett Correctional Complex, 1,005 inmates, and all visitors to state correctional institutions.

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

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.

2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing costs: Same as 2(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

## CORRECTIONS CABINET (Proposed Amendment)

501 KAR 6:060. Northpoint Training Center.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470,

439.590, 439.640

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures, revised April 15, 1992 [~~September 12, 1991~~], 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, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

~~[NTC 01-03-01 Organization and Assignment of Responsibilities (Deleted 4/15/92)]~~

NTC 01-05-01 Extraordinary Occurrence Reports

NTC 01-10-01 Legal Assistance for Staff

NTC 01-11-01 Political Activities of Merit Employees (Revised 4/15/92)

NTC 01-15-01 Establishment of the Warden as Chief Executive Officer

NTC 01-17-01 Relationships with Public, Media and Other Agencies

NTC 02-02-02 Warden's Participation in the Agency Budgeting Process

NTC 02-03-01 Fiscal Management: Audits

NTC 02-04-01 Internal Control and Monitoring of Accounting Procedures

NTC 02-07-02 Chapel Fund

NTC 02-08-01 Inmate Canteen

NTC 02-10-01 Insurance Coverage

NTC 02-12-01 Inmate Personal Accounts

NTC 04-01-01 Training and Staff Development [~~(Amended 9/13/91)~~]

NTC 04-04-01 Firearms and Chemical Agents Training [~~(Amended 9/13/91)~~]

NTC 06-01-01 Offender Records [~~(Amended 9/13/91)~~]

NTC 06-01-02 Records - Release of Information [~~(Amended 9/13/91)~~]

NTC 06-01-03 Taking Offender Record Folders onto the Yard [~~(Amended 9/13/91)~~]

NTC 08-05-01 The Fire and Safety Officer [~~(Amended 9/13/91)~~]

NTC 08-05-02 Fire Procedures [~~(Amended 9/13/91)~~]

NTC 08-05-03 Fire Prevention [~~(Amended 9/13/91)~~]

NTC 08-05-04 Storage of Flammables and Dangerous Chemicals and Their Use [~~(Amended 9/13/91)~~]

NTC 08-07-01 Safety Standards [~~(Amended 9/13/91)~~]

NTC 10-01-01 Special Management Inmates (SMU)

NTC 10-02-01 Security Guidelines for Special Management Inmates

NTC 10-03-01 Protective Custody

NTC 11-03-01 Food Services: General Guidelines (Revised 4/15/92)

NTC 11-04-01 Food Service: Meals (Revised 4/15/92)

NTC 11-04-02 Menu, Nutrition and Special Diets (Revised 4/15/92)

NTC 11-05-02 Health Standards/Regulations for Food Service Employees

NTC 11-06-01 Inspections and Sanitation

NTC 11-07-01 Purchasing, Storage and Farm Products

NTC 12-01-01 Institutional Inspections

NTC 12-02-01 Personal Hygiene for Inmates; Clothing and Linens

NTC 12-02-02 Issuance of Personal Hygiene Products

NTC 13-01-01 Emergency Medical Care Plan

NTC 13-01-02 Emergency and Specialized Health Services

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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 13-05-02 Health Maintenance 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/Optomety Services  
 NTC 13-22-01 Informed Consent  
 NTC 13-23-01 Special Needs Inmates  
 NTC 14-01-01 Legal Services Program  
 NTC 14-01-02 Receiving and Viewing of Video Tapes  
 NTC 14-02-01 Inmate Grievance Procedure  
 NTC 14-03-01 Inmate Rights and Responsibilities  
 NTC 14-03-02 Board of Claims  
 NTC 14-04-01 Inmate Search Policy  
 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 15-03-03 Rules and Regulations for Protective Custody 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 Visiting  
 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 Parole Progress Report  
 NTC 18-02-01 Classification  
 NTC 18-02-02 Classification - 48 Hour Notification  
 NTC 18-03-01 Special Notice Form  
 NTC 18-05-01 Transfers of Inmates  
 NTC 18-05-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center  
 NTC 19-01-01 Inmate Work Program  
 NTC 19-01-03 Temporary Leave from Job Assignment  
 NTC 19-02-01 Correctional Industries  
 NTC 19-02-02 Guidelines for Correctional Industries  
 NTC 20-01-01 Academic School Program  
 NTC 20-02-01 Vocational School  
 NTC 20-02-02 Live Work Projects in Vocational School Classes  
 NTC 21-01-01 Library Services  
 NTC 22-03-01 Conducting Inmate Organizational Meetings and

Programs  
 NTC 23-01-01 Religious Services  
 NTC 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 (Revised 4/15/92)  
 NTC 26-01-01 Citizen Involvement and Volunteer Services Program

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: April 15, 1992

FILED WITH LRC: April 15, 1992 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 26, 1992, at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack T. Damron and Tom Campbell, Corrections Cabinet, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack Damron

(1) Type and number of entities affected: 282 employees of the Northpoint Training Center, 906 inmates, and all visitors to state correctional institutions.

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

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.

2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing costs: Same as 2(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

## CORRECTIONS CABINET (Proposed Amendment)

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

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or

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rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures, revised April 15, 1992 [~~November 15, 1991~~], are incorporated by reference and shall be referred to as Kentucky Correctional Institution for Women Policies and Procedures [~~July 15, 1991~~]. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel on weekdays between 8 a.m. to 4:30 p.m.

KCIW 01-06-01 Legal Assistance for Corrections Staff  
KCIW 01-08-01 News Media Access  
KCIW 02-01-01 Comprehensive Insurance Coverage  
KCIW 02-02-01 Fiscal Management: Audits  
KCIW 02-02-03 Fiscal Management: Checks  
KCIW 02-02-04 Institution Purchasing Procedures  
KCIW 02-03-01 Inventory Control of Nonexpensable Personal Property  
KCIW 02-03-02 Inventory and Control of Stores  
KCIW 02-04-01 Accounting Procedures  
KCIW 02-05-01 Inmate Canteen and Staff Canteen  
KCIW 06-01-01 Inmate Records  
KCIW 06-01-02 Transfers to Community Centers and the Minimum Security Unit  
KCIW 06-01-03 Storage of Expunged Records  
KCIW 10-01-01 Special Management Unit General Operation and Regulations  
KCIW 10-01-02 Special Management Unit Programs, Placement and Review  
KCIW 10-01-04 Special Security  
KCIW 11-01-01 Food Service Operation Inspections  
KCIW 11-01-02 Budgeting, Accounting, and Purchasing Procedures for Food Products  
KCIW 11-02-01 Menu Preparation/Special Diets  
KCIW 11-03-01 General Guidelines for Food Service Workers  
KCIW 11-03-02 General Guidelines for Food Service Workers  
KCIW 11-04-01 Health Regulations and General Guidelines for the Food Service Area  
KCIW 12-01-01 Control of Pests and Vermin  
KCIW 12-02-01 Laundry and Clothing Issuance  
KCIW 12-02-03 Donated Items  
KCIW 12-04-01 Sanitation and General Living Conditions  
KCIW 12-04-02 Hair Care Services  
KCIW 13-01-01 Provision of Medical and Dental Care  
KCIW 13-01-02 Preliminary Health Screening and Appraisal  
KCIW 13-01-03 Use of Pharmaceutical Products  
KCIW 13-03-01 Emergency Care  
KCIW 13-03-02 Infirmary Care and Outside Services (Revised 4/15/92)  
KCIW 13-04-01 Medical Alert System  
KCIW 13-04-02 Psychiatric/Psychological Services  
KCIW 13-06-01 Informed Consent (Revised 4/15/92)  
KCIW 13-07-01 Detoxification and Alcohol or Chemical Dependency Guidelines  
KCIW 13-08-01 Medical Examination for Employees  
KCIW 13-09-01 Suicide Prevention and Intervention Program  
KCIW 13-11-01 Infection Control  
KCIW 14-01-02 Inmate Rights (Revised 4/15/92)  
KCIW 14-02-01 Access to Attorneys and Designated Counsel Substitutes (Revised 4/15/92)

[KCIW 14-03-01 Inmates Are Not Subject to Discrimination Based on Race, Religion, National Origin, Sex, Handicap, or Political Beliefs (~~Deleted 4/15/92~~)]  
KCIW 14-04-01 Inmate Grievance Procedure [~~(Revised 11-15-91)~~]  
KCIW 15-01-01 Offenses and Penalties  
KCIW 15-01-02 Adjustment Committee Procedures and Programs  
KCIW 15-03-01 Inmate Rule Book  
KCIW 15-04-01 Honor Program  
KCIW 15-06-01 Restriction Guidelines  
KCIW 16-01-01 Inmate Correspondence  
KCIW 16-01-03 Staff Mail  
KCIW 16-02-01 Inmate Access to Telephone  
KCIW 16-02-02 Intra-Institution Phone Calls  
KCIW 16-03-01 Inmate Visiting Regulations  
KCIW 16-03-02 Unauthorized Items for Picnic Lunches, Food Packages and Regular Packages  
KCIW 16-04-01 Inmate Indigent Fund  
KCIW 16-05-01 Inmate Packages  
KCIW 17-01-01 Assessment Center Operation and Reception Programs  
KCIW 17-01-02 Assessment/Classification Center Operations, Rules and Regulations  
KCIW 17-01-03 Assessment and Classification Unit Property Guidelines  
KCIW 17-02-01 Identification Department Admissions  
KCIW 17-03-01 Notifying Inmates Families of Admission and Procedures for Mail and Visiting  
KCIW 17-05-01 Inmate Personal Property Guidelines  
KCIW 18-01-02 Institutional Housing Assignments  
KCIW 18-02-01 Classification Procedures [~~(Revised 11-15-91)~~]  
KCIW 18-05-01 Special Needs Inmates  
KCIW 18-06-01 Institutional Status Codes  
KCIW 19-01-01 Inmate Work/Program Assignments  
KCIW 19-03-01 Landscape and Maintenance Work Details  
KCIW 20-01-01 Education Programs  
KCIW 20-01-03 Vocational Education: Curriculum Flexible Schedule, Upgrade Programs and Release Preparation Program  
KCIW 20-01-04 Entry - Exit Vocational School  
KCIW 20-01-05 Vocational Programs: Approved, Assessed and Contain Guidelines for Vocational Records  
KCIW 20-01-06 Vocational Education: Staffing Patterns/Requirements  
KCIW 20-01-07 Vocational Counselor  
KCIW 20-01-08 Vocational Education: Community Resources and the Integration with Academic Progress  
KCIW 20-01-09 Vocational Education: Support Equipment  
KCIW 20-01-10 Control of Flammable, Hazardous, Toxic and Caustic Materials in the Vocational Area  
KCIW 22-01-04 Inmate Club Activities  
KCIW 23-01-01 Religious Services  
KCIW 25-01-01 Parole Progress Report  
KCIW 25-02-01 Temporary Release/Community Center  
KCIW 25-02-02 Furloughs  
KCIW 25-03-01 Escorted Community Leave [~~(Revised 11-15-91)~~]

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: April 15, 1992

FILED WITH LRC: April 15, 1992 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 26, 1992, at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack Damron or Tom Campbell, Corrections Cabinet, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack Damron

(1) Type and number of entities affected: 126 employees of the Kentucky Correctional Institution for Women, 331 inmates, and all visitors to state correctional institutions.

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

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.

2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing costs: Same as 2(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

**TRANSPORTATION CABINET  
Department of Vehicle Regulation  
Division of Driver Licensing  
Division of Motor Carriers  
Division of Motor Vehicle Enforcement  
(Proposed Amendment)**

**601 KAR 11:040. Medical waivers for intrastate operators of commercial motor vehicles.**

RELATES TO: KRS Chapter 281A, 281.600, 49 CFR Part 383, 49 CFR Part 391

STATUTORY AUTHORITY: KRS 281A.040, 281.600, 49 CFR 383 Subpart E, 49 CFR 391 Subpart E

NECESSITY AND FUNCTION: The federal requirements for the issuance of a commercial driver's license to a driver operating in interstate commerce include a certification that the driver meets the qualification requirements contained in 49 CFR Part 391. The Federal Highway Administration does not require a person who operates entirely in intrastate commerce to be subject to 49 CFR Part 391. He is subject however, to Kentucky driver qualification requirements. In 601 KAR 1:005 the Transportation Cabinet adopted the majority of the driver qualification requirements of 49 CFR Part 391 on both an interstate and intrastate commerce basis. However, medical waivers in addition to those allowed in 49 CFR 391.49 are allowed until March 31, 1993 [1992] for drivers operating exclusively in intrastate commerce. This administrative regulation sets forth the procedure and standards for obtaining an intrastate medical waiver.

Section 1. Application for Intrastate Medical Waiver. (1) A commercial driver who operates exclusively in intrastate commerce and who has failed to meet the physical requirements of 49 CFR 391 Subpart E, adopted in 601 KAR 1:005 may apply to the Transportation

Cabinet until March 31, 1993 [January 31, 1992] for a medical waiver.

(2) The application for medical waiver shall be on Kentucky Transportation Cabinet form TC 94-38, "Request for Medical Waiver" effective [adepted] January, 1991. This form is incorporated by reference as a part of this administrative regulation.

(3) A copy of the completed medical examination form required by 49 CFR 391.43 and 601 KAR 1:005 shall be attached to the application for medical waiver. The form shall be completed by a licensed doctor of medicine or osteopathy. The medical examination form shall indicate the reason the applicant failed to meet the requirements of 49 CFR 391 Subpart E.

(4) A copy of the applicable supplemental medical report form completed by a licensed doctor of medicine or osteopathy shall be attached to the application for medical waiver. The supplemental medical report forms are titled "Cardiovascular Conditions"; "Neurological Conditions"; "Musculoskeletal Conditions"; "Metabolic Conditions"; "Alcohol or Other Drug Dependence"; "Mental and Emotional Conditions"; and "Vision Conditions". The licensed doctor of medicine or osteopathy shall determine which ones of these forms are applicable to the medical waiver applicant. Each of these forms was effective [adepted by the Transportation Cabinet] in December, 1990 and is incorporated by reference as part of this administrative regulation.

(5) The application for medical waiver, medical examination form and supplemental medical report form shall be submitted to the Transportation Cabinet, Division of Driver Licensing, State Office Building, Frankfort, Kentucky 40622.

(6) A copy of the forms incorporated by reference may be obtained from the Division of Driver Licensing, State Office Building, Frankfort, Kentucky 40622 by writing or appearing in person. The office hours on regular Kentucky state government working days are 8 a.m. through 4:30 p.m. eastern time. [Copies of the forms may also be obtained from the driver license issuance office of the circuit court clerk in each county.]

Section 2. (1) The Division of Driver Licensing shall base its decision on granting the requested medical waiver on the information obtained from the driving history record of the applicant, the original medical examination form, the supplemental medical report form, in some cases a skills test and any other information the Division of Driver Licensing deems pertinent.

(2) The following medical guidelines shall be considered by the Division of Driver Licensing in evaluating the information related to the commercial driver:

(a) Loss or impairment of foot, leg, arm, hand or fingers. Neither paraplegics nor quadriplegics shall be issued a medical waiver.

(b) Vision. To be considered for a medical waiver, the commercial driver's distance visual acuity shall be 20/60 (Snellen) or better with corrective lenses in one (1) or both eyes. The commercial driver's visual fields shall not be narrowed to less than 110 degrees of total visual field. The commercial driver shall readily distinguish which light of traffic signals and devices showing standard red, green and amber is illuminated. The commercial driver shall neither wear bioptic lenses nor have uncorrectable double vision.

(c) Hearing. No waiver of 49 CFR 391.41(11) shall be issued.

(d) Epilepsy or other condition likely to cause loss of consciousness. The commercial driver with epilepsy or other condition likely to cause loss of consciousness shall have been seizure free for one (1) year prior to requesting the waiver. The commercial driver shall not have experienced loss of consciousness, blackout, fainting or disorientation in the year immediately prior to requesting the waiver. The commercial driver shall be reliable in taking his prescribed medication to be considered for a medical waiver as proven by the blood content levels of his medication.

(e) Cardiovascular. The commercial driver shall not have



experienced a fainting or blackout spell in the year immediately prior to requesting the waiver. The commercial driver shall have no heart disease symptoms while operating a motor vehicle or sitting at rest to be considered for a medical waiver. The commercial driver shall not have any difficulty in breathing or painful breathing. The commercial driver shall have had no uncontrollable attacks of choking, suffocation or shortness of breath during the year immediately past. The commercial driver's blood pressure shall not be irregular. The commercial driver's diastolic blood pressure shall not consistently be above 110 millimeters of mercury. The commercial driver shall not have an aortic or ventricular aneurysm. The commercial driver shall not have had any uncontrollable instances of syncope or vertigo during the year immediately prior to the application for waiver.

(f) Diabetes. The commercial driver shall neither have an uncontrolled condition of diabetes nor shall he have had any instances of diabetes shock or coma in the year immediately prior to the application for waiver.

(g) Alcohol or drugs. The commercial driver shall have been free of addiction to or abuse of alcohol or other drugs for at least one (1) year.

(h) Emotional or mental. The commercial driver shall exhibit no homicidal, suicidal or destructive behavior. The commercial driver shall have had no bouts of extreme anxiety, depression, paranoia, confusion, delusions or hallucinations within the year immediately prior to the application for waiver. The commercial driver shall not have been hospitalized for any mental or emotional condition in the three (3) years immediately prior to the application for waiver.

(3) The guidelines the Division of Driver Licensing shall follow in evaluating the information on the commercial driver's complete driving history record shall be the following:

(a) If there are three (3) or more accidents on the commercial driver's driving history record during the immediately preceding two (2) year period and the commercial driver has indicated or a court has determined them to be the fault or partial fault of the commercial driver, the waiver request may be denied.

(b) If there is an accident involving a fatality or victim incapacitation on the commercial driver's driving history record and the commercial driver has indicated or a court has determined the accident to be the fault or partial fault of the applicant, the waiver request may be denied.

~~(c) If during the immediately prior two (2) years the commercial driver's driving privilege was withdrawn in accordance with the requirements of KRS 186.560, the application for waiver shall be denied.~~

~~(d) If during the immediately prior two (2) years the commercial driver's driving privilege was withdrawn in accordance with the provisions of 601 KAR 13:025, the application for waiver shall be denied.~~

~~(e) If during the immediately prior two (2) years the commercial driver was convicted of more than one (1) serious violation as defined in KRS 281A.010, the application for waiver may be denied.~~

~~(4) The commercial driver shall have been a commercial driver for the immediately preceding two (2) years to be considered for a medical waiver.]~~

Section 3. (1) If a commercial driver is granted a medical waiver prior to March 31, 1993 [1992], he shall submit to [at least annual] medical reexaminations as required by the Division of Driver Licensing.

(2) For the waiver to continue in effect after it has been issued, [1992] the physician performing the medical reexamination shall be able to state that the condition of the commercial driver which caused the waiver to be issued has not worsened and that no additional nonqualifying condition has manifested.

(3) The driving history record of a commercial driver approved for a medical waiver may be evaluated at any time but shall be evaluated

by the Division of Driver Licensing at least once a year. If any of the events listed in Section 2(3) of this regulation occur, the medical waiver may be withdrawn.

(4) After completion of a test of the commercial driver's driving skills requested by the Division of Driver Licensing, the Kentucky State Police shall submit the test results and recommendations for waiver refusal or restrictions on a medical waiver to the Division of Driver Licensing. If a medical waiver with restrictions is issued, the restriction shall be noted on the commercial driver's motor vehicle operator's license or commercial driver's license.

(5) If an intrastate medical waiver is issued to a commercial driver, he shall notify the Division of Driver Licensing immediately of any change in or worsening of his physical or mental condition.

(6) If an intrastate medical waiver is issued to a commercial driver with a progressive disease, the Division of Driver Licensing may require the commercial driver to submit to a periodic skills test with the Kentucky State Police.

(7) If an intrastate medical waiver is issued to a person with a pacemaker, he shall submit an annual report on the functioning of the device to the Division of Driver Licensing.

(8) The commercial driver shall submit all periodic reports requested by the Division of Driver Licensing or report for a skills test in a timely manner. If he fails to do so, his medical waiver shall be cancelled.

(9) The employer of a commercial driver who has obtained a medical waiver shall notify the Division of Driver Licensing of any change in the physical or mental condition of the commercial driver. In addition, the employer shall notify the Division of Driver Licensing of any changes in employment or employment conditions of the commercial driver.

Section 4. (1) If a commercial driver is denied a medical waiver by the Division of Driver Licensing, he may appeal to the Commissioner of the Department of Vehicle Regulation. In considering the appeal, the Commissioner of the Department of Vehicle Regulation shall request from the Medical Review Board established in accordance with 601 KAR 13:010 a review of the case and recommendation on the appeal.

(2) The appeal shall be filed with the Commissioner of the Department of Vehicle Regulation in writing within thirty (30) days of the decision of the Division of Driver Licensing.

(3) A member of the Medical Review Board with specific qualifications in the medical area relating to the appeal shall review the appeal when requested by the commissioner.

(4) The commissioner's review shall be based on the information provided to the Division of Driver Licensing, the recommendation of the Medical Review Board and any additional information requested by the commissioner.

(5) The findings of the Commissioner of the Department of Vehicle Regulation shall be administratively final.

(6) The Commissioner of the Department of Vehicle Regulation shall provide a copy of his findings to both the commercial driver and the Division of Driver Licensing.

(7) A commercial driver aggrieved by the findings of the Commissioner of the Department of Vehicle Regulation may appeal to Franklin Circuit Court.

LEWIS DOTSON, Commissioner  
DON C. KELLY, Secretary

APPROVED BY AGENCY: April 13, 1992

FILED WITH LRC: April 14, 1992 at 9 a.m.

PUBLIC HEARING: A public comment hearing will be held on this administrative regulation on May 21, 1992 at 9 a.m., local prevailing time in the Transportation Cabinet, Fourth Floor Conference Room, Corner of High and Holmes Streets, Frankfort, Kentucky 40622. Any person who intends to attend this hearing must in writing by May 16.

1992 so notify this agency. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is cancelled, written comments will only be accepted until February 22, 1991. Send written notification of intent to attend the public hearing or written comments on the administrative regulation to: Sandra G. Pullen, Staff Assistant, Transportation Cabinet, State Office Building, 501 High Street, Frankfort, Kentucky 40622.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: The 4,000+ motor carriers based in Kentucky and the drivers of their commercial motor vehicles.

(a) Direct and indirect costs or savings to those affected: The vast majority of these motor carriers operate on an interstate basis and are subject to the federal motor carrier safety regulations. The promulgation of this administrative regulation allows a commercial driver who operates exclusively on an intrastate basis to apply for a medical waiver. In the first year 1300 persons applied for the medical waiver. These were persons who are not legally able to operate a commercial motor vehicle under the current federal and state administrative regulations, but who have been driving anyway. (Most are unaware of the requirement for a biennial medical examination.) The second year for the waiver was recently authorized by the Federal Highway Administration. We anticipate an additional 300 applications for a medical waiver this year.

1. First year: The cost of the additional medical examinations will be approximately \$75 per person. However, of the 300 anticipated waiver applications, we anticipate 80% will be eligible for the medical waivers and therefore, able to retain or obtain jobs as commercial drivers. Assuming a salary of \$20,000 per person the overall savings to the applicants will be almost \$0.5 million.

2. Continuing costs or savings: With the continued savings by persons who have obtained a waiver, over \$10 million each year.

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

(b) Reporting and paperwork requirements: The applicant for the medical waiver and his physician will be required to complete an application form and a medical report form.

(2) Effects on the promulgating administrative body: The Transportation Cabinet will be required to review the 300 applications for medical waiver. Physicians may have to be retained on contract to evaluate the applications and supplemental medical report forms of those persons who apply for the medical waiver.

(a) Direct and indirect costs or savings: The cost to the Transportation Cabinet will be the cost of reviewing the applications.

1. First year: The cost the first year which is the second year of the program and the last year new applications will be accepted will be \$20,000.

2. Continuing costs or savings: Since no new applications will be accepted after the first year, the review of the updated medical report forms each year will be accomplished at a cost of \$20,000.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Transportation Cabinet will have to carefully monitor each of the persons granted a medical waiver to ensure that the person continues to safely operate a commercial motor vehicle.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The concept of a medical waiver for commercial drivers who operate exclusively within one state was very recently brought forth by the U.S. Department of Transportation. At first it was assumed that anyone who operated a commercial vehicle and was required to obtain a commercial driver's license would be required to meet the federal medical standards. However, U.S. DOT has determined that anyone who has a state medical waiver issued prior to April 1, 1993 will be able to obtain a commercial driver's license that is valid only within the state of issuance. Because there are many people who have been safely operating a commercial vehicle for years who cannot meet the federal medical standards, the Transportation Cabinet decided to issue medical waivers, but only after careful evaluation of all applicants. In addition, HB 628 passed by the 1992 General Assembly required a time extension if allowed by FHWA.

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. Tiering was applied in this administrative regulation by allowing persons to apply for a medical waiver and setting standards for the issuance of the waivers.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Title XII of PL 99-570 mandate that each state establish a commercial driver's license program. The Federal Highway Administration adopted 49 CFR Part 383 to implement this program uniformly nationwide. Only limited medical waivers are allowed by Part 383 through 49 CFR Part 391 for interstate commercial drivers. However, until April 1, 1992, the states are allowed to issue waivers for additional medical conditions for those commercial drivers operating exclusively in intrastate commerce. This administrative regulation is being promulgated to take advantage of this permissive waiver provision of the federal regulations. Since it is permissive and not mandatory, this form need not be completed.

2. State compliance standards. Not applicable.

3. Minimum or uniform standards contained in the federal mandate. Not applicable.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Not applicable.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

#### WORKFORCE DEVELOPMENT CABINET Department for Adult and Technical Education (Proposed Amendment)

**780 KAR 2:100. Attendance policies for long-term adults in state-operated vocational schools.**

RELATES TO: KRS 151B.025, 151B.110, 151B.145

STATUTORY AUTHORITY: KRS 151B.145

NECESSITY AND FUNCTION: KRS 151B.025 provides that the State Board for Adult and Technical Education has all necessary power and authority in administering vocational education. The state board finds it necessary to establish attendance policies for adults sixteen (16) years of age and older who are enrolled in a vocational education program of 500 hours or more.

Section 1. State-operated vocational schools shall establish and

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publish attendance policies governing the programs in the school.

Section 2. [4-] Students shall be treated fairly [~~uniformly~~] in terms of compliance with [their] attendance policies [in all state-operated vocational schools]. Each school shall maintain a uniform attendance accounting procedure.

Section 3. Each student shall be provided a copy of the school's attendance policy and specific information regarding course attendance requirements.

Section 4. [2-] Regular attendance and punctuality are expected of all students as the student's [~~school~~] attendance record may have a positive or negative impact on initial employment opportunities. An accurate record of total hours absent and total hours in attendance for the program shall be reflected on the student's transcript. Students shall assume responsibility for regular attendance; completion of all assignments; completion of all examinations; and completion of required laboratory, internship, and clinical time.

Section 5. [3-] Work missed because of absence for any reason shall be made up satisfactorily to the teacher within a reasonable time after returning to school. Makeup work not turned in by the time designated by the instructor shall receive a grade of "0". It is the student's responsibility to contact the teacher on the day returning to school to arrange for makeup work. Makeup of examinations, clinical time, or other instructional activities may require extra hours as arranged by the teacher.

Section 6. [4-] The school recognizes that there are times when a student must be absent because of illness, death in the family, accident or other personal emergency. Students are expected to keep leave time to a minimum and may be asked for verification of illness or personal emergency if there is reasonable cause to suspect abuse of this leave policy. The student shall notify the teacher or an appropriate administrator of the absence(s) and the reason for the absence [therefor] either prior to the absence(s) or as soon thereafter as practicable.

[Section 5. If a student has more than seventy (70) hours of total absence during the school year, the student shall receive an official warning. The student shall be referred to a guidance counselor for guidance and counseling services. After receiving an attendance warning, a student shall notify the school principal or the principal's designee of reasons for any further absence. The principal or the principal's designee shall determine whether or not the absence is for an essential cause, including serious illness, injury, or accident; court appearance; military assignment; or other emergency situations. Only one (1) day or six (6) cumulative hours, whichever is greater, past the warning notification shall be allowed for any cause. If the student has any additional absence of one (1) hour or more, the student shall, without compelling circumstances, be subject to suspension or expulsion as prescribed in 780 KAR 2:060.]

[Section 6. Absences shall be recorded for any time of more than a half hour missed from class or an assigned work station unless the student participates in an approved alternate school activity such as a vocational student organization conference. Arriving after the roll is checked but within the first half hour of the class period is recorded as tardy; i.e., arriving forty (40) minutes late equals one (1) hour of absence and twenty five (25) minutes late is one (1) tardy. Leaving class within the last half hour of the program is considered the same as tardy. Three (3) tardies or three (3) times leaving early equals one (1) hour of absence.]

Section 7. At the first or second class meeting, each instructor

shall provide each student with an attendance policy for the class. This policy shall include, but not be limited to, rules regarding class attendance, excused and unexcused absences, missing announced or unannounced examinations, making up class work, and any penalties with regard to grades which may result from failure to comply with the attendance policies. However, an instructor may not deny a make-up exam to a student who missed an announced or unannounced examination due to an excused absence.

Section 8. The instructor shall report to the school director or designee the name of any student not making satisfactory progress in class due to irregular attendance. That student shall be provided counseling support. If after reasonable time with counseling support, the student continues to fail to make satisfactory progress, the student may be dropped from the course or courses.

Section 9. [7-] Satisfactory progress for the purpose of financial aid is based on academic progress. An official warning for attendance problems shall not result in withholding financial aid payments.

[Section 8. A student scheduled for a support class (such as, related instruction, computer laboratory, economics, or study skills) who misses fifteen (15) percent or more of the total hours scheduled shall be required to repeat the support class prior to graduation.]

[Section 9. Students subject to dismissal for attendance violations may request a hearing by filing a request for such with the regional administrator within three (3) days of notification of the recommendation for dismissal. Otherwise, no hearing shall be scheduled pursuant to 780 KAR 2:060, and expulsion shall be automatic.]

Section 10. If attendance is a requirement for receiving a grade in a particular class and if a student has absences which are excused absences, then the student shall have the right to petition for a "W" withdrawal from the course.

[Section 10. Students attending a program of less than eleven (11) total months duration or students attending a program on a part-time basis shall have the maximum of seventy (70) hours prior to attendance warning reduced proportionately.]

[Section 11. Students completing a program with five (5) or fewer total days' absence for the program shall be given a Certificate of Merit for Attendance. Students completing a program with less than one (1) day of absence during the program shall receive a Certificate of Excellence for Attendance.]

C. RICHARD WARNER, Chairman

APPROVED BY AGENCY: March 19, 1992

FILED WITH LRC: April 13, 1992 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 27, 1992 at 10 a.m. in the State Board Room, 2nd Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 22, 1992, 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: Audrey T. Carr, Secretary, State Board for Adult and Technical Education, Capital Plaza Tower, Third Floor, Frankfort, Kentucky

40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverly Haverstock

(1) Type and number of entities affected: 16,000 full-time postsecondary students in state-operated Kentucky Tech schools.

(a) Direct and indirect costs or savings to those affected: None

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: May decrease administrative costs dedicated to processing attendance information but not significantly.

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Decreases some paperwork requirements at school level. Saves time more than money.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Believe the control of attendance at local level is most expedient and meets local needs.

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

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments: The changes move responsibility to local level for establishing attendance and managing such.

TIERING: Was tiering applied? No. Is in keeping with current business/education reform.

**WORKFORCE DEVELOPMENT CABINET**  
**Department for Adult and Technical Education**  
**(Proposed Amendment)**

**780 KAR 2:110. Student medical and accident insurance.**

RELATES TO: KRS 151B.025, 151B.110, 151B.175 ~~[454B.145]~~

STATUTORY AUTHORITY: KRS 151B.175 ~~[454B.145]~~

NECESSITY AND FUNCTION: KRS 151B.175 ~~[454B.145]~~

authorizes the Commissioner for Adult and Technical Education to provide medical and accident insurance for students enrolled in the state vocational-technical schools and area vocational education centers and requires the State Board for Adult and Technical Education to adopt regulations to implement the ~~[any such]~~ insurance program ~~[and to set fees and limits of liability with respect to such. This regulation implements such duties].~~

Section 1. All students enrolled in state vocational-technical schools and area vocational education centers shall have medical and accident insurance coverage during the period of enrollment.

Section 2. The commissioner shall enter into a contract with a surety or insurance company or its agent to provide medical and accident insurance coverage for students enrolled in vocational-technical schools and area vocational centers. ~~[The coverage limits shall be at least these amounts:~~

Accident Medical Expense Maximum ~~\$250,000~~  
(Subject to Exclusions and Limitations)

For loss of use of:

Both arms and both legs ..... \$50,000

Both legs ..... \$37,500

One arm and one leg on one side of body ..... \$25,000

One arm or one leg ..... \$12,500]

Section 3. The policy will be a full excess policy and will pay the covered expenses incurred which are in excess of those paid or payable by another plan ~~[providing medical expense benefits to a maximum of \$250,000].~~

Section 4. The medical and accident coverage shall consist of a single contract applied to the plan of coverage contained in the contract between the Commonwealth and the carrier.

Section 5. The insurance policy shall be attached to the contract to become part of the medical and accident insurance contract after having been signed by an official of the insuring company having the proper corporate authority to sign this type document.

Section 6. Coverage shall take effect on the date requested and continue to the expiration date shown on the application.

Section 7. The premium will be paid monthly by the Office of Kentucky Tech to the surety or insurance company or its agent for the number of students enrolled during the previous month in state vocational-technical schools and area vocational centers.

C. RICHARD WARNER, Chairman

APPROVED BY AGENCY: March 19, 1992

FILED WITH LRC: April 13, 1992 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 27, 1992 at 10 a.m. in the State Board Room, 2nd Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 22, 1992, 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: Audrey T. Carr, Secretary, State Board for Adult and Technical Education, Capital Plaza Tower, Third Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverly Haverstock

(1) Type and number of entities affected: The approximate 32,000 full-time students served in postsecondary/secondary state-operated schools.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: N/A
  2. Continuing costs or savings: N/A
  3. Additional factors increasing or decreasing costs: N/A
  - (b) Reporting and paperwork requirements: No increase.
  - (3) Assessment of anticipated effect on state and local revenues: None
  - (4) Assessment of alternative methods; reasons why alternatives were rejected: None; simply technical cleanup of language.
  - (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 deletions are necessary to clean up the regulation; out-of-date language deleted.
- TIERING: Was tiering applied? No. Tiering is not appropriate. Standard treatment of subjects covered is necessary.

**WORKFORCE DEVELOPMENT CABINET**  
**Department for Adult and Technical Education**  
**(Proposed Amendment)**

**780 KAR 2:120. Standard for academic progress for postsecondary and adult students.**

RELATES TO: KRS 151B.025, 151B.110

STATUTORY AUTHORITY: KRS 151B.110

NECESSITY AND FUNCTION: KRS 151B.025 establishes a state vocational education program, and KRS 151B.110 gives the State Board for Adult and Technical Education all necessary power and authority in administering the state's vocational education program. This regulation is necessary in order to set a statewide standard for academic progress for postsecondary and adult students in the state's vocational technical schools and area vocational education centers to meet in order to remain in good academic standing [in such schools].

Section 1. Any postsecondary or adult student enrolled in a state operated vocational school shall maintain satisfactory progress toward completion of the prescribed competencies in all requirements for a diploma or certificate program. Evaluation of the quality of the student's performance shall include the grades of shop or laboratory work, technical knowledge, and occupational work experiences such as clinical or cooperative education. Work habits and attitudes, as well as completion of assigned tasks and learning activities are evaluated.

Section 2. Postsecondary and adult students shall complete each course required for a diploma or certificate program with a "C" average or above prior to completion of the program. Any course identified as a prerequisite to an advanced level course shall be completed with a "C" average or above prior to enrolling in the advanced course. [A required course completed with less than a "C" average may be repeated one (1) time at no charge to the students.] For a repeated course, the highest grade earned is used in calculation of the overall grade point average.

Section 3. Remedial assistance shall be offered during the course to students in those instructional areas below the "C" in an effort to allow them to successfully complete the course and program. Remediation may include tutorial service, clearly defined independent study, scheduled time in the learning center, or other appropriate assistance.

Section 4. A student earning a [whose overall cumulative] grade point average (GPA) [is] below a 2.0 or "C" at the end of a term shall

be placed on academic probation for the next ~~one (1)~~ term enrolled. Students shall be removed from academic probation when they either successfully complete ("C" or better) the courses in which they received a grade of less than a "C" or when they earn a "C" or better average with at least a half-time course load. Students earning less than a "C" average for two (2) consecutive terms [if, at the end of the probationary period, the cumulative overall GPA is less than a "C", the student] shall be academically expelled by the principal, without the right of formal hearing. The grade point average for each term shall be considered separately. Terms shall not be averaged together.

Section 5. (1) Clear and specific notice of the academic progress policy set forth herein shall be included in each school's student handbook, which shall be disseminated to each student upon entrance into a vocational program, and each teacher shall clearly explain to each student the grading criteria to be used at the outset of a student's participation in that teacher's course or program.

(2) Any student being placed on academic probation shall be so [clearly] advised [of such] by the school, including the duration of [such] probation, and the consequences of continued failure to make satisfactory academic progress.

Section 6. (1) A student expelled for academic reasons, shall, unless extenuating circumstances or the facts of individual cases warrant shorter expulsions, be readmitted to school on the basis of waiting list priorities at the time of expulsion or on the basis of two (2) academic quarters, whichever is longer.

(2) A school shall not be obligated to, but may, readmit a student to the school after a second academic expulsion.

Section 7. Readmission to the same program after academic dismissal from this school or another state vocational school shall be conditional admission, and continuation in the program shall be contingent upon attaining a cumulative grade point average of a "C" or above by the end of the first term. Students dismissed from one (1) vocational school may not be readmitted to another vocational school for a period of at least one (1) academic quarter after dismissal.

Section 8. Graduates of any diploma level vocational-technical program may return to the vocational school within two (2) years after program completion to receive specific retraining at no charge [repeat one (1) or more courses one (1) time at no charge] if the graduate's [his or her] employer files a letter with the school certifying the need for the retraining because the graduate is performing below a satisfactory level on the approved task list for the program from which the employee graduated [such course(s) for continued employment].

C. RICHARD WARNER, Chairman

APPROVED BY AGENCY: March 19, 1992

FILED WITH LRC: April 13, 1992 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 27, 1992 at 10 a.m. in the State Board Room, 2nd Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 22, 1992, 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: Audrey T. Carr, Secretary, State Board for Adult and Techni-

cal Education, Capital Plaza Tower, Third Floor, Frankfort, Kentucky 40601.

# REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverly Haverstock

(1) Type and number of entities affected: Approximately 15,000 adult students enrolled in Kentucky Tech annually.

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

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body: Minor impact.

(a) Direct and indirect costs or savings:

1. First year: Minor \$125/student.

2. Continuing costs or savings: Savings for each student who wanted a free quarter for repeating a course.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Doesn't affect paperwork.

(3) Assessment of anticipated effect on state and local revenues: Will eliminate loss of revenue to the local state vocational school who would have been giving free tuition for a course to be repeated.

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: This regulation applies to the students who score less than the required "C" in a given course. The current regulation in Section 2 indicates they could take courses over one time without paying for it. This was intended to be a course taken along with the next quarter's courses for which they had already paid. However, that is not how it was written. Some schools were losing \$500-\$1000 per month.

TIERING: Was tiering applied? No. The nature of the regulation and intent requires uniform application.

## WORKFORCE DEVELOPMENT CABINET Department for Adult and Technical Education (Proposed Amendment)

### 780 KAR 3:070. Attendance.

RELATES TO: KRS 151B.035, Chapter 337, 29 USC 201-219  
STATUTORY AUTHORITY: KRS 151B.035

NECESSITY AND FUNCTION: KRS 151B.035 requires the State Board for Adult and Technical Education to promulgate comprehensive administrative regulations with the provisions of KRS 151B.035. KRS 151B.035 specifies that the state board promulgate comprehensive regulations for the certified and equivalent staff governing attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leave of absence.

Section 1. Attendance. (1) Full-time employees shall be required to work thirty-seven and one-half (37 1/2) hours per week for all positions unless otherwise specified by the appointing authority.

(2) The normal work day for school-based employees shall coincide with the appropriate school schedule as recommended by the principal and approved by the regional executive director of the respective school operation.

(3) The appointing authority may require employees to work hours and work days other than normal including but not limited to inclement weather schedules if it is in the best interest of the agency.

(4) Employees who work within schools, regions, or divisions which require more than one (1) shift or seven (7) days a week operation may be assigned[reassigned] from one (10) shift to another and from one (1) post to another or alternate days to meet staffing requirements, [and]for to maintain or provide essential services of the agency, or [and] to meet scheduling needs of students. Employees shall be given as much advance notice as possible when schedules are changed. The employee is required to give reasonable notice in advance of absence from a work station.

Section 2. Compensatory Time. (1) An employee who is requested in advance to work in excess of the prescribed hours of duty shall be granted compensatory leave on an hour for hour basis [subject to the provisions of the Fair Labor Standards Act and in the wage and hours provisions of the Kentucky Labor Laws KRS 337]. Compensatory leave may be accumulated or taken off in one-half (1/2) hour increments. The maximum amount of compensatory leave that may be accumulated shall be 100 hours. The appointing authority may approve an employee to work over the 100 hour limit in cases of emergency but shall not exceed fifty (50) hours over the maximum.

(2) Compensatory time shall be granted for those working in full-time positions only and who perform duties and responsibilities pertaining only to this full-time position.

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

(4) Any school-based employee who has accumulated compensatory leave shall be permitted to take [such] time off during the following times:

(a) Spring break.

(b) Christmas break except on the four (4) official holidays normally given to state employees.

(c) Work days within the employment year when school is not in session.

(d) Other times when requested in advance and when practicable and approved by the immediate supervisor.

(5) All other certified and equivalent employees shall be permitted to use accumulated compensatory time when practicable and requested in advance and if approved by the respective supervisor.

(6) To maintain a manageable level of accumulated compensatory leave and for the specific purpose of reducing an employee's compensatory leave, the commissioner or designee may direct an employee to take accumulated compensatory time off from work.

Section 3. Annual Leave. (1) Each full-time employee in the certified and equivalent personnel system except seasonal, temporary, per diem, emergency and part-time employees shall accumulate annual leave with pay at the following rate:

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

(2) Annual leave shall be accumulated only in the months in which the employee is hired to work. A teacher employed to teach ten and one-half (10 1/2) months shall only accrue leave during the actual school term, unless he is approved to work extended employment.

(3) A full-time employee must have worked more than half of the work days in a month to qualify for annual leave. Each employee



shall be credited with additional leave upon the first day of the month following the month in which the leave is earned. In computing months of total service for the purpose of earning annual leave, only those months for which an employee earned annual leave shall be counted. Former employees who have been reinstated and who have been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where ~~[such]~~ dismissal resulted from a violation of KRS 151B.090 [Chapter 151B, Section 16]. Only those months for which the employee earned annual leave shall be counted in computing months of total service. Employees serving on a part-time basis shall not be entitled to annual leave.

(4) The maximum accumulated annual leave which may carry forward from one (1) fiscal year to the next shall not exceed the following amounts:

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

Leave in excess of the above maximum amounts shall be converted to sick leave at the end of the fiscal year or upon retirement. Months of service for the purpose of determining the maximum accumulation of annual leave and the amount to be converted to sick leave shall be computed as provided in subsections (1), (2), and (3) of this section. Annual leave shall not be granted in excess of that earned prior to starting date of leave.

~~[(5) Effective July 1, 1991, all employees in the certified and equivalent personnel system shall utilize days equal to the number accrued annually in the fiscal year in which it is earned. The employee may request, through appropriate organizational channels, to carry forward a maximum of ten (10) days. Any unused portion of annual leave accrued during the fiscal year shall be converted to sick leave at the end of the fiscal year.]~~

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

(6) ~~[(7)]~~ Accumulated leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with the request of employees. An employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time he earned that year. School-based employees shall take ~~[such]~~ time off during the following times:

(a) Spring break.

(b) Christmas break except on the four (4) official holidays normally given to state employees.

(c) Work days within the employment year when school is not in session.

(d) Other times when requested in advance and when practicable and approved by the immediate supervisor.

In cases of emergency, the supervisor may request an employee to work during the above times without loss of annual leave.

(7) ~~[(8)]~~ Employees are charged with annual leave for absence only on days ~~[upon which]~~ they would otherwise work and receive pay or on designated school closure days.

(8) ~~[(9)]~~ Employees shall be allowed up to two (2) professional leave days for the purpose of continuing staff development or ~~[i.e.,]~~ participation in professional organization workshops and meetings without loss of pay.

(9) ~~[(10)]~~ Annual leave shall accrue only when an employee is working or on authorized leave with pay. Annual leave shall not

accrue when an employee is on educational leave with pay.

(10) ~~[(11)]~~ An employee who is transferred to the Department for Adult and Technical Education shall retain his accumulated leave.

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

(12) ~~[(13)]~~ Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 151B shall have worked or been on paid leave during the previous month subject to the following conditions:

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

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

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

(d) Any employee who leaves the Department for Adult and Technical Education certified and equivalent personnel system on or prior to the fifteenth day of the month before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contributions for life insurance and health benefits in the following month.

(13) ~~[(14)]~~ Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts as set forth in subsection (5) of this section when separated by proper resignation or retirement. In the case of layoff, the employee shall be paid in a lump sum for all accumulated leave. An employee in the unclassified service who reverts to the classified service or an employee who resigns one day and is employed the next day shall retain his accumulated leave. The effective date of the separation shall be the last work day.

(14) ~~[(15)]~~ An employee who has been dismissed for cause or who has failed to give proper notice of resignation may, at the discretion of the appointing authority, be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts set forth in subsection ~~(4) [(5)]~~ of this section.

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

(16) ~~[(17)]~~ Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or increments of one-half (1/2) hour.

Section 4. Sick Leave. (1) Each employee in the certified and equivalent personnel system, except emergency, per diem, and part-time employees shall accumulate sick leave with pay at the rate of one (1) working day for each month of service. An employee must have worked more than half of the workdays in a month to qualify for sick leave with pay. Each employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(2) Full-time employees completing 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service. In computing months of total service for the



purpose of crediting ten (10) additional days of sick leave, only those months for which an employee earned sick leave shall be used. Only those months for which the employee earned sick leave shall be counted in computing total months of service. The total service must be verified before the leave is credited to the employee's record. Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where [such] dismissal resulted from the violation of KRS 151B.090 [Chapter 151B, Section 46].

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

(4) Sick leave shall accrue only when an employee is working or on authorized leave with pay, with the exception of educational leave with pay.

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

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

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

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

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

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

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

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

(8) Employees eligible for state contributions for life insurance and health benefits under the provision of KRS Chapter 151B shall have worked or been on paid leave during the previous month subject to the following conditions:

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

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

(c) An employee who has exhausted paid leave shall not qualify

for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for these [such] benefits.

(d) The Department for Adult and Technical Education shall continue to pay the state's contribution toward health and life insurance benefits between June 15 and August 1 for employees whose normal work year consists of ten and one-half (10 1/2) months.

(e) Any employee who leaves the certified and equivalent personnel system on or prior to the fifteenth day of the month before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contributions for life insurance and health benefits in the following month.

(9) Absence for a fraction or a part of a day that is chargeable to sick leave shall be charged in hours or increments of one-half (1/2) hour.

(10) An employee who is transferred to the Department for Adult and Technical Education shall retain his accumulated sick leave.

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

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

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

(14) Supporting evidence.

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

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

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

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

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

a. The name of the donor.

b. The agency or office in which the donor is employed.

c. The position number of the donor.

- d. The social security number of the donor.
  - e. The name of the employee to which leave is being donated.
  - f. The agency or office in which the donee is employed.
  - g. The donee position number.
  - h. The donee Social Security Number.
  - i. The maximum amount of the donor's leave in excess of seventy-five (75) hours which may be credited to the individual donee.
  - j. Certification by the donor that ~~this~~ [such] donation is given without expectation or promise for any purpose other than that authorized by this regulation.
2. The donating employee shall retain a sick leave balance of not less than seventy-five (75) hours.
  3. A donating employee shall not sell, offer to sell, bargain, exchange, transfer, or assign accumulated sick leave for any consideration or in any manner other than that authorized by this regulation.
- (b) An employee with a medical emergency who has exhausted all annual leave, sick leave, and compensatory leave may make application to receive donation of sick leave from an employee (or employees) with a sick leave balance in excess of seventy-five (75) hours. Application may be made on behalf of the employee by a personal representative of the employee in the event of the employee's incapacity to make application on his own behalf.
1. Application shall be made to the appointing authority on a form prescribed by the commissioner and shall include:
    - a. Employee name.
    - b. Position number.
    - c. Social Security number.
    - d. Employee title.
    - e. The reason transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency.
    - f. Signature of the requestor or his personal representative.
  2. The application shall be accompanied by certification by one (1) or more physicians of the medical reasons that the employee will be unable to perform the duties and responsibilities of this position for ten (10) or more consecutive working days.
  - (c) The appointing authority may require additional medical evidence prior to approval or denial of acceptance of sick leave donation. An employee may request an extension of approved, donated sick leave by presenting additional medical evidence to the appointing authority.
  - (d) At the end of each pay period while an employee is on donated leave, the appointing authority shall credit that employee's sick leave balance with the number of hours which would otherwise be considered leave without pay and shall reduce the donor's leave balance by that amount.
  - (e) No employee on donated sick leave shall be credited with leave in an amount in excess of the time of the documented medical emergency.
  - (f) No person shall through his office of employment use any promise, exchange, or influence to require an employee to donate excess sick leave or annual leave to any other employee.
  - (g) For purposes of this regulation, medical emergency shall mean an illness or injury of the employee or the employee's immediate family which will require the employee's absence from duty for ten (10) or more consecutive working days.

Section 5. Court Leave. An employee shall be entitled to leave of absence from duties during his scheduled working hours, without loss of time or pay for that amount of time necessary to comply with subpoenas by any court, or administrative agency or body of the federal or state government or any political subdivision thereof, to serve as a juror or a witness except in cases where the employee himself or a member of his family is a part plaintiff. This leave shall include necessary travel time. If relieved from duty as a juror or

witness during his normal working hours, the employee shall return to work.

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

Section 7. Voting Leave. All employees who are eligible and registered to vote shall be allowed, upon prior request, four (4) hours, for the purpose of voting. ~~This~~ [Such] absence shall not be charged against leave. Employees who are not scheduled to work during voting hours shall not receive voting leave and shall not be entitled to compensatory leave in lieu of time off to vote. Employees who are permitted to work in lieu of voting leave shall be granted compensatory leave on an hour-for-hour basis.

Section 8. Special Leave of Absence. (1) In addition to leave as above provided, the appointing authority may grant leave without pay for a period or periods not to exceed thirty (30) working days in any calendar year.

(2) The Commissioner of Adult and Technical Education may grant leave of absence when requested by an employee for a period not to exceed twenty-four (24) months, with or without pay, for assignment to and attendance at college, university, vocational or business school for the purpose of training in subjects related to the work of the employee and which will benefit the state service. All employees granted ~~this~~ [such] leave shall be guaranteed a position as similar as possible to the position held at the time of beginning of leave. Employees shall not be guaranteed the identical position held at time of beginning of leave.

(3) The appointing authority may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this regulation that are deemed to be in the best interest of the state. All employees granted ~~this~~ [such] leave shall be guaranteed a position as similar as possible to this position held at the time of the beginning of leave. Employees shall not be guaranteed the identical position held at the time of leave.

(4) The Commissioner of Adult and Technical Education may grant a sabbatical leave of absence without pay when requested by a continuing status employee for a period not to exceed twelve (12) months for attendance at a college, university, vocational, business school or any other business and industrial training program for the purpose of retraining due to changing technology. If retraining occurs at a Kentucky Technical institution, the employee shall be exempt from tuition. All employees granted ~~this~~ [such] leave shall be guaranteed a position as similar as possible to the position held at the time of beginning of leave, or if there is no similar position available, the first opening for a similar position for which the employee is qualified. Employees shall not be guaranteed the identical position held at the time of beginning leave.

(5) The appointing authority may place an employee on leave

without pay for a period of time not to exceed sixty (60) working days pending an investigation into allegations of employee misconduct. Unless there is imminent danger to staff, students or other individuals, there shall be a preliminary hearing after which the employee shall be notified in writing by the appointing authority that he is being placed on leave without pay and of the reasons therefor. If ~~the [such]~~ investigation reveals no misconduct on behalf of the employee, he shall be made whole for the period of ~~[such]~~ leave, and all records relating to the investigation will be purged from the Department for Adult and Technical Education files. The appointing authority shall notify the employee in writing of the completion of the investigation and the action taken including those cases where the employee voluntarily resigns in the interim.

(6) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 151B, shall have worked or been on paid leave during the previous month subject to the following conditions:

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

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

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

(d) Any employee who leaves the Department for Adult and Technical Education certified and equivalent personnel system on or prior to the fifteenth day of the month before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contributions for life insurance and health benefits in the following month.

Section 9. Absence Without Leave. An employee who is absent from duty without approval shall report the reason therefor to his supervisor immediately. Unauthorized ~~[and]~~ or unreported absence shall be considered absence without leave and deduction of pay may be made for each period of ~~[such]~~ absence. ~~[Such]~~ Absence without leave may constitute grounds for disciplinary action.

C. RICHARD WARNER, Chairman

APPROVED BY AGENCY: March 19, 1992

FILED WITH LRC: April 13, 1992 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 27, 1992 at 10 a.m. in the State Board Room, 2nd Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 22, 1992, 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: Audrey T. Carr, Secretary, State Board for Adult and Technical Education, 301 Capital Plaza Tower, Frankfort, Kentucky 40601.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverly Haverstock

(1) Type and number of entities affected: All certified/equivalent personnel in the Department for Adult and Technical Education, approximately 1500.

(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):

(b) Reporting and paperwork requirements: Decreased paperwork.

(2) Effects on the promulgating administrative body: Decreased accounting requirements.

(a) Direct and indirect costs or savings: Time savings will result versus any money savings.

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This amendment cleans up technical words; the deletion of use of time in Section 5 allows employee more flexibility and treats them fairly in use of annual leave.

TIERING: Was tiering applied? No. Standardization of treatment of individuals is necessary.

## PUBLIC PROTECTION CABINET Department of Financial Institutions (Proposed Amendment)

**808 KAR 10:010. Forms for application, registration; reporting and compliance.**

RELATES TO: KRS Chapter 292

STATUTORY AUTHORITY: KRS 292.500(3)

NECESSITY AND FUNCTION: To promulgate and make available to persons affected by the Kentucky Securities Act the forms necessary for registration, reporting and general compliance.

Section 1. The following forms are incorporated herein by reference. The requirements and instructions contained in the forms shall have the same force and effect as rules and regulations duly promulgated. Information on obtaining the forms is available through the National Association of Securities Dealers (NASD), 1735 K Street, N.W., Washington, D.C. 20006 (or any regional NASD office) or from the Department of Financial Institutions, 911 Leawood Drive, Frankfort, Kentucky 40601.

(1) Form BD (revised July 1988); Application for Registration as Broker-Dealer.

(2) Form U-4 (revised April 1990) Application for Registration as Agent or Transfer of an Agent; Kentucky Investment Advisor Representative Qualification Form.

~~[(3) Form P-7 (revised July 1991); Investment Advisor Representative Qualification Application.]~~

(3) ~~[(4)]~~ Form 33-e-1 (revised October 1990); Application for

Renewal of Issuer Agents.

(4) [(6)] Form ADV (revised August 1988); Application for Registration of an Investment Adviser (may be obtained from Securities and Exchange Commission, Branch of BD and IA Registration, Washington, D.C. 20549).

(5) [(6)] Form 33-h-1 (revised October 1990); Application for Renewal of Investment Adviser's License.

(6) [(7)] Form 34 (revised July 1990); Report to be Filed by an Issuing Company Registered for the Purpose of Selling Its Own Securities.

(7) [(8)] Form 35-a (revised July 1990); Application for Registration by Notification (Nonissuer Distribution).

(8) [(9)] Form U-1 (revised July 1990); Application for Registration of Securities by Notification or Coordination.

(9) [(10)] Form ICURA (Investment Company Uniform Report and/or Application) (revised July 1990); Application for Annual Renewals of Investment Company Registrations.

(10) [(11)] Form 37 (revised July 1990) (amended); Application for Registration of Securities by Qualification.

(11) [(12)] Form 38-a (revised July 1990); Impounding Agreement.

(12) [(13)] Form U-2 (revised July 1990); Consent to Service of Process and Jurisdiction (Investment Adviser, Broker-Dealer or Issuer).

(13) [(14)] Form U-2A (revised July 1990); Resolution (Investment Adviser, Broker-Dealer or Issuer).

(14) [(15)] Form BDW (revised May 1987); Notice of Broker-Dealer withdrawal.

(15) Form U-7 (Small Corporate Offerings Registration) (adopted by NASAA April 1989).

EDWARD B. HATCHETT, JR., Commissioner  
APPROVED BY AGENCY: March 27, 1992

FILED WITH LRC: April 1, 1992 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on the proposed amendments will be conducted on May 21, 1992 at 10 a.m. (ET) at the Department of Financial Institutions, 911 Leawood Drive, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing: David H. Ashley, General Counsel, Department of Financial Institutions, 911 Leawood Drive, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Lewis Kelly

(1) Type and number of entities affected: There presently are no entities affected by the primary amendment (Form U-7). The purpose of the adoption of Form U-7 is to substantially reduce the cost and paperwork and to diminish the burden to small businesses in raising investment capital. Form U-7, as adopted by the North American Securities Administration Association, is a general registration form for companies registering under state securities laws, securities which are exempt from registration with the Securities Exchange Commission. It is particularly designed to be used by companies, attorneys, and accountants who are not necessarily specialists in securities regulation. The main cost savings result in the company not having to prepare an extensive and expensive prospectus for potential investors as a part of the registration process. Upon adoption of Form U-7, a company organized under the laws of this state may file Form U-7. "Blind pool" offerings and other offerings for which the specific business or properties cannot be described are ineligible to use Form U-7. The company may engage selling agents, and may pay fees to such agents only if such agents are registered agents in this state.

(a) Direct and indirect costs or savings to those affected: There are currently no entities affected by the amendment; therefore there are no direct or indirect costs or savings.

1. First year: Companies utilizing Form U-7 will experience

substantial costs savings in registering and selling their securities.

2. Continuing costs or savings: Continuing costs or savings would be the same as (1) above.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There would be no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: The entities affected by this amendment would realize substantial costs savings in registering their securities for sale within this state. An exact dollar amount per registration cannot be determined at this time.

(2) Effects on the promulgating administrative body: The effect on the promulgating administrative body would be purely minimal.

(a) Direct and indirect costs or savings: There are no direct or indirect costs or savings.

1. First year: There are no first year costs or savings.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There would be no additional reporting and/or paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: The Department of Financial Institutions may receive slight additional revenue as a result of the small corporate offerings registration.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The adoption of Form U-7 provides an alternate method of registration of securities for small corporate offerings.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, administrative regulations or government policies which may be in conflict, overlapping, or in duplication.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: Form U-7, the small corporate offerings registration, will provide a less cumbersome and expensive means whereby small corporations may be able to raise capital on their own without the necessity of a full registration or bank or other institutional financing.

TIERING: Was tiering applied? No. The adoption by this amendment of Form U-7 makes it available to all Kentucky companies.

CABINET FOR HUMAN RESOURCES  
Department for Health Services  
(Proposed Amendment)

902 KAR 10:085. Kentucky on-site sewage disposal systems.

RELATES TO: KRS 211.350 to 211.380, 211.990(2)

STATUTORY AUTHORITY: KRS 194.050, 211.090(3), 211.180(3)

NECESSITY AND FUNCTION: KRS 211.350 to 211.380 and 211.990(2) direct the cabinet to regulate the construction, installation, or alteration of any on-site sewage disposal system, except for systems with a surface discharge. This regulation establishes uniform standards for on-site sewage disposal systems. The function of this regulation is to assure the construction, installation, or alteration of on-site sewage disposal systems in such a manner as to protect public health and the environment.

Section 1. Citation of Regulation. This regulation may be cited as the "Kentucky On-site Sewage Disposal Systems Regulation."

Section 2. Definitions. As used in this regulation the following terms shall have the meanings set forth below:

(1) "Approved" means that which has been considered acceptable to the cabinet.

(2) "Areas subject to frequent flooding" means those areas inundated at a one (1) year or less frequency, for a period of time exceeding seven (7) consecutive days.

(3) "Artificial drainage systems" means a manmade system of surface ditching or berming to divert surface water run-off; or curtain or vertical drains for interception and diversion of lateral groundwater flow; or underdrains for lowering the level of high water tables.

(4) "Blackwater" means liquid and solid human body waste and the carriage waters generated through toilet usage. It also includes wastes resulting from a garbage disposal.

(5) "Cabinet" means the Cabinet for Human Resources and includes its authorized agents.

(6) "Certified inspector" means a person employed by the cabinet or by a local health department who has met the requirements for certification contained in KRS 211.360.

(7) "Certified installer" means a specific individual person who has met the requirements for certification contained in KRS 211.357.

(8) "Clay" means a soil separate consisting of particles less than 0.002 mm in equivalent diameter.

(9) "Effluent" means the liquid discharge of a septic tank or other sewage pretreatment unit.

(10) "Gravelless pipe" means large diameter perforated piping designed for use in lateral field trenches without the use of trench rock or gravel fill material. Such pipe includes a mandatory overwrap or encasing of synthetic filter material meeting specific criteria.

(11) "Grease" means fats or oils of animal, vegetable, or mineral origin, separately or in colloidal or dissolved states in combination with soaps, detergents, and/or food particles.

(12) "Grease trap" means an on-site sewage disposal system component designed to separate grease and its constituents from the wastewater stream, provide for storage of separated grease, and discharge the remaining wastewater for treatment.

(13) "Greywater" means wastewater generated by water-using fixtures and appliances, excluding the toilet and the garbage disposal.

(14) "Landscape position" means the location of the proposed on-site sewage disposal system installation area on a site relative to the surrounding topographic relief of the land surface. Different landscape positions are defined as follows:

(a) Hill or ridge top: the relatively level area occupying the summit of a hill or ridge.

(b) Shoulder slope: the transitional area immediately adjacent to the hill or ridge top where the slope begins to steepen and fall downward.

(c) Side slope: the slightly to steeply sloping portion of a hillside lying between the shoulder and foot slopes.

(d) Foot slope: the slightly to steeply sloping portion of a hillside near the base or lowest point of elevation.

(e) Toe slope: the lowest point of elevation at the base of a hillside; generally concave in cross-sectional profile.

(f) Terrace: a naturally occurring elevated shelf of level to slightly sloping character adjacent to streams and drainageways.

(g) Plain: level to slightly sloping or undulating areas in wide valleys.

(h) Flood plain: level to slightly sloping areas adjacent to streams or other bodies of water subject to flooding for extended periods.

(i) Depressions: sinkholes or other areas with a concave or cupped cross-sectional profile and lacking surface drainage outlets.

(j) Drainageway: a naturally occurring depressional area in the landscape with slight to steeply sloping sides which causes accumulation of surface and groundwater and channels it to surface or subsurface drainage outlets.

(k) Convex slope: a sloping area with a humped or upwardly bowed cross-sectional profile which promotes dispersal of surface and groundwater.

(l) Concave slope: a sloping area with a cupped or downwardly bowed cross-sectional profile which causes accumulation of surface and groundwater.

(15) "Lateral field" means the area in which the subsurface soil absorption system is installed and is a general term for the system itself.

(16) "Low pressure pipe system" means an on-site sewage disposal system consisting of a sewage pretreatment unit, a dosing tank with pump(s) or siphon(s), a pressurized supply line, manifold, and lateral lines, and necessary control devices and appurtenances.

(17) "Leaching chamber" means a specially designed component for use in lateral field trenches or beds, with or without the use of trench rock or gravel fill material, which forms an open bottomed chamber or cavern over the subsurface soil absorption surface, and which interlocks with other such chambers to obtain the necessary absorption surface area.

(18) "Mottling" means spots or blotches of different color or shades of color interspersed with the dominant color of soil.

(19) "On-site sewage disposal system" means a complete system installed on a parcel of land, under the control or ownership of any person, which accepts sewage for treatment and ultimate disposal under the surface of the ground. The common terms "on-site sewage system" or "on-site system" also have the same meaning. This definition includes, but is not limited to, the following:

(a) A conventional system consisting of a sewage pretreatment unit(s), distribution box(es), and lateral piping within rock-filled trenches or beds;

(b) A modified system consisting of a conventional system enhanced by shallower trench or bed placement, artificial drainage systems, dosing, alternating lateral fields, fill soil over the lateral field, or other necessary modifications to the site, system or wasteload to overcome site limitations;

(c) An alternative system consisting of a sewage pretreatment unit(s), necessary site modifications, wasteload modifications, and a subsurface soil absorption system using other methods and technologies than a conventional or modified system to overcome site limitations;

(d) Cluster systems which accept effluent from more than one (1) structure's or facility's sewage pretreatment unit(s) and transport the collected effluent through a sewer system to one (1) or more common subsurface soil absorption system(s) of conventional, modified or alternative design; and

(e) A holding tank which provides limited pretreatment and storage for off-site disposal where site limitations preclude immediate installation of a subsurface soil absorption system, or connection to a municipal sewer.

(20) "Parent material" means weathering fragments of bedrock underlying a soil, colluvial or alluvial deposits, or loess deposits, from which the soil is being formed.

(21) "Perched water table" means a saturated zone as identified by soil mottling, caused by a restrictive horizon and is generally above the natural water table.

(22) "Percolation test" means a physical test conducted according to prescribed methods on a parcel of land. Such test measures the ability of the soil to accept a volume of water over a measured time period, under falling hydraulic head conditions. Results are given as a consistent acceptance rate or equilibrium rate in inches per hour.

(23) "Permanent water table" means the zone of soil saturation by groundwater which remains relatively constant unless acted upon by artificial means of drainage or severe weather conditions. Such zone is evidenced by soil colors of black (due to high organic content), grays, blues, or olive greens.

(24) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, company or governmental unit.

(25) "Repair area" means an area, either in its natural state or

which is capable of being modified, consistent with this regulation, which is reserved for the installation of an additional lateral field(s) and is not covered with permanent structures or impervious materials.

(26) "Restrictive horizon" means a soil horizon, which due to its cemented, compacted or structural condition, is relatively impervious to the downward movement of water or treated effluent and includes: fragipans; hard pans; iron pans; plow pans and platy or massive structural grades.

(27) "Rock" means the consolidated or partially consolidated mineral matter or aggregate, including weathered rock or saprolite, not exhibiting soil properties, and exposed at the surface or overlain by soil.

(28) "Sand" means a soil separate consisting of particles between two (2) mm and 0.05 mm in diameter.

(29) "Seasonal high water table" means the upper level of a zone of saturation caused by groundwater fluctuation in the soil.

(30) "Secretary" means the secretary for the Cabinet for Human Resources.

(31) "Sewage" means the blackwater and greywater wastes generated in residential, commercial, or public structures or facilities.

(32) "Sewage pretreatment unit" means a watertight sewage treatment structure designed and constructed to receive raw sewage, separate solids from liquids, digest organic matter through a period of retention, and allow clarified effluent to discharge to a subsurface soil absorption system. Such pretreatment units fall into three (3) basic categories:

(a) Septic tanks - which rely predominantly on anaerobic bacterial action for treatment;

(b) Aerobic units - which introduce atmospheric air into the sewage to promote treatment by aerobic bacteria; and

(c) Combination units - which provide treatment through both anaerobic and aerobic bacterial action and/or mechanical filtering, ozonation or ultraviolet irradiation.

(33) "Silt" means a soil separate consisting of particles between 0.05 mm and 0.002 mm in diameter.

(34) "Site" means the area or parcel of land on which structures or other facilities generating sewage and the on-site sewage disposal system(s) serving such structures or facilities are to be located.

(35) "Slope" means the deviation of the surface of the land from true horizontal, measured as the rise or fall in feet or fractions thereof in a line from a fixed point to another point 100 feet distant. This rise or fall is normally expressed as a percentage of slope.

(36) "Soil" means the naturally occurring unconsolidated mineral and organic material of the land surface. It consists of sand, silt and clay minerals, and variable amounts of organic materials.

(37) "Soil horizon" means a layer of soil or soil material approximately parallel to the land surface and differing from adjacent genetically related layers in physical, chemical, and biological properties or characteristics such as color, structure, texture, consistence, pH.

(38) "Soil map" means a map showing the distribution of soil types or other soil mapping units in relation to the prominent physical and cultural features of the earth's surface.

(39) "Soil morphology" means the physical constitution, particularly the structural properties, of a soil profile as exhibited by the kinds, thickness, and the arrangement of the horizons in the profile, and by the texture, structure, consistence, and porosity of each horizon.

(40) "Soil series" means a basic unit of soil classification, and consisting of soils which are essentially alike in all major profile characteristics.

(41) "Soil structure" means the combination or arrangement of individual soil particles into definable aggregates, or peds, which are characterized and classified on the basis of size, shape, and degree of distinctness.

(42) "Soil survey" means the systematic examination, description, classification, and mapping of soils in an area.

(43) "Soil texture" means the relative proportions of sand, silt, and clay in a soil, and may include particles greater than two (2) mm in diameter, such as gravel, cobblestones, flagstones, chert, etc.

(44) "Subdivision" means the separation of a parcel or tract of land into three (3) or more parcels or tracts for the purpose of development into residential, commercial, or public building sites.

(45) "Subsoil" means, in general concept, that part of the soil below the A horizon.

(46) "Subsurface soil absorption system" means that portion of an on-site sewage disposal system which accepts effluent from a sewage pretreatment unit(s) for further treatment by microbial, plant and animal life within the soil, as well as treatment by filtration, chemical decomposition and bonding within the soil itself, and consists of:

(a) Devices, components, and piping to transport effluent under pressure or by gravity flow, and distribute the effluent to the soil absorption surfaces;

(b) Trenches, beds, chambers, mounds, lagoons, artificial marshes, separately or in combination, which form or enclose the soil absorption surfaces;

(c) Rock, gravel, or other fill materials required within the system, including barrier materials, and fill soil within or over the system; and

(d) Artificial drainage systems, and other necessary site or soil modifications.

(47) "System repair" means minor replacement or reconstruction of a component of an on-site sewage disposal system.

(48) "Textural class" means soils grouped on the basis of a specified range in texture.

(49) "Topsoil" means:

(a) The layer of soil moved in cultivation; and

(b) The A or Ap horizon, as described in published U.S. Conservation Service soil surveys.

(50) "Variance" means a waiver of certain specified requirements of this regulation granted by the cabinet after consideration of documented evidence that the granting of the waiver cannot reasonably be expected to result in the system contaminating groundwater supplies or creating a health hazard through surfacing of effluent, or otherwise creating a public health nuisance.

Section 3. Site Approval Procedures. (1) Individual site approval procedures.

(a) All persons seeking approval of an individual site for the installation of an on-site sewage disposal system shall submit to the local health department an application for a site evaluation on forms provided by the cabinet, pay the required fee as established by the local board of health, and submit a basic site plan drawing showing the following information:

1. Specific address and/or location of the site.

2. Site boundary lines and dimensions of same.

3. Location of existing structures, wells, ponds, streams, easements, roads, drives, if present.

4. Proposed (or existing) location of structure to be served by the system, and proposed system location.

(b) Person(s) seeking approval shall establish with the local health department an appointment time and date for the site evaluation, if they desire to be present during the evaluation for consultation.

(c) If the site evaluation reveals that the applicable requirements of this regulation are met, the area designated for system installation shall be flagged off by the certified inspector using suitable, readily observable markers. The person seeking approval shall receive a copy of the Site Evaluation Form including the overall evaluation rating, along with instruction relative to site limitations (where found) requiring site or system modifications (or alternative systems). Instructions shall also be included to be presented to the Certified Percolation Tester selected by the person to conduct the percolation test (when required). Such instructions shall include the depth at



which the test is to be conducted in the designated area, as well as any additional instructions deemed necessary by the Certified Inspector.

(d) After the site evaluation (and percolation test, when required) has been conducted and found acceptable by the cabinet, a permit to construct or install an on-site sewage disposal system shall be obtained prior to construction of any portion of that system. An application for a construction permit shall be submitted and accompanied by a detailed drawing of the proposed system, including all necessary specifications, and required permit fees. Such permits shall be issued only by a certified inspector and only to a certified installer or homeowner as provided in 902 KAR 10:110, and shall expire one (1) year from date of issuance unless an extension is granted by the cabinet.

(2) Subdivision approval procedures - tentative.

(a) All persons seeking tentative approval for new subdivisions developed after the effective date of this regulation shall submit to the local health department the following information:

1. Specific location of the site including a detailed site location map;

2. A preliminary land plan of the property to be developed, showing proposed lots and dimensions of same, topography with ten (10) foot contour intervals, and all proposed or existing wells, ponds, streams, easements, roads, streets, or existing structures; on a minimum 1:100 scale;

3. A detailed overlay for the plan delineating areas of soils with differing characteristics as found on the property, along with descriptive information of those characteristics as per Section 4(4) through (7) of this regulation, prepared by an approved consultant;

4. A statement, supported by official agency documentation, that municipal sewer system service is unavailable or economically infeasible to provide; and

5. Any other relevant information deemed necessary for site evaluation.

(b) After review of the above information, and any site visits or evaluation deemed necessary, the local health department may issue a tentative approval of the proposed subdivision for on-site sewage disposal system usage. Such approval shall be granted only insofar as to the general feasibility of on-site sewage disposal system usage for the subdivision as a whole, or for specific tracts or areas within the subdivision, and shall not be construed as an approval of any specific lot or site for system installation.

(c) Except where required by local health department regulation, securing tentative approval shall not be construed as a prerequisite to final approval, in that any person seeking approval for a subdivision may elect to initially apply for official site evaluations as outlined in subsection (1)(a) and (b) of this section on a lot-by-lot basis. Local health departments may adopt more specific requirements for subdivision approval, within their respective jurisdictions, which are not in conflict with these regulations.

(3) Subdivision approval procedures - final.

(a) All persons seeking final approval for subdivisions developed after the effective date of this regulation, and for all existing subdivisions of record shall follow the procedures for approval outlined in subsection (1)(a) and (b) of this section, in that each individual lot or site shall stand on its own merit as to approval or disapproval or type, size or design of the system to be installed.

(b) Whenever either tentative or final site evaluation reveals that individual lot or site on-site sewage disposal systems are infeasible or unapprovable due to site and/or soil characteristics, the person(s) seeking approval shall be directed to submit a proposal for a cluster system (or systems) where feasible, or pursue other alternatives under the authority of the Division of Water, Natural Resources and Environmental Protection Cabinet. When cluster system(s) are proposed, legal documents relative to ownership, operation and maintenance of such systems in perpetuity shall also be submitted.

Section 4. Site Evaluation Standards. (1) A certified inspector shall evaluate each proposed site. Based upon the factors contained in subsections (2) through (8) of this section, an official site evaluation form shall be completed classifying each factor as SUITABLE (S), PROVISIONALLY SUITABLE (PS), or UNSUITABLE (U).

(2) Topography.

(a) Uniform slopes under fifteen (15) percent shall be considered SUITABLE with respect to topography.

(b) Uniform slopes between fifteen (15) percent and thirty (30) percent shall be considered PROVISIONALLY SUITABLE with respect to topography. Slopes within this range may require installation of curtain or vertical drains upslope from the lateral field. Usable areas larger than normally required may be needed in this slope range.

(c) Slopes greater than thirty (30) percent shall be considered UNSUITABLE except when a thorough study of the soil characteristics indicates that a subsurface soil absorption system will function satisfactorily and sufficient ground area is available to properly install such a system. Slopes greater than thirty (30) percent may be classified as PROVISIONALLY SUITABLE when:

1. The slope can be terraced or otherwise graded and the lateral field located in naturally occurring soil a minimum ten (10) foot horizontal distance from the top edge of the fill embankment; or

2. The soil characteristics can be classified as SUITABLE or PROVISIONALLY SUITABLE to a depth of at least thirty (30) inches;

3. Surface water run-off is diverted around the lateral field;

4. If necessary, groundwater flow is intercepted and diverted through curtain or vertical drains; and

5. There is sufficient ground area available to install the on-site sewage disposal system with these modifications.

(d) Complex slope patterns and slopes dissected by gullies and ravines shall be considered UNSUITABLE with respect to topography.

(3) Landscape position.

(a) Convex hill or ridge tops, shoulder slopes, side slopes, and level plains shall be considered SUITABLE with respect to landscape position.

(b) Convex foot slopes and natural terraces shall be considered PROVISIONALLY SUITABLE with respect to landscape position.

(c) Concave hill or ridge tops, shoulder slopes, side slopes, foot slopes, toe slopes, natural drainageways and terraces may be considered PROVISIONALLY SUITABLE when:

1. The soil characteristics can be classified as SUITABLE or PROVISIONALLY SUITABLE to a depth of at least thirty (30) inches;

2. Surface water run-off is diverted around the lateral field; and

3. Groundwater flow is intercepted and diverted through curtain or vertical drains.

(d) If the provisions above listed in paragraph (c) of this subsection cannot be met the landscape position shall be classified UNSUITABLE.

(e) Areas closer than fifty (50) feet to the rim of a sinkhole, or areas subject to frequent flooding shall be considered UNSUITABLE with respect to landscape position.

(4) Soil characteristics (morphology). Soil borings shall be taken in the area to be used for subsurface soil absorption systems. At least four (4) such borings shall be taken to a depth of forty-two (42) inches or as required to determine the soil characteristics. Backhoe pits may be required when a more direct observation of soil horizons is deemed necessary for proper evaluation. Backhoe pits shall be required on all individual sites where the presence of stony or rocky soils precludes auger use, and on all sites which have been strip mined, filled or otherwise disrupted. Soil boring cores or exposed soil horizons in backhoe pits shall be evaluated and a determination made as to the suitability of the soil to absorb effluent. The important soil characteristics which shall be evaluated by the certified inspector are as follows:

(a) Texture. The texture of the different horizons of soils may be

classified into four (4) general groups.

1. SOIL GROUP I - sandy texture soils contain more than seventy (70) percent sand-sized particles in the soil mass. These soils do not have enough clay to be cohesive. Sandy soils have favorable sewage application rates, but may have a low filtering capacity leading to malfunction due to contamination of groundwater. The sandy group includes the sand and loamy sand soil textural classes and shall generally be considered SUITABLE with respect to texture.

2. SOIL GROUP II - coarse loamy texture soils contain more than thirty (30) percent clay-sized particles in the soil mass. They exhibit slight or no stickiness. The coarse loamy group includes sandy loam and loam soil textural classes and shall generally be considered SUITABLE with respect to texture.

3. SOIL GROUP III - fine loamy texture soils contain less than forty (40) percent clay-sized particles and not more than thirty (30) percent sand-sized particles in a soil mass. They exhibit slight to moderate stickiness. The fine loamy group includes sandy clay loam, silt loam, clay loam, and silty clay loam textural classes and shall generally be considered PROVISIONALLY SUITABLE with respect to texture.

4. SOIL GROUP IV - clayey texture soils contain forty (40) percent or more clay-sized particles and include sandy clay, silty clay, and clay. There are two (2) major types of clays: the 1:1 clays shall generally be considered PROVISIONALLY SUITABLE as to texture; and the 2:1 and mixed mineralogy clays, which shall be considered UNSUITABLE as to texture.

5. The soil texture shall be estimated by field testing. Laboratory estimation of texture by particle-size analysis may be substituted for field testing when conducted in accordance with ASTM (American Society for Testing and Materials) C-136 and D-422 standard for sieve and hydrometer analyses, at the property owner's expense.

(b) Structure is usually not important in soil Groups I and II, and these types of soils shall generally be considered SUITABLE as to structure. The four (4) kinds of soil structure that are most significant in movement of sewage effluent through Groups III and IV soils are described as follows:

1. Block-like soil structure - block-like soil structure in Group III and IV soils shall be considered PROVISIONALLY SUITABLE. Some rocks even though weathered, such as slates or creviced or fractured rocks, exhibit block-like structure. Rock shall be considered UNSUITABLE as to structure.

2. Prismatic soil structure - prismatic structure is generally found in fragipans or other restrictive horizons and shall be considered UNSUITABLE.

3. Platy soil structure - if Group III and IV soils fall out into plate-like sheets, then the soil would have platy structure which shall be considered UNSUITABLE.

4. Absence of soil structure - soils in Groups II, III, or IV which are massive and exhibit no structural aggregates shall be considered UNSUITABLE.

(5) Internal soil drainage.

(a) Internal soil drainage characteristics shall be determined by the following procedures:

1. Comparison of moist soil samples collected from each soil horizon, to a minimum depth of forty-two (42) inches, to standard Munsell notation soil color charts to establish color hue, value and chroma; and

2. Observation of soil profile for evidence of low chroma (chroma 2 or less) soil horizons, and mottling characterized as to abundance, size and contrast; and

3. Observation of soil profile for evidence of freestanding groundwater.

(b) Soils exhibiting uniform colors of greater than chroma 2 with no mottling or free groundwater at a depth of forty-two (42) inches or greater shall be considered SUITABLE with respect to internal drainage, provided that:

1. Soil texture is classified as SUITABLE or PROVISIONALLY SUITABLE; and

2. Soil structure is classified SUITABLE or PROVISIONALLY SUITABLE.

(c) Soils exhibiting uniform colors of greater than chroma 2 with no mottling or free groundwater at a depth of less than forty-two (42) inches but greater than twenty-four (24) inches shall be considered PROVISIONALLY SUITABLE with respect to internal drainage, provided that:

1. Soil texture is classified as SUITABLE or PROVISIONALLY SUITABLE; and

2. Soil structure is classified SUITABLE or PROVISIONALLY SUITABLE.

(d) Soils exhibiting uniform colors less than chroma 2 and/or mottling, or free groundwater at a depth of less than twenty-four (24) inches may be classified as PROVISIONALLY SUITABLE, provided that:

1. Soil texture is classified as SUITABLE or PROVISIONALLY SUITABLE; and

2. Soil structure is classified SUITABLE or PROVISIONALLY SUITABLE; and

3. Curtain drain, vertical drain, or underdrain systems are installed to intercept lateral groundwater movement, or to lower and maintain the free groundwater level to a depth of greater than twenty-four (24) inches.

(e) Soils exhibiting uniform colors less than chroma 2 and/or mottling, or free groundwater at a depth of less than twenty-four (24) inches which cannot meet the criteria listed in paragraph (d)1 or 2 of this subsection shall be considered UNSUITABLE.

(6) Soil depth.

(a) Presence of bedrock or large flagstones ("floaters") shall be determined by probing the site and through direct observation of the soil profile. Soil depth shall be considered the vertical distance from the existing ground surface to solid, fractured or rippable bedrock; or to weathered parent material; or to large flagstones which occupy more than thirty (30) percent of the exposed soil profile.

(b) Soil depths forty-two (42) inches or greater shall be considered SUITABLE as to depth.

(c) Soil depths less than forty-two (42) inches, but at least twenty-four (24) inches, shall be considered PROVISIONALLY SUITABLE as to depth.

(d) Soil depths less than twenty-four (24) inches shall be classified UNSUITABLE as to depth.

(e) Where special system design and installation modifications can be made to provide at least eighteen (18) inches of undisturbed naturally occurring soil between the bottom of the lateral field, such soils may be reclassified PROVISIONALLY SUITABLE as to depth.

(7) Restrictive horizons.

(a) Presence of restrictive horizons such as fragipans, iron pans, clay pans, plow pans, or platy or massive structural grades shall be determined by observation of the soil profile for brittle or dense horizons underlying shallow horizons displaying mottling or concretions of iron or manganese.

(b) Soils in which restrictive horizons are at forty-two (42) inches in depth or greater shall be considered SUITABLE.

(c) Soils in which restrictive horizons are at depths less than forty-two (42) inches, but at least twenty-four (24) inches, shall be considered PROVISIONALLY SUITABLE.

(d) Soils in which restrictive horizons are at depths less than twenty-four (24) inches may be classified PROVISIONALLY SUITABLE, provided that:

1. Special system design and installation modifications can be made to provide at least eighteen (18) inches of undisturbed naturally occurring soil between the bottom of the lateral field and the restrictive horizon; or

2. The provisions of Section 5(3)(a)2 of this regulation are met.

(e) Soils in which restrictive horizons are at depths less than twenty-four (24) inches which cannot meet the above listed provisions in paragraph (d)1 or 2 of this subsection, shall be considered UNSUITABLE.

(8) Available space.

(a) Sites shall have sufficient usable land area to permit the installation and proper functioning of on-site sewage disposal systems, in addition to the land area to be occupied by existing or proposed structures, or other natural or manmade features of the site which are not compatible with system installation.

(b) For general determination of sufficient usable land area ONLY for the subsurface soil absorption system (lateral field) and NOT including the structure(s) it serves, the pretreatment unit portion of the complete on-site sewage disposal system, or any other site features, the following shall apply for each 100 gallons per day wasteload or fraction thereof:

1. Uniform slope range of zero to no more than fifteen (15) percent in the system area - 1,000 square feet;

2. Uniform slope range from more than fifteen (15) percent to no more than twenty (20) percent in the system area - 1,250 square feet;

3. Uniform slope range from more than twenty (20) percent to no more than twenty-five (25) percent in the system area - 1,500 square feet;

4. For each five (5) percent increase, or fraction thereof over twenty-five (25) percent add an additional 250 square feet;

5. The above figures are based upon space requirements for a conventional trench type lateral field installed in a Group III provisionally suitable soil and does not include any minimum setback distances which may apply on any given site. Group IV soil sites will require more space than indicated, and Groups I-III suitable soil sites will require less, as will most other modified or alternative subsurface soil absorption systems.

(c) Sites classified PROVISIONALLY SUITABLE shall have a minimum repair area equal to 100 percent of the land area occupied by the lateral field set aside in addition to the space required in paragraph (b) of this subsection.

(9) Determination of overall site suitability. All of the criteria in subsection (2) through (8) of this section shall be determined to be SUITABLE, PROVISIONALLY SUITABLE, or UNSUITABLE as indicated. If all criteria are classified the same, that classification will prevail. However, it is unlikely that all criteria will be classified the same in all situations. Where there is a variation in classification of the several criteria, the following shall be used in making the overall site classification. The lowest of the uncorrectable characteristics will determine the site classification.

(a) If the topography is classified as UNSUITABLE it may be reclassified PROVISIONALLY SUITABLE under the conditions outlined in subsection (2) of this section.

(b) If the landscape position, soil texture, soil structure, internal drainage, or depth to restrictive horizon is classified as UNSUITABLE, and cannot be reclassified as PROVISIONALLY SUITABLE through modification the overall classification will be UNSUITABLE regardless of the other criteria unless the provisions of Section 5(6) of this regulation are met.

(c) When soil depth is classified as UNSUITABLE, it may be reclassified as PROVISIONALLY SUITABLE under the conditions outlined in subsection (6)(e) of this section.

Section 5. Site Classification and System Restrictions. (1) Restrictions shall be placed upon the types of on-site sewage systems which will be approved for use due to site limitations and/or daily waste load volume. Such restrictions shall be determined by the following conditions, and the modified or alternative system(s) listed shall be considered as the minimum acceptable system(s).

(2) On sites with an overall evaluation rating of SUITABLE a conventional subsurface soil absorption system (twenty four (24)

inches deep), shall be permitted.

(3) On sites with an overall rating of PROVISIONALLY SUITABLE (the provisionally suitable rating was originally granted or site modifications were made raising an unsuitable rating to that level) due to:

(a) Depth to rock, water table, or restrictive horizon.

1. Twenty-four (24) inches but less than forty-two (42) inches - a shallow (six (6) - twenty-three (23) inch deep) modified conventional trench, gravelless pipe, or low pressure pipe (LPP) system, with a minimum of ten (10) inches of fill soil above the trench barrier material and a minimum separation distance of eighteen (18) inches between trench bottoms and rock, water table, or restrictive horizon.

2. Eighteen (18) inches to less than twenty-four (24) inches (for soils with restrictive horizons only) a shallow (six (6) inches to eleven (11) inches deep) modified, conventional trench, gravelless pipe, or low pressure pipe (LPP) system with a minimum of ten (10) inches of fill soil above the trench barrier material; a corresponding minimum separation distance of twelve (12) to seventeen (17) inches between trench bottoms and the restrictive horizon; a two (2) foot increase in minimum spacing between individual trenches; and, a twenty-five (25) foot increase in minimum setback distances downslope of the lateral field.

3. Eighteen (18) inches to less than twenty-four (24) inches - (for soils with rock or water tables only) a mound system; or, sufficient filling of the area with suitable soil to allow installation of a modified or alternative system after a one (1) year settling period.

4. Less than eighteen (18) inches - filling of the area with suitable soil to sufficient depth to allow modified or alternative system installation after a one (1) year settling period.

(b) Soil texture or structure.

1. Soil Group III - a conventional system.

2. Soil Group IV - a conventional trench system modified by the use of multiple septic tanks in series or an aerobic pretreatment unit, as outlined in Section 8(2) of this regulation. Such systems may also be required to be modified by the use of alternate lateral fields; by dosing tank and pump or siphon; by dosed alternate lateral fields; by dosed automatic alternating lateral fields; or by the use of a low pressure pipe (LPP) system; by a lagoon and lateral field system; or by other alternative systems approved for such use by the cabinet. Modified conventional trench systems on sites with this soil group shall use equal flow distribution boxes only.

(4) On sites where available space is restricted due to site size or topography:

(a) A conventional system with lateral beds in lieu of trenches or a combination of trenches and beds; or installation of as much linear footage of lateral trench and/or bed as can be installed using hillside or drop distribution with overflow from the last box in series going into a holding tank.

(b) A low pressure pipe (LPP) system.

(c) Installation of permanent low-volume flush water closets or nonwater carriage toilet devices to reduce wasteload.

(5) On sites where a PROVISIONALLY SUITABLE rating was initially obtained (or was obtained after site modifications), which may be affected by a combination of site limitations, the on-site system(s), whether conventional, modified, or alternative, which will overcome all limitations involved shall be installed.

(6) Sites originally classified as UNSUITABLE may be used for on-site sewage disposal systems, provided engineering, hydrogeologic, and soil studies indicate to the local health department that a suitable conventional system or a suitable modified or alternate system can reasonably be expected to function satisfactorily. Such sites may be reclassified as PROVISIONALLY SUITABLE upon submission to the local health department of the following:

(a) Adequate substantiating data including a percolation test to indicate that an on-site sewage disposal system can be installed so that the effluent will receive adequate treatment;

(b) Adequate substantiating data to indicate the effluent will not contaminate any drinking water supply, groundwater used for drinking water, or any surface water;

(c) Adequate substantiating data to indicate that the effluent will not be exposed on the ground surface where it could come in contact with people, animals, or vectors.

Section 6. Percolation Testing Standards. (1) Local health departments may require percolation testing, when deemed necessary to confirm site evaluation findings, only on sites where the original, naturally occurring soil horizons have been destroyed, commingled or buried through strip mining, road cutting, filling or other disruptive site modifications in the area proposed for system installation. Such percolation testing results shall be used to determine the relative ability of the commingled fill material to accept effluent. When such a test is deemed necessary it shall be performed in the presence of a certified inspector.

(2) All percolation tests shall be performed in accordance with the procedures outlined in this section. Such tests meeting all procedure standards shall be considered "approved."

(3) Excavation of test holes.

(a) Test holes shall be located on each site within the staked area designated by the certified inspector.

(b) A minimum of four (4) test holes shall be dug in this area to the depth of the proposed lateral field as specified by the site evaluation.

(c) Test holes shall be located in the designated area so as to provide uniform coverage of the area, with no more than a fifty (50) foot spacing between centers of adjacent test holes.

(d) Test holes shall be six (6) to eight (8) inches in diameter.

(e) After excavation, all holes shall be scarified in the lower twelve (12) inches of the hole to break up smearing and restore absorption surfaces.

(f) All loose soil material shall be removed from test holes to reduce puddling and sealing of soil pores by fine soil materials.

(g) A portion of the excavated materials from the test holes shall be mounded around each hole to prevent surface water run-off from entering the hole in the event of rainfall during the period preceding and continuing through the conduct of the test.

(4) Presoaking of test holes.

(a) In soils which do not exhibit surface or subsurface cracking in dry weather (low shrink-swell potential), the test holes shall be presoaked by filling with water for at least fourteen (14) hours prior to the test.

(b) In soils which exhibit surface or subsurface cracking during dry weather due to moderate to high shrink-swell potential (Soil Group IV), the soil surrounding the test holes shall be saturated at least three (3) days by maintaining at least twelve (12) inches of water in each hole during that period. After completion of the swelling procedure stated above, test holes shall be left for a period of fourteen (14) hours before proceeding with measurement procedures. In lieu of the above procedure, testing for such soils may be conducted using the presoak procedure outlined in paragraph (a) of this subsection, when such tests are conducted during the months of December through April.

(5) Conduct of test measurements.

(a) All measurements shall be made from fixed reference points establishing the bottom of the test hole and a point exactly six (6) inches above the bottom. Measurement shall be made using calibrated measuring sticks, calibrated instruments or devices using floats, or other such equipment acceptable to the cabinet.

(b) In test holes containing more than six (6) inches of water remaining after the presoaking/swelling period (assuming significant rainfall has not occurred between the completion of presoak/swelling procedures and the start of test measurement), the water depth shall be recorded and considered as prima facie evidence of an unsatisfac-

tory percolation rate.

(c) In test holes containing six (6) inches or less of water remaining after the presoaking/swelling period, the water shall be adjusted to a six (6) inch depth and testing period.

(d) Water added to test holes for testing purposes shall be free of sediment and foreign material, and shall be added in such a manner that slaking and scouring of test hole surfaces is minimized.

(e) Testing on each hole shall begin by adjusting the water depth as in paragraph (c) of this subsection, followed by measurement of the amount of decrease in water depth at the end of a one (1) hour period from the six (6) inch reference point. Measurements shall be recorded on forms supplied by the cabinet for this purpose. Such measurements shall be recorded to the nearest one-eighth (1/8) inch.

(f) After first hour measurements, all test holes shall be readjusted to the six (6) inch water depth and remeasured and recorded at the end of another one (1) hour period. This process shall be repeated for a total four (4) hour period. The hourly periods for each test hole shall begin at the time the water depth is readjusted to six (6) inches. Actual time at which the test was initiated on each hole shall be recorded.

(g) The fourth hour readings of all test holes shall be averaged and the result recorded on the report form as the equilibrium rate, or consistent rate of acceptance.

(h) For percolation testing in Group I soils the time period between readings shall be reduced to ten (10) minute intervals for at least four (4) successive readings. The percolation rate in inches per hour for all holes shall be calculated from the results thus obtained, and the last reading averaged to obtain the equilibrium rate.

(i) In the event the rate of acceptance in any of the test holes is not consistent, the affected test hole or holes shall continue to be tested until a consistent rate is obtained. The rate(s) thus obtained for the affected hole(s) shall be used in calculating the equilibrium rate. A consistent rate shall be considered to have been obtained when the acceptance rate for an affected test hole remains the same, or decreases no more than one-half (1/2) inch, on two (2) consecutive hourly measurements.

(j) When test holes fail to meet the minimum acceptance rate of one-half (1/2) inch per hour, the area represented by the hole or holes involved shall be removed from consideration for placement of the lateral field system. In the event that the area represented by the failing hole or holes reduces the usable (passing) area to the extent an approved system cannot be installed, or a failing equilibrium rate for all holes is obtained, the site shall be considered unacceptable for a subsurface sewage disposal system, if percolation test findings confirm similar site evaluation findings.

Section 7. Certification to Conduct Percolation Tests and Approval of Consultants. (1) No person shall offer service to conduct percolation tests until they have met the requirements of this section and have been issued certification.

(2) All persons who propose to offer such service shall submit their name, occupation, professional registration number, and address to the cabinet.

(3) Persons eligible for certification shall include:

- (a) Engineers;
- (b) Land surveyors;
- (c) Architects;
- (d) Soil scientists;
- (e) Registered sanitarians;
- (f) Geologists.

(4) To be eligible for recertification the persons listed in subsection (3) of this section shall possess a valid professional registration, license, certificate or other such document, issued by the respective profession's registration, licensure, or certification board, agency, committee, or other recognized body within the state of Kentucky. Failure to maintain professional registration shall result in the

suspension of certification to conduct percolation tests until such registration is reestablished.

(5) Persons meeting eligibility requirements shall be issued a certification number, which shall be placed on all percolation test report forms, and any additional documents related thereto.

(6) Persons seeking certification may be required to demonstrate their ability to conduct percolation tests in accordance with the standards in Section 6 of this regulation prior to receiving such certification.

(7) All certified persons shall be subject to unannounced monitoring by the cabinet, while conducting percolation tests, to determine if standards are being met.

(8) When the cabinet finds that improper testing or test reporting practices exist, the certified person involved shall be subject to suspension or permanent revocation of such certification.

(9) Whenever suspension or revocation proceedings are initiated by the cabinet, the certified person shall have the right to request a hearing before the cabinet to present evidence on his behalf as to why the intended action should not be taken.

(10) Whenever the cabinet has suspended or revoked certification for cause, the cabinet shall provide notification to the appropriate professional body(ies) with which the person affected is registered, licensed, or certified, for any further action they deem necessary.

(11) Approval of consultants. The cabinet may, as it deems necessary, grant limited approval to eligible persons to perform tentative site evaluations ONLY for subdivisions proposed for development which intend to utilize on-site sewage disposal systems for sewage disposal.

(a) Persons eligible for approval as consultants shall include:

1. Registered engineers;
2. Registered architects;
3. Soil scientists;
4. Geologists;
5. Former fully certified inspectors who are no longer employed

by the cabinet or its agents and whose certification has not been suspended or revoked, but was rescinded upon termination of employment.

(b) The cabinet may require attendance at training seminars and competency testing as a condition of maintaining approved status.

(c) Approval granted under this subsection may be suspended or revoked for cause, and the procedures outlined in subsections (9) and (10) of this section shall apply, as applicable.

Section 8. System Sizing Standards. (1) Design waste flows. Daily waste flow volumes for system design and sizing purposes shall be computed for each residential unit, business or commercial facility, or other public facility, based upon the design flow per designated flow unit listed in Table 1 below, times the number of such flow units involved.

(a) When approved permanent low-volume flush water closets using one (1) gallon or less of water per flush cycle are installed exclusively in any residence, commercial facility or other public facility, the daily design waste flow unit for that specific residence or facility may be reduced to the figure given in Column B in Table 1.

(b) When approved permanent nonwater carriage water closet type devices (composting toilets, incinerator toilets, oil carriage toilets, etc.) are installed exclusively in any residence and no other blackwater type wastes are created, the daily design waste flow unit for that specific residence may be reduced to the figure given in Column C in Table 1.

(c) No daily waste flow unit reduction shall be granted for installation of nonpermanent flow reduction devices such as: showerheads, showerhead or faucet inserts, suds-saver type automatic washing machines, or other such devices. Use of water saving devices including low-volume flush water closets, may be required by the cabinet when deemed necessary due to site limita-

tions.

(d) All on-site sewage systems which receive a design daily waste flow of 2,000 gallons or more (or require more than 1,000 lineal feet of lateral field) shall be designed to provide dosing of the lateral field through the use of dosing tanks and pumps or siphons, or through the installation of a low pressure pipe (LPP) system.

(e) The following businesses or facilities shall not be approved for disposal of waste waters into an on-site sewage disposal system due to the nature of the wastes generated or the high volume of wastewater created:

1. Laundromats except on an experimental basis as provided under Section 8(14) of this regulation;
2. Car washes;
3. Livestock slaughterhouses (kill room wastes only);
4. Funeral parlors or mortuaries (embalming wastes only); and
5. Factories (industrial or process wastes only).

Table 1  
Design Daily Waste Flow

Source of Sewage Dwelling Units:	Units	Gallons/Unit/Day		
		Standard	Column B	Column C
Single Family Residences	Each bedroom	120	96	90
Hotels or Motels	Each room	100	80	
Apartments/Condo- miniums/Town- houses	Each bedroom	120	96	
Rooming Houses	Each bedroom	120	96	
Mobile Home Parks	Space	300	No reductions	
Commercial/Industrial:				
Retail stores	Each toilet room	200	120	
Malls, shopping Centers	Each 1,000 sq. ft.	200	120	
Offices	Employee	20	12	
Medical offices (with laboratories)	Employee	50	40	250 additional
Dental offices (with water rinse units)	Exam chair	250	200	
Dental offices (with suction units)	Exam chair	50	40	
Industrial buildings	Employee/ shift (does not include process water or cafeteria)	20	12	
(Add for showers)	Employee/ shift	10	No reductions	
Construction site	Employee/ shift	20	12	
Visitor center	Visitor	5	3	
Barber shops	Chair	75	60	
Beauty shops	Chair	125	100	
Laundromats: (Experimental only)	Machine	300	No reductions	

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## Eating and Drinking Establishments:

Restaurant (does not include bar or lounge)	Meal/seat	15	12
Bar or Lounge	Seat	20	16
Drive-in (no public restrooms)	Established	500	No reductions
Drive-in (with public restrooms)	Car stall	20	16
Food Markets:			
Pie packaged	Store	250	No reductions
Food processing (With eat-in delicatessen)	Store	1,000	900
(With carryout delicatessen)	Meal/Seat	15 Add.	12 Add.
Rabbit, or fish processors (with solid waste separation)	Store	250 Add.	250 Add.
	Employee/Shift	20	12
	per animal or fish processed	0.5	No reduction

## Institutional (Includes Food Service):

Hospitals and surgical centers	Each bed	300	240
Mental	Each bed	100	80
Prison or jail	Each inmate bed	100	80
Nursing Home, Rest Home	Each resident bed	100	80

## Schools and Churches (Includes Food Service):

Elementary, day care, kindergarten	Student	25	20
High School	Student	35	28
College	Student	35	28
Boarding school	Student	60	48
Churches (without kitchen facilities)	Average attendance/person	3	2
(with kitchen facilities)	Average attendance/person	5	4

## Recreational:

Recreational Vehicle park w/ sewers to each space	Space	125	No reductions
With central bath only	Space	75	60
Dump station only	Space	25	No reductions
Day Camp (no meals)	Person	15	12
Residential camp (includes cafeteria)	Person	60	48
Resorts/housekeeping cabin	Bedroom	120	96
Tent Camping areas w/ central bath	Space	75	60
Country Clubs (does not include food	Member	15	12

service)			
Golf courses	Average Attendance/Person	10	8
Swimming pools	Design Capacity/Person	10	8
Picnic Parks, sports facilities, ball parks (w/toilet only)	Average Attendance/Person	5	3
(w/food service)	Average Attendance/Person	8	6
Movie theaters	Seat	5	3
Drive-in theaters (includes food service)	Space	15	12
Skating rink/dance hall	Person (based on rated capacity)	10	8
Bowling Alley	Lane	100	80
Transportation:			
Airport, bus or rail depot	Passenger	5	3
Auto service station	Each Water Closet or Urinal	250	150

(2) Residential pretreatment units. All septic tanks used in single-family residence on-site sewage disposal systems shall meet the minimum working liquid capacities listed below, based on the number of bedrooms involved. Aerobic units or other types of approved pretreatment units shall be sized according to their rated treatment capacities in gallons per day, based upon the design daily waste flow per design unit given in Table 1. On sites with soils of Soil Group IV, additional pretreatment shall be provided by use of one (1) of the following methods:

(a) Installation of multiple septic tanks in series. The first tank, receiving raw sewage from the residence shall be of the required minimum capacity in Table 2, or of at least 1,000 gallons capacity. Additional tanks shall be installed in series as needed to provide a total capacity equal to the required minimum plus an additional fifty (50) percent;

(b) Installation of an aerobic pretreatment unit. For those aerobic units which do not include an integral trash or primary settling chamber in their construction, such shall be provided by the series installation of a minimum 500 gallon septic tank to receive raw sewage, with effluent discharging into the aerobic unit.

Where required minimum tank capacities for residential systems exceed 1,000 gallons and larger capacity tanks are unavailable, serial installation of multiple tanks is permitted to obtain the necessary capacity. In such instances the first tank in series shall have a minimum capacity of 1,000 gallons.

Table 2  
Minimum Capacity of Pretreatment Units  
Gallon Capacity (Without Garbage Disposal)      Gallon Capacity (With Garbage Disposal)

Number of Bedrooms		
2 or less	750	1,000
3	1,000	1,250
4	1,250	1,500
5	1,500	1,750
Each Additional	250	250



(3) Commercial and public facility pretreatment units.

(a) Minimum working liquid capacities for all septic tanks for commercial and public facility on-site sewage disposal systems shall be determined by multiplying the daily design waste flow per unit times the total number of such units, plus an additional fifty (50) percent of that figure for solids storage. (Gallons/unit/day X Number of Units) + 50% = MINIMUM CAPACITY REQUIRED.

(b) Procedures and requirements listed in subsection (2) of this section relative to: sites with soils in Soil Group IV; aerobic and other types of pretreatment units; and use of multiple tanks in series to obtain required capacity; shall also apply to commercial facility system installation.

(c) All commercial or public facilities engaged in the manufacture, processing, preparation, and service of food and food products shall be provided with an approved grease trap. All wastewater drain piping from food processing equipment; sinks for washing of food, equipment and utensils; dishwashers; and floor drains in food preparation and processing areas shall be separated from other wastewater piping, and discharge into a grease trap prior to entrance into an on-site sewage disposal system. Minimum liquid capacity of grease traps shall be based upon the total design daily waste flow for the facility served. Grease trap capacity shall be a minimum of 150 gallons for daily waste flows of 4,000 gallons or less; 300 gallons for daily waste flows of 4,001 to 8,000 gallons; and 500 gallons for daily waste flows greater than 8,000 gallons. All grease traps shall be placed outside of the structure served unless special approval is granted by the cabinet. In all instances the grease trap shall be located as close as practicable to the source of the wastewater to prevent separation of grease prior to entry into the grease trap.

(4) Sizing of gravity distribution lateral fields. All gravity distribution lateral fields for on-site sewage disposal systems shall be sized based upon the design daily waste flow for the residence, commercial or public facility involved as determined from Table 1. The total daily waste flow multiplied by the linear footage requirement per gallon found in Table 3 for the specific site soil characteristics, shall determine the minimum linear footage of lateral trench required.

Table 3  
Application Rates for Gravity Distribution  
Lateral Fields Based on Two (2) Foot  
Conventional Trench Width

Soil Group	Soil Texture Classes	Application Rate Gal/Sq. Ft./Day	Linear Ft. Per Gallon
I Sands	Sand	1.2	.42
	Loamy Sand	.9	.56
II Coarse loams	Sandy Loam	.7	.72
III Fine loams (with suitable structure)	Sandy Clay Loam		
	Silt Loam	.5	1.0
	Clay Loam		
Fine loams (with provisionally suitable structure)	Silty Clay Loam		
	Sandy Clay Loam		
	Silt Loam	.37	1.35
	Clay Loam		
IV Clays (Kaolinitic or 1:1 with provisionally suitable structure)	Silty Clay Loam		
	Sandy Clay		
	Silty Clay	.27	1.85
	Clay		

(5) Sizing of low pressure piping distribution lateral fields. All low pressure piping (LPP) distribution lateral fields for on-site sewage disposal systems shall be sized based upon the calculated total

design daily waste flow for the residence, commercial or public facility involved as determined from Table 1. The total daily waste flow divided by the allowable daily loading rate found in Table 4, for the specific site soil characteristics, shall determine the minimum square footage of absorption area required. Further system design requirements shall be determined based upon the criteria and specifications given in the North Carolina State University Publication UNC-SG-82-03, "Design and Installation of Low-Pressure Pipe Waste Treatment Systems."

Table 4  
Application Rates for  
Low Pressure Pipe (LPP) Lateral Fields

Soil Group	Soil Texture Classes	Rate Gal/ Sq.Ft./Day
I Sands	Sand	0.5
	Loamy Sand	
II Coarse Loams	Sandy Loam	0.4
	Loam	
III Fine Loams (with suitable structure)	Sandy Clay Loam	
	Silt Loam	0.3
	Clay Loam	
	Silty Clay Loam	
Fine Loams (with provisionally suitable structure)	Sandy Clay Loam	
	Silt Loam	0.175
	Clay Loam	
	Silty Clay Loam	
IV Clays (Kaolinitic or 1:1 with provisionally suitable structure)	Sandy Clay	
	Silty Clay	0.1
	Clay	

(6) Sizing of gravelless pipe systems. Gravelless pipe in eight (8) and ten (10) inch internal diameter sizes only, may be used in lieu of standard lateral trenches for all conventional and modified conventional lateral field applications (except those in Group IV soils where gravelless pipe is permitted only on an experimental basis), linear footage requirements listed in Table 3 shall also apply to gravelless pipe.

(7) Sizing of gravity distribution lateral beds. When lateral beds are permitted in lieu of standard two (2) foot wide lateral trenches, the required total length of standard lateral trench needed shall be calculated from Tables 1 and 3 information. That figure shall be multiplied by the percentage shown on Table 5, for the bed width intended for use. The number of linear feet resulting shall be the amount required for installation for that particular bed width.

Table 5  
Lateral Bed Length Requirements  
for Gravity Distribution Systems  
Based on Bed Width

Bed Width	Multiply Total Linear Footage of Two (2) Foot Wide Trench Required By:
3'	70%
4'	55%
5'	45%
6'	40%
7'	35%
8'	32%
9'	30%
10'	28%
11'	27%
12'	26%

(8) Sizing of leaching chamber systems. Leaching chamber systems may be used in lieu of standard lateral trenches for all conventional and modified conventional lateral field applications and for experimental alternative systems on slopes of no more than ten (10) percent for trench installation and no more than five (5) percent for bed installation. Linear footage requirements for chambers shall be based on nominal internal chamber width as follows:

(a) In trench configuration - for nominal widths of twenty-eight (28) inches to thirty (30) inches, sixty (60) percent of Table 3 required linear footage; for nominal widths of forty-two (42) inches to forty-four (44) inches, forty-five (45) percent of Table 3 required linear footage.

(b) In bed configuration - for all chamber widths eighty-five (85) percent of Table 5 linear footage requirements based on total bed width to nearest foot.

(c) Other chamber designs with nominal widths outside the ranges listed in paragraph (a) of this subsection shall be sized on a case-by-case basis, accordingly.

(9) Sizing of gravity distribution alternate lateral fields or beds. When alternate gravity distribution lateral fields or beds are used or required, the individual alternate lateral fields or beds shall each contain one-half (1/2) of the total linear footage required for the system. Such alternate lateral fields or beds shall be alternated in use on a yearly basis through the use of an approved alternating valve or device.

(10) Sizing of dosed gravity distribution automatic alternating lateral fields or beds. When dosed automatic alternating lateral fields or beds are used or required, the individual alternating lateral fields or beds shall each contain one-half (1/2) of the total linear footage required for the system. Dosed automatic alternating lateral field or bed systems shall be designed and operated so as to alternate between lateral fields or beds with doses of effluent, through the use of two (2) or more dosing siphons or pumps controlled by an automatic alternating device, or by dosing simultaneously.

(11) Sizing of combination evapotranspiration/absorption lagoon and lateral field systems. On sites with Group IV soils where a conventional lateral field system or alternative system cannot be installed due to heavy clay soils with poor or no structure conditions, a combination evapotranspiration/absorption lagoon and shallow lateral field system may be considered for installation. Total daily waste flow shall be determined by using Table 1, and the total square footage of lagoon waste surface area shall be calculated by multiplying the total gallons of waste flow per day by five (5) square feet per gallon. Effluent entering the lagoon shall have passed through a properly sized pretreatment unit, and overflow shall be directed to a shallow (six (6) inches to eighteen (18) inches depth) lateral field. Such lateral field size shall be calculated by multiplying the total daily waste flow in gallons by .10 linear feet per gallon.

(12) Sizing of mound systems. Mound systems used to overcome site conditions of shallow depth to rock or water tables, or slowly permeable soils shall be designed and sized based upon the information and criteria given in the United States Environmental Protection Agency publication EPA 625/1-80-012 "Design Manual, On-site Wastewater Treatment and Disposal Systems," Chapter 7.2.4 on Mound Systems.

(13) Sizing of residential laundry waste systems. When, in the cabinet's opinion, improved system performance may be attained by separating laundry greywater waste flows from other residential waste flow for new system installations, or as repair for existing systems, such separation shall be accomplished in the following manner:

(a) Greywater sewer for the washing machine shall be separated from the main house sewer;

(b) Laundry greywater shall discharge into a lateral bed or trench(s) of a minimum of 100 square feet of bottom surface soil absorption area for a two (2) bedroom residence and an additionally fifty (50) square feet for each additional bedroom.

(c) On new system installations where laundry wasteflow

separation is permitted a fifteen (15) percent reduction in the primary system lateral field requirements shall be allowed only for sites with soils in Soil Groups I-III. On sites with soils in Soil Group IV such separation may be required but no system site reduction will be granted.

(14) Sizing of other on-site sewage disposal systems. Other alternative systems not specifically mentioned in this regulation, or experimental systems, shall be sized according to applicable standards on a case-by-case basis by the cabinet. Such sizing shall be based upon site characteristics, effluent characteristics, pretreatment processes, technology involved, and other demonstrable factors.

(15) Sizing of dosing tanks. Dosing tanks shall be of sufficient capacity to hold two (2) times the total design daily waste flow calculated from Table 1 for single-family residential structures, and one and one-half (1 1/2) times for commercial and public facilities.

(16) Use and sizing of holding tanks. Holding tanks shall only be permitted under the following conditions:

(a) For single family residences, commercial and public facilities - where written official verification is submitted that a municipal sewer system will be available within a maximum two (2) year period; as an addition to a new or existing system due to limited space precluding required full system installation or existing system expansion; and, as per paragraph (c) of this subsection.

(b) For commercial and public facilities only - where less than 200 gallons per day total wasteflows are involved and no other feasible method of wastewater disposal is available due to site limitations.

(c) For all residential, commercial, and public facilities - when site limitations preclude immediate system installation, the local health department certified inspector may grant usage of a holding tank to allow use of the structure served, during a one (1) year settling period for system area fill soil which will enable an approved system to be installed.

(d) In all situations where holding tanks are permitted, installation of low-volume flush (one (1) gallon or less) water closets shall be mandatory, as shall be the installation of an audible or visible, electrically operated alarm system located within the structure served.

(e) All holding tanks shall be sized to hold a minimum seven (7) day wasteflow and serviced in accordance with KRS 211.970 to 211.990. A copy of a contract with a licensed septic tank cleaning company for servicing the holding tank shall be submitted with the permit application. The owner shall maintain records on all servicing which shall be available for inspection by the cabinet. Local health departments may also require the posting of a reasonable cash performance bond by the owner.

Section 9. System Installation Standards. (1) System layout standards.

(a) All systems shall be designed, laid out, and installed in the flagged area set aside for such purpose during the site evaluation. Installation of the system in any other area is prohibited without the written consent of the local health department certified inspector.

(b) Layout of the system on the site by the certified installer shall be accomplished by using suitable stakes or markers to locate excavation sites for system components, and shooting of surface grades to establish necessary excavation depths to assure proper elevation "fall" in the system. Lateral trenches or beds shall be laid out to follow parallel to the surface contour lines of the site.

(c) Maximum length for individual lateral trenches or beds for gravity distribution systems shall be no more than 100 feet. Maximum length for individual lateral trenches in low pressure pipe (LPP) systems shall be seventy (70) feet.

(d) Lateral trenches for gravity distribution systems shall be spaced a minimum of eight (8) feet on centers. Lateral trenches for low pressure pipe (LPP) systems shall be spaced a minimum of five (5) feet on centers. Lateral beds or leaching chambers for gravity distribution systems shall be spaced a minimum of eight (8) feet from

side wall to side wall. Lateral trench spacing shall be increased two (2) feet on centers on all sites with slopes greater than fifteen (15) percent and less than twenty (20) percent. On slopes greater than twenty (20) percent, each five (5) percent increase in slope, or fraction thereof, shall require an additional spacing of two (2) feet on centers for lateral trenches.

(e) Lateral line spacing in gravity distribution bed systems shall be as follows:

1. For beds of four (4) to six (6) feet in width, one (1) lateral line placed on the centerline of the bed is required;

2. For beds of seven (7) to ten (10) feet in width, two (2) lateral lines are required, spaced two and one-half (2 1/2) feet from the side walls;

3. For beds eleven (11) feet and wider, the two (2) laterals spaced two and one-half (2 1/2) feet from the side walls shall be used, and additional lateral lines installed five (5) feet on centers, or fraction thereof, from the side wall laterals.

(2) Excavation standards.

(a) Only that heavy equipment necessary to the installation of an on-site sewage disposal system shall be permitted in the flagged area set aside for that system. Such equipment shall be operated so as to minimize travel over, and compaction of, the system area.

(b) Excavation of the lateral field, bed or other subsurface soil absorption system portion of the total system area shall be restricted by the soil moisture conditions of that portion of the area at the intended depth of excavation for all soil texture classes listed in Soil Group IV. Such restriction shall apply for all system installations taking place during the months of November through May, or anytime immediately after heavy rainfall occurs. Soil moisture conditions shall be determined by test excavation to the intended depth of the lateral trenches or beds. A small portion of soil excavated from that depth shall be rolled between the thumb and fingers. If the soil can be rolled into a "wire" shaped form which does not easily crumble, the soil is too wet to work and will compact and seal absorption surfaces. If a "wire" form cannot be rolled and the soil crumbles, excavation can proceed.

(c) Excavation for septic tanks or other pretreatment units, distribution boxes, alternating valves or devices, and all nonperforated piping used to conduct effluent to other components through gravity flow means, shall be done only after shooting of grades to assure a positive gradient from the outlet of the pretreatment unit through all components to the distribution box(es) or device(s). Such determinations of grade shall take into account the intended excavation depth from grade of lateral trenches or beds.

(d) Excavations for placement of all components except lateral trenches or beds shall be made to the necessary depth for installation and shall be dug level in undisturbed earth. If filling is required to level or raise components to the proper grade, tamped gravel or sand shall be used for such bedding purposes. When installation occurs in stony areas, large stones, flags, boulders, etc., shall be removed from component placement excavations to prevent component damage, and the cavities created by their removal shall be filled with tamped gravel or sand, if they are located on the bottom surface of the excavation.

(e) Excavations for lateral trenches or beds shall be made to the depth specified by the certified inspector based on site evaluation results. Maximum trench or bed depth from grade for a conventional on-site sewage disposal system shall be considered as being twenty-four (24) inches. Minimum trench or bed depth for modified gravity and dosed gravity distribution systems using four (4) inch diameter lateral lines shall be six (6) inches from grade. Minimum trench depth for low pressure pipe (LPP) systems shall be six (6) inches from grade. Trench width for low pressure pipe systems shall be a minimum of twelve (12) inches. Minimum trench width for gravelless pipe shall be eighteen (18) inches to a maximum of twenty-four (24) inches. Minimum or maximum trench width shall be

as per manufacturer's specifications for leaching chambers.

(f) Lateral trench and bed bottom grades shall be as shown in Table 6 below:

Table 6  
Maximum Grades for Trench and Bed Bottoms

Distribution Method	Type	Maximum Grade inches/100 feet
Hillside or drop box (also serial distribution)	Trench	Level to 2"
Equal Flow Box	Trench Bed	2" to 4" Level to 1" in all directions from center
Gravelless Pipe	Trench	Level
Low Pressure Pipe	Trench Bed (Mound)	Level Level
Leaching Chambers (using any of the above methods except low pressure pipe)	Trench layout Bed Layout	2" to 4" Level
(using low pressure pipe)	Trench	Level

(g) Excavations for curtain drains, vertical drains or under drains to intercept and/or lower groundwater tables shall be made to the depth determined by the certified inspector and graded to drain to the surface or to a pumped catchment basin.

(h) Excavations for distribution leaders (nonperforated pipe) from the distribution box(es) on gravity distribution systems, shall be made so as to provide a "benched" distribution corridor above the trench or bed bottom. This "benched" corridor shall be bedded in undisturbed earth, and shall be excavated so as to provide a "bench" height of six (6) inches above the elevation(s) of the trench or bed bottoms. Benching of the distribution corridor shall be used to reduce the possibility of "short circuiting" of effluent and effluent ponding around distribution boxes.

(i) Excavation of evapotranspiration/absorption lagoons shall be done using a bulldozer or similar track type equipment to reduce compaction of the lagoon bottom. Lagoon bottoms shall be uniformly level and shall be constructed to provide a maximum wastewater depth below the overflow outlet of four and one-half (4 1/2) feet, and a freeboard of two (2) feet. Containment berming, dikes, or dams may be of excavated materials, if sufficient clay content exists in the soil to prevent seepage between the berm and the original soil surface after compaction and are "keyed" into the original soil beneath at least one (1) foot at the base. Berms, dikes or dams shall be constructed on a three (3) to one (1) (three (3) feet vertical to one (1) foot horizontal) slope. All lagoons located in areas accessible to children or livestock shall be enclosed within a six (6) foot high chain-link fence or its equivalent with a locked gate.

(3) Component installation standards.

(a) Septic tanks and other pretreatment units, dosing tanks and holding tanks shall be installed level and all connections to the unit which conduct sewage or effluent, and all unit joints or seams, are to be rendered watertight. Manufacturer's instructions on installation, and all connections to the unit (piping and/or electrical), shall be followed by the installer. Units showing structural damage on delivery, or damaged in placement shall be replaced with an undamaged unit. Patching of minor damage which does not affect the structural integrity or watertightness of the unit may be permitted under the supervision of the certified inspector.

(b) It shall be the certified installer's responsibility to provide access to within twelve (12) inches of finished grade to the outlet end manhole on all septic tanks. Such access shall be provided through the use of suitable manhole risers of a minimum eighteen (18)

internal dimension to allow removal of the tank manhole lid. Such manhole risers shall be provided with tamper-resistant lids or covers. Lids or covers of precast concrete, cast iron or steel shall be considered tamper-resistant if weighing sixty (60) pounds or more and require a vertical lift for removal. Lids or covers of sheet metal, plastic or fiberglass shall be attached by bolts or other suitable fastener requiring a tool for removal.

(c) Distribution boxes, and alternating valves or devices, shall be installed level, and all piping connections shall be rendered watertight. Such components showing structural damage on delivery, or damaged in placement shall be replaced with an undamaged component.

(d) Equal flow distribution boxes shall be installed on a stable base to prevent settling. Tamped sand or gravel shall be sufficient for concrete boxes, but plastic or fiberglass boxes shall be securely anchored to a poured concrete base a minimum of four (4) inches thick and extending on all sides of the box side walls at least four (4) inches. Rough leveling of the box may be done using a carpenter's level, however, final leveling shall be done by the "water leveling method" described below:

1. Outlet leader piping shall be extended past the inside side wall of the box at least three-fourths (3/4) of an inch but no greater than one (1) inch to allow attachment of plastic caps or plugs by solvent welding or cementing. Once attached, the water level is raised to the desired point on the caps or plugs, the level is marked on all caps or plugs, and a knife is used to cut out the upper portion of the cap or plug to the level marked.

2. Additional water is carefully added while closely observing the water as it enters the outlets. If the outlets are properly leveled, all outlet lines will begin to receive water at the same level and time. If one or more lines are receiving water while others remain dry, adjustments to those higher outlets are necessary. Fine adjustment is then made by shaving down the cutouts on the caps or plugs until leveling is achieved.

3. Special leveling devices in the form of caps or inserts designed for this purpose shall be used where available. Other methods may be considered acceptable by the cabinet provided that they can be demonstrated to be of equal or superior performance to the above method.

(e) Approved nonperforated plastic pipe shall be used as leader piping to connect outlets in the distribution box(es) to the perforated lateral lines in gravity distribution systems, and shall extend two (2) feet into all trenches or beds before connection to perforated lateral line.

(f) All leader piping connected to equal flow boxes shall be installed at no greater than one-eighth (1/8) inch per foot slope for the first five (5) feet of run from the box to restrict the flow velocity of effluent.

(g) Lateral lines for conventional gravity distribution trenches or beds shall be laid as follows:

1. A six (6) inch deep layer of approved trench rock or other fill material is carefully placed in the trench or bed to prevent sealing of absorption surfaces from fill impact, and leveled;

2. Lateral piping is placed and leveled on the trench fill material in the center of the trench (or properly spaced in beds), and retained in place to prevent movement, while additional trench fill material is added to a point two (2) inches above the top of the top of the lateral piping, for a total of twelve (12) inches of trench fill material;

3. Other methods of lateral piping and trench rock placement may be approved by the cabinet upon demonstration of equivalent compliance.

4. A two (2) to four (4) inch layer of approved barrier material, straw or a single layer of synthetic filter fabric, is then placed over the trench fill material to prevent entry of backfill soil fines.

(h) Lateral lines for low pressure pipe (LPP) systems shall be laid as follows:

1. At the beginning of each trench and at twenty (20) foot intervals thereafter, barrier walls of undisturbed earth or compacted earth fill at least one (1) foot thick shall be placed from side wall to side wall of the trench to the level to which lateral piping is to be installed;

2. Six (6) inches of pea gravel or approved alternate trench rock shall be placed in the trench and leveled;

3. Lateral piping is laid in place and assembled (may be preassembled), and leveled;

4. Trench earth barrier walls are completed to ground surface and additional pea gravel or other trench fill material is carefully placed over the laterals to a height of two (2) inches over the top of the piping;

5. Other methods of lateral piping and trench rock or pea gravel placement may be approved by the cabinet upon demonstration of equivalent compliance.

6. A one (1) to two (2) inch layer of approved barrier material, straw or a single layer of synthetic filter fabric, is then placed over the pea gravel to prevent entry of backfill soil fines.

(i) Lateral lines for gravelless pipe systems shall be installed as follows:

1. Remove plastic shipping and storage bags from pipe; do not remove filter wrap.

2. Lay out gravelless pipe with top stripe UP. Roll filter wrap back from ends of each section of pipe to allow proper connection of pipe sections and/or reducer connectors or end caps.

3. Join pipe sections together with approved connectors - make sure top stripes are in direct alignment on both sections to be joined, and tape joint with plastic tape supplied by pipe manufacturer to seal joint. Pull filter wrap ends back over joint and tape them together.

4. Fit offset reducer connectors (four (4) inches by eight (8) inches or four (4) inches by ten (10) inches) to inlet ends of joined pipe sections and locate four (4) inch inlet at top of pipe in alignment with top strips; tape joints to seal. Leave filter wrap loose at this time.

5. Fit end caps on other end of joined pipe sections, seal joints with tape pull filter wrap over end joint and tape in place. Note: on systems for Group IV soils (clays) at least two (2) inspection ports per system must be provided at the end of selected lateral and brought to finished grade.

6. Lay joined lateral pipe sections into trenches with top stripe directly UP. Connect solid smooth wall header piping from distribution box outlets to four (4) inch inlet on offset reducer connector (insert header pipe four (4) inches into connector) and seal joint with tape. Pull filter wrap over end of reducer cap and around four (4) inches header piping and tape in place.

(j) Leaching chambers shall be installed according to manufacturer's specification; however, where such specifications are less restrictive or conflict with these regulations, the regulations shall take precedence, except that reduced backfill cover (no less than six (6) inches) over the leaching chamber may be permitted.

(k) Installation of effluent piping to an evapotranspiration/absorption lagoon and overflow piping to the lateral field system shall be as follows:

1. Nonperforated gravity flow or pressurized piping is laid in an excavated trench into the lagoon and anchored to a poured concrete, three (3) foot square, four (4) inch thick apron. The inlet shall be a tee laid on its side.

2. Overflow piping consists of a supported, vertically oriented tee connected to a nonperforated gravity flow plastic pipe which conducts overflow to the distribution box(es) of the lateral field. The overflow should be located at a point within the lagoon that is the furthest distance from the inlet apron. The upper leg of the tee shall be screened and the lower leg extended downward to within three and one-half (3 1/2) feet of the lagoon bottom.

3. All submerged piping into and out of a lagoon shall be provided with suitable water stops or leak collars with a minimum extension of

twelve (12) inches on all sides of the pipe.

(4) Curtain drain, vertical drain, underdrain installation standards.

(a) Curtain drains and underdrains shall be installed according to the following procedures:

1. After excavation of drain trenches to the required depth (by backhoe or trencher) the perforated plastic drainage pipe may be laid in the trench. Depending on trench width and depth it may be necessary to bed the pipe in small gravel or pea gravel to provide lateral and vertical support to pipe side walls to prevent collapse of the pipe.

2. After bedding and grading the pipe to drain, regular trench rock fill material (for trenches twelve (12) inches or wider) or pea gravel (for trenches narrower than twelve (12) inches) shall be added to the trench to a point four (4) inches from grade.

3. Suitable barrier material as used in lateral trenches shall be placed over the drain trench fill material.

(b) Vertical drains may be used when more permeable soil horizons exist below a restrictive horizon, and shall be installed according to the following procedures:

1. After excavation of the drain trenches to the required depth the trenches are filled with crushed rock or pea gravel as in curtain drains above, to the points listed in paragraph (a)2 of this subsection, as applicable. Drainage piping is unnecessary in vertical drains since drainage is encouraged downward through the restrictive horizon to more permeable soils.

2. Suitable barrier material as used in lateral trenches shall be placed over the drain trench fill material.

(5) Filling, backfilling and finish grading standards.

(a) On sites requiring the placement of fill soil before any on-site sewage disposal system can be installed, the following requirements shall apply:

1. Surface vegetation shall be removed and the original soil surface layer shall be tilled to a depth of two (2) inches prior to placement of fill.

2. Soil fill material shall meet or exceed the textural class characteristics of Soil Group III outlined in Section 4(4)(a) of this regulation.

3. Soil fill material shall be placed in the area to be filled by methods acceptable to the cabinet, to prevent stratification and unnecessary compaction.

4. Soil fill shall be protected by establishing a fast growing ground cover and allowed to settle for a period of one (1) year and be reevaluated before system installation can proceed.

5. Depth of soil fill required shall be determined by the local health department on a case-by-case basis, based upon minimum separation distances between lateral trench bottoms and restrictive horizons, bedrock, or water tables.

(b) Backfilling around and over septic tanks and other pretreatment units, dosing tanks, holding tanks, distribution boxes, low pressure pipe manifolds, alternating valves and devices and nonperforated effluent piping and distribution leader piping, shall be accomplished by filling and tamping by layers. While the filling and tamping process is being carried out, care shall be taken to prevent shifting, tilting, misalignment or damage of system components or damage to watertight joints, seams or connections. The location of all such components shall be clearly marked by staking or flagging after backfilling and prior to final grading.

(c) When manufacturer's installation instructions require specific backfilling procedures to protect component warranties, prevent damage, or prevent flotation of the component due to ground water pressure, those procedures shall be followed. Soil for backfilling gravelless pipe trenches shall be loose and friable. Soil aggregates (clods or clumps) shall be no larger than one-half (1/2) inch in any dimension for backfill in contact with the pipe and filter wrap to assure proper operation. Use of large clods or clumps of soil for backfill is prohibited. If soil excavated from trenches will not meet this criteria,

suitable backfill soil shall be obtained elsewhere.

(d) Backfilling of lateral trenches or drainage trenches shall be accomplished with minimal compaction of soil fill, and soil fill material shall be left mounded four (4) to six (6) inches above grade over trenches to allow for settling. Backfilling over lateral beds shall be accomplished through the use of lightweight wheeled or crawler type tractors to minimize compaction, and shall be left mounded four (4) to six (6) inches above grade to allow for settling.

(e) Backfilling shall not be done until after the system has been inspected and approved to that point of construction by a certified inspector.

(f) On sites where additional fill soil is required over the lateral field due to shallow depth of installation, the following procedures shall apply:

1. The requirements of paragraph (a)1 through 3 of this subsection;

2. Fill shall be extended on all sides of the lateral field to a minimum distance of ten (10) feet, except on sloping sites where the fill on each end of the system shall expand outward to a minimum of fifteen (15) feet at the lowest point downslope, and the fill at the downslope side of the system shall be increased to a minimum of fifteen (15) feet beyond the system;

3. Minimum depth of fill shall be as required by the certified inspector, but may not be less than ten (10) inches over the trench rock fill material, or top of the gravelless pipe (for leaching chambers six (6) inches minimum) and that depth shall extend over the entire lateral field to a point at least two (2) feet beyond the sidewall of any trench, bed or chamber, at which point the remainder of the fill may be tapered to original grade out to the minimum distances specified in subparagraph 2 of this paragraph.

(g) Finish grading over the on-site sewage system shall be performed in such a manner as to minimize compaction through the use of lightweight equipment. Such grading shall be restricted to work necessary to provide positive surface drainage away from the system, especially the lateral field. Final grading over staked or flagged system components shall be accomplished manually, or with lightweight equipment using extreme care to prevent damage to or misalignment of components.

(h) Finish grading work which removes soil from the system area, or which results in that area being used to dispose of excess soil graded from other areas on the site, shall be prohibited.

(i) Finish grading on other areas of the site shall be done in such a manner as to divert surface water run-off from driveways, patios, downspouts, slopes, ditches, gullies, etc., away from the area where the system is installed. When site conditions are such that normal grading procedures cannot divert all such run-off, diversion ditches, swales, berms, or other such diversion drainage means shall be constructed to divert run-off away from the system.

Section 10. System Setback Restrictions. (1) Minimum setback distances shall be required for installation of on-site sewage disposal systems from structures, water supplies, roads, streams, bodies of water, and other structural or topographic features, as listed in Table 7 below:

Table 7  
Minimum Setback Distances  
for On-site Disposal Sewage Systems

Structure or Topographic Feature	Minimum Distance (Ft.) from Pretreatment Unit (or Holding Tank)	Minimum Distance (Ft.) from Side wall of Lateral Trench, Bed, or Lagoon
Property lines	5	5 (50 for lagoons)
Building foundations	10	10
Basements	10	20
Basements (Downslope from system)		30 (5-15% Slope) 40 (15-25% Slope) 50 (25% and Higher)
Wells	50	70
Cisterns	50	70
Cisterns (Upslope from system with bottom at higher elevation than system)	10	10
Natural Lakes or Impoundments (Shoreline)	25	50
Streams	25	25
Springs (Upslope from system)	25	50
(Upslope with curtain interceptor drain)	10	20
(Downslope from system)	50	70
Drainage Ditches, Road cutbanks (Downslope)	10	25
Underdrain system	10	10
Curtain or vertical drain	10	10 (Upslope and Sides) 25 (Downslope)
Sinkholes (Rim)	50	50
Buried Water Lines or Utility Lines	10	10
Utility Easements	10	10
Driveways, parking lots, or paved areas	10	5
Livestock pens, feed lots, corrals, etc.	10	10

Section 11. System Installation Inspection. (1) All on-site sewage disposal systems installed, constructed, altered or repaired shall be inspected by a certified inspector.

(2) The inspection sequence performed shall be as follows:

(a) The certified installer shall complete an installer's affidavit recording all grade shot readings of all excavation work certifying by his signature that such work has been performed in compliance with the regulation. In lieu of the installer's affidavit, the certified installer may request an initial inspection be performed by a certified inspector. Inspection shall consist of shooting of grades in all excavations to determine compliance with this regulation.

(b) An installation inspection shall be conducted by the certified inspector prior to backfilling of the system. The certified installer shall be responsible for requesting this inspection at the discretion of the certified inspector. To facilitate inspection of lateral fields the certified installer shall provide direct access to trench or bed bottoms to allow accurate shooting of grade and elevation. Such direct access shall be provided through the use of ports, piping, or other methods acceptable to the certified inspector, and at such locations within the lateral field as deemed necessary.

(c) The installation inspection shall consist of examination of the following: system components, as to type, size or capacity, approved status, materials, connections; installation as to proper placement, proper grade or level; conduct "water leveling" method on equal flow distribution boxes; testing of dosing devices, low pressure systems and alarm systems; shooting of trench, bed, or lagoon bottom grade and elevation, installation of lateral lines, trench fill material depth, trench barrier material placement; and other necessary examinations and checks to determine compliance with this regulation relative to all site and system modifications required.

(d) Systems meeting approval shall be backfilled in accordance with this regulation, and it shall be the certified installer's responsibility to assure proper backfilling. Once backfilling is completed, it shall be the certified installer's responsibility to perform or supervise finish grading. Where additional fill soil over the system is required, once finish grading is completed, the certified installer shall request a final inspection. It shall then be the owner's responsibility to protect the system from damage, disruption, or unnecessary surface water drainage during subsequent occupancy and system usage.

(e) Systems not meeting approval shall be reconstructed as needed to meet compliance.

Section 12. Responsibilities. (1) The construction, operation, and maintenance of on-site sewage disposal systems, whether conventional, modified, or alternative systems, shall be the responsibility of the owner, developer, certified installer, or user of the system as applicable in the circumstances.

(2) Actions of the cabinet and certified inspectors, engaged in the evaluation and determination of measures required to effect compliance with the provisions of this regulation shall in no way be taken as a guarantee that on-site sewage disposal systems approved and permitted will function in a satisfactory manner for any given period of time, or that such agents or employees assume any liability for damages, consequential or direct which are caused, or which may be caused, by a malfunction of such systems.

Section 13. Prohibited Practices. (1) Certain practices shall be prohibited, and their use shall result in immediate voiding of permits and/or site evaluations as applicable, and are as follows:

(a) Use of unapproved system components in lieu of replacement with approved components;

(b) Use of seepage pits, cesspools, and dry wells;

(c) Use of improperly constructed or designed systems, in lieu of redesign and/or reconstruction;

(d) Placement of lateral field within less than twelve (12) inches of, or below, the upper limits of a restrictive horizon or water table;

(e) Placement of lateral field within less than twelve (12) inches of, or into bedrock. Dynamiting, ripping, or otherwise removing bedrock to install a lateral field is expressly prohibited;

(f) Cutting, filling, or otherwise altering the original grade and/or soil characteristics of the area upon a site staked or flagged off for system installation, except when such work is a requirement of these regulations;

(g) Allowing any use of the area staked or flagged off for system installation as a material or soil stockpile, vehicle or heavy equipment parking area or roadway, or any other unauthorized use which may damage or alter the soil or site characteristics.

Section 14. Variances. (1) Any person owning a site where an on-site sewage disposal system is proposed to be installed may request, in writing, to the local board of health, or their designated agents, consideration for the granting of a variance to specific portions of this regulation.

(2) Written requests shall include all pertinent information about the site, the specific portion(s) of the regulation requested to be waived, the specific reasons for the request, and documented



evidence justifying the granting of the variance.

(3) Such requests shall be acted upon as soon as practicable by the local board of health, or their designated agents, and a written decision, either denying the variance with reasons for denial, or granting the variance with or without stipulations or restrictions, shall be presented to the person so applying within five (5) working days of the decision.

(4) Persons requesting variances shall have the right to appear in person with counsel and/or expert professional witnesses before the local board of health, or their designated agents, either to present the request, or to appeal a variance decision.

(5) If such a hearing is requested, the local board of health, or their designated agents, shall set a date and time for the hearing, as soon as practicable, and shall so notify in writing the person requesting same of such date and time. Notification shall be made within five (5) working days of receipt of the request and at least two (2) days prior to the date of the hearing.

(6) Decisions on the granting or denial of variances shall be based upon the evidence presented by the requestee; the evidence presented by the certified inspector(s) involved with the site in question; as well as supportive evidence for either side presented by expert professional witnesses.

(7) Decisions shall be influenced by the requirements of the On-site Sewage Systems Law and these regulations, and by the presence or absence of reasonable assurances, derived from evidence presented, that the granting of such variance will not result in the creation of groundwater contamination or the surfacing of effluent, and creation of a health hazard or public health nuisance.

(8) Variances shall not be granted for the following purposes:

(a) Waiver of site evaluations or system inspections;

(b) Reduction of required system size when modified or alternative systems can be used to provide an equivalent system in the available area on the site;

(c) In any instance where site and/or system modifications or alternative systems can overcome site limitations.

(9) Variances granted which may have a direct effect upon the future use or marketability of a site or subdivided parcels of that site, shall be made a permanent record, and filed at the local health department in the county where the site is located.

Section 15. Exemption. (1) On-site sewage systems constructed prior to July 15, 1986 shall be governed by the provisions of this section.

(2) The repair or alteration of an on-site sewage treatment system shall be permitted if:

(a) A municipal or public sewage treatment system is not available; and

(b) Repair or alteration is required because of:

1. Malfunction; or

2. Damage.

(3) In the repair or alteration of an on-site sewage system utilizing a seepage pit, an owner shall be permitted to:

(a) Clean;

(b) Service; and

(c) Repair, alter, reconstruct, or replace:

1. Any system component leading to a pit, such as pipes and septic tanks;

2. Pit rings; or

3. Any other component repair which would not require the drilling of a new pit.

(4) If a municipal or public sewage treatment system is not available, a seepage pit may be installed as an on-site sewage disposal system in the development of a vacant lot, purchased on or before the effective date of this administrative regulation, if bona fide construction begins within six (6) months from the effective date of this administrative regulation. This subsection shall apply only to

single family dwellings. [The provisions of this regulation shall not apply to on-site sewage disposal systems in use or for which a valid permit has been issued prior to the effective date of this regulation, unless such system requires future repair or alteration due to malfunction, damage, or increase in waste loading due to a change in usage of the structure(s) served by the system. If such occurs, this regulation shall be enforced only as regards the specific repair or alteration work required.]

C. HERNANDEZ, M.D., Commissioner

LEONARD E. HELLER, Secretary

APPROVED BY AGENCY: March 27, 1992

FILED WITH LRC: March 31, 1992 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 21, 1992, at 9 a.m. at the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 16, 1992 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: Masten Childers II, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: James T. Corum

(1) Type and number of entities affected: 300 developers, 1000 builders, 2,500 installers of on-site sewage disposal systems and an undetermined number of consumers.

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

1. First year:

2. Continuing costs or savings: Unknown

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

(b) Reporting and paperwork requirements: No change from current regulation.

(2) Effects on the promulgating administrative body: No change from current regulation.

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change from current regulation.

(3) Assessment of anticipated effect on state and local revenues: No change.

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

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. Tiering is inherent in the current regulation as the variable factors unique to each site and the

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system options for that set of unique factors preclude mandating a single system to be used in all cases. Site conditions, and wasteload to be treated will determine system sizing and types of system designs applicable to the specific performance needs.

### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government?

Yes X No    (If yes, complete questions 2-4)

2. State what unit, part or division of local government this administrative regulation will affect. This regulation will affect local health departments and may affect other divisions whenever an on-site sewage disposal system is installed to serve any public facility owned or operated by local government.

3. State the aspect or service of local government to which this administrative regulation relates. The enforcement of the on-site sewage disposal systems programs carried out by local health department certified inspectors and the evaluation and inspection services they perform.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: See above comments.

### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management and Development (Proposed Amendment)

#### 904 KAR 2:016. Standards for need and amount; AFDC.

RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 250.73, 255, PL 101-508

STATUTORY AUTHORITY: KRS 194.050, 205.200(2)

NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families with Dependent Children Program, referred to as AFDC. This regulation sets forth the standards by which the need for and the amount of an AFDC assistance payment is established.

Section 1. Definitions. (1) "Approved JOBS activities" means participation in component, precomponent, component preparation, preemployment, transitional extension or self-initiated JOBS activities which have been determined by the Department for Social Insurance to be consistent with employment goals.

(2) "Assistance group" means a group composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:006, Section 3. The assistance group shall include the dependent child, child's eligible parent, and all eligible siblings living in the home with the needy child. Additionally, if the dependent child's parent is a minor living in the home with his eligible parent, the minor's parent shall also be included in the assistance group if the minor's parent applied for assistance. The incapacitated or unemployed natural or adoptive parent of the child who is living in the home shall be included as second parent if the technical eligibility factors are met.

(3) "Beyond the control" means:

(a) Loss or theft of the money;

(b) The individual to whom the lump sum was designated no longer lives in the household, making the lump sum income inaccessible;

(c) Expenditure of the lump sum income to meet extraordinary expenses, that are not included in the AFDC Standard of Need.

(4) "Certified child care providers" means a small family day care in a provider's home serving fewer than four (4) children. This provider has voluntarily registered with the Cabinet for Human Resources, Department for Social Services. Standards for certification are contained in 905 KAR 2:070.

(5) "Claimant" means the individual responsible for an overpayment.

(6) "Combination programs" means any educational program which includes as its basis literacy or GED. This program must also include life skills, skills training or job readiness training.

(7) "Component" means services and activities such as education, job skills training, job readiness, job development and placement, job search, on-the-job training, work supplementation or community work experience program activities available under the Job Opportunities and Basic Skills (JOBS) program. Each individual component is described in 904 KAR 2:006.

(8) "Component preparation" means the period in which assessment, testing, development of the employability plan and referrals for removal of barriers takes place.

(9) "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

(10) "Full-time school attendance" means a workload of at least:

(a) The number of hours required by the individual program for participation in a General Educational Development (GED) program; or

(i) Twelve (12) semester hours or more in a college or university; or six (6) semester hours or more during the summer term; or the equivalent in a college or university if other than a semester system is used; or

(c) The number of hours required by the individual high school/vocational school to fulfill their definition of full time; or

(d) Eight (8) clock hours per month in a literacy program.

(e) Twenty-five (25) clock hours per week in combination programs.

(11) "Gross income limitation standard" means 185 percent of the sum of the assistance standard, as set forth in Section 7 of this regulation.

(12) "Licensed child care providers" means day care centers serving twelve (12) or more children, or day care in a provider's home serving four (4) to twelve (12) children, which are licensed by the Division of Licensing and Regulation, Office of the Inspector General, as provided in 905 KAR 2:010.

(13) "Lump sum income" means income that does not occur on a regular basis, and does not represent accumulated monthly income received in a single sum.

(14) "Minor" means any person who is under the age of eighteen (18) or under the age of nineteen (19) in accordance with 45 CFR 233.90(b)(3). EXCEPTION: For the purpose of deeming income, a minor parent is considered any person under the age of eighteen (18).

(15) "Part-time employment" means employment of less than thirty (30) hours per week or 130 hours per month or not employed throughout the entire month.

(16) "Part-time school attendance" means a workload of anything less than "full-time school attendance."

(17) "Precomponent" means a waiting period between the dates of component assignment and component commencement.

(18) "Preemployment" means a waiting period between the dates of hiring and employment commencement.

(19) "Prospective budgeting" means computing the amount of

assistance based on income and circumstances which will exist in the month(s) for which payment is made.

(20) "Recoupment" means recovery of overpayments of assistance payments.

(21) "Sanctioned individual" means any person who is required to be included in the assistance group but who is excluded from the assistance group due to failure to fulfill an eligibility requirement.

(22) "Self-initiated" means approved participation in which education or training activities are initiated by the client and determined to meet agency criteria. Specific criteria is contained in 904 KAR 2:006.

(23) "Transitional extension" means a period of up to ninety (90) days subsequent to the discontinuance of the AFDC case in which supportive service payments may continue if:

(a) The case is not discontinued due to fraudulent activity; and

(b) The case is not discontinued due to failure to comply with procedural requirements; and

(c) The JOBS participant elects to continue the approved component activity in which she is engaged at the time of discontinuance.

(24) "Unavailable" means that the income is not accessible to the AFDC benefit group for use toward basic food, clothing, shelter, and utilities.

(25) "Unregulated child care providers" means private providers, such as friends or relatives, who are not required to be certified or licensed.

(26) "Work expense standard deduction" means a deduction from earned income intended to cover mandatory pay check deductions, union dues, tools and transportation.

Section 2. Resource Limitations. (1) Real and personal property owned in whole or in part by an applicant or recipient including a sanctioned individual and his parent, even if the parent is not an applicant or recipient, if the applicant or recipient is a dependent child living in the home of the parent, shall be considered.

(2) The amount that can be reserved by each assistance group shall not be in excess of \$1,000 equity value excluding those items specifically listed in subsection (1) of this section as follows:

(3) Excluded resources. The following resources shall be excluded from consideration:

(a) One (1) owner-occupied home;

(b) Home furnishings, including all appliances;

(c) Clothing;

(d) One (1) motor vehicle, not to exceed \$1,500 equity value;

(e) Farm machinery, livestock or other inventory, and tools and equipment other than farm, used in a self-employment enterprise;

(f) Items valued at less than fifty (50) dollars each;

(g) One (1) burial plot or space per family member;

(h) Funeral agreements not to exceed maximum equity of \$1,500 per family member;

(i) Real property which the assistance group is making a good faith effort to sell. This exemption shall not exceed a period of nine (9) months and is contingent upon the assistance group agreeing to repay AFDC benefits received beginning with the first month of the exemption. Any amount of AFDC paid during that period that would not have been paid if the disposal of property had occurred at the beginning of the period is considered an overpayment. The amount of the repayment shall not exceed the net proceeds of the sale. If the property has not been sold within the nine (9) months, or if eligibility stops for any other reason, the entire amount of assistance paid during the nine (9) month period shall be treated as an overpayment;

(j) Other items or benefits mandated by federal regulations.

(4) Disposition of resources.

(a) An applicant or recipient shall not have transferred or otherwise divested himself of property without fair compensation in order to qualify for assistance.

(b) If the transfer was made expressly for the purpose of qualifying for assistance and if the uncompensated equity value of the transferred property, when added to total resources, exceeds the resource limitation, the household's application shall be denied, or assistance discontinued.

(c) The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer.

(d) If the amount of excess transferred resources does not exceed \$500, the period of ineligibility shall be one (1) month; the period of ineligibility shall be increased one (1) month for every \$500 increment up to a maximum of twenty-four (24) months.

Section 3. Income Limitations. In determining eligibility for AFDC the following shall apply:

(1) Gross income test.

(a) The total gross non-AFDC income of the assistance group, as well as income of parent, sanctioned individual and amount deemed available from the parent of a minor parent living in the home with such assistance group, and amount deemed available from a stepparent living in the home, and amount deemed available from an alien's sponsor and sponsor's spouse if living with the sponsor, shall not exceed the gross income limitation standard.

(b) Disregards specified in Section 4(1) of this regulation shall apply.

(c) If total gross income exceeds the gross income limitation standard, the assistance group is ineligible.

(2) Applicant eligibility test.

(a) An applicant eligibility test shall be applied if:

1. The gross income is below the gross income limitation standard; and

2. The assistance group has not received assistance during the four (4) months prior to the month of application.

(b) The total gross income after application of exclusions or disregards set forth in Section 4(1) and (2) of this regulation shall be compared to the assistance standard set forth in Section 7 of this regulation.

(c) If income exceeds this standard, the assistance group is ineligible.

(d) For assistance groups who meet the gross income test but who have received assistance any time during the four (4) months prior to the application month, the applicant eligibility test shall not apply.

(3) Benefit calculation.

(a) If the assistance group meets the criteria set forth in subsections (1) and (2) of this section, benefits shall be determined by applying disregards in Section 4(1), (2), and (3) of this regulation.

(b) If the assistance group's income, after application of appropriate disregards, exceeds the assistance standard, the assistance group is ineligible.

(c) Amount of assistance shall be determined prospectively.

(4) Ineligibility period.

(a) A period of ineligibility shall be established for an applicant or recipient whose income in the month of application or during any month for which assistance is paid exceeds the limits as set forth in subsections (2) or (3) of this section due to receipt of lump sum income.

(b) The ineligibility period shall be recalculated if any of the following circumstances occur:

1. The standard of need increases and the amount of grant the assistance group would have received also changes.

2. Income, which caused the calculation of the ineligibility period, has become unavailable for reasons that were beyond the control of the benefit group.

3. The assistance group incurs and pays necessary medical expenses not reimbursable by a third party.

Section 4. Excluded or Disregarded Income. All gross non-AFDC income received or anticipated to be received by the assistance group, sanctioned individual, natural parent and parent of a minor parent living in the home with such assistance group and stepparent living in the home, shall be considered with the applicable exclusions or disregards as set forth below:

(1) Gross income test. All incomes listed below shall be excluded or disregarded:

(a) Disregards applicable to stepparent income or income of the parent of a minor parent in the home with the assistance unit, as set forth in Section 5 of this regulation;

(b) Disregards applicable to alien sponsor's income, as set forth in Section 6 of this regulation;

(c) Disregards applicable to self-employment income;

(d) Earnings received by a dependent child from participation in the Summer Youth Program, Work Experience Program, Limited Work Experience Program, and Tryout Employment Program under the Job Training Partnership Act (JTPA) for a period not to exceed six (6) months within a given calendar year, effective March 1, 1988;

(e) Unearned income received by a dependent child from participation in a JTPA program;

(f) Value of the monthly allotment of food stamp coupons or value of United States Department of Agriculture (USDA) donated foods;

(g) Nonemergency medical transportation payments;

(h) Payments from complementary programs if no duplication exists between the other assistance and the assistance provided by the AFDC program;

(i) Educational grants, loans, scholarships, including payments for actual educational costs made under the GI Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans to any undergraduate made or insured under any program administered by the United States Commissioner of Education;

(j) Highway relocation assistance;

(k) Urban renewal assistance;

(l) Federal disaster assistance and state disaster grants;

(m) Home produce utilized for household consumption;

(n) Housing subsidies received from federal, state or local governments;

(o) Receipts distributed to members of certain Indian tribes by the federal government under 25 USC 459, 1261 and 1401;

(p) Funds distributed per capita to or held in trust for members of any Indian tribe by the federal government under 25 USC 459, 1261 and 1401;

(q) Benefits received from the Nutrition Program for the Elderly, under 42 USC 3001;

(r) Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under 42 USC 5001 and 5011;

(s) Payments to "Volunteers in Service to America" (VISTA) participants under 42 USC 1451 except when the value of such payments when adjusted to reflect the number of hours volunteers are serving is the same as or greater than the minimum wage under state or federal law, whichever is greater;

(t) The value of supplemental food assistance received under 42 USC 1771, and the special food service program for children under 42 USC 1755, as amended;

(u) Payments from the Cabinet for Human Resources, Department for Social Services, for child foster care, or adult foster care;

(v) Payments made under the Low Income Home Energy Assistance Program (LIHEAP) under 42 USC 8621, and other energy assistance payments which are made to an energy provider or provided in-kind;

(w) The first fifty (50) dollars of child support payments collected in a month which represents the current month's support obligation and is returned to the assistance group;

(x) For a period not to exceed six (6) months within a given year, earnings of a dependent child in full-time school attendance;

(y) Nonrecurring gifts of thirty (30) dollars or less received per calendar quarter for each individual included in the assistance group; and

(z) Effective January 3, 1989, loans.

(aa) Effective June 1, 1989, up to \$12,000 to Aleuts and \$20,000 to individuals of Japanese ancestry for payments made by the United States Government to compensate for hardships experienced during World War II.

(bb) Effective June 1, 1989, the essential person's portion of the SSI check.

(cc) Income of an individual receiving mandatory or optional state supplementary payments.

(dd) The advance payment or refund of earned income tax credit (EITC).

(ee) Other benefits mandated by federal regulations or legislation.

(2) Applicant eligibility test. The exclusions or disregards set forth in subsection (1) of this section and those listed below shall be applied:

(a) Earnings received from participation in the Job Corps Program under JTPA by an AFDC child;

(b) Earnings of a dependent child in full-time school attendance for a period not to exceed six (6) months within a given year;

(c) Standard work expense deduction of ninety (90) dollars for full-time and part-time employment; and

(d) Child care, for a child or incapacitated adult living in the home and receiving AFDC, is allowed as a work expense is allowed not to exceed \$175 per month per individual for full-time employment or \$150 per month per individual for part-time employment, or \$200 per month per individual for child under age two (2).

(3) Benefit calculation. After eligibility is established, exclude or disregard all incomes listed in subsections (1) and (2) of this section as well as:

(a) Child support payments assigned and actually forwarded or paid to the department; and

(b) First thirty (30) dollars and one-third (1/3) of the remainder of each individual's earned income not already disregarded, if that individual's needs are considered in determining the benefit amount. The one-third (1/3) portion of this disregard shall not be applied to an individual after the fourth consecutive month it has been applied to his earned income. The thirty (30) dollar portion of this disregard shall be applied concurrently with the one-third (1/3) disregard, however, it shall be extended for an additional eight (8) months following the four (4) months referenced in the preceding sentence. These disregards shall not be available to the individual until he has not been a recipient for twelve (12) consecutive months; and

(c) Earnings of a child in full-time school attendance or earnings of a child in part-time school attendance, if not working full-time.

(4) Exceptions. Disregards from earnings in subsections (2)(c) and (d) and (3)(b) of this section shall not apply for any month in which the individual:

(a) Reduces, terminates, or refuses to accept employment within the period of thirty (30) days preceding such month, unless good cause exists as follows:

1. The individual is unable to engage in such employment or training for mental or physical reasons; or

2. The individual has no way to get to and from the work site or the site is so far removed from the home that commuting time would exceed three (3) hours per day; or

3. Working conditions at such job or training would be a risk to the individual's health or safety; or

4. A bona fide offer of employment at a minimum wage customary

for such work in the community was not made; or

5. Effective February 1, 1988, the child care arrangement is terminated through no fault of the client; or

6. Effective February 1, 1988, the available child care does not meet the needs of the child, for example, handicapped or retarded children.

(b) Requests assistance be terminated for the primary purpose of evading the four (4) month limitation on the deduction in subsection (3)(b) of this section.

Section 5. Income and Resources. Income and resources of a stepparent living in the home with a dependent child and parent living in the home with a minor parent but whose needs are not included in the grant are considered as follows:

(1) Income. The gross income is considered available to the assistance group, subject to the following exclusions or disregards:

(a) The first seventy-five (75) dollars of the gross earned income;

(b) An amount equal to the AFDC assistance standard for the appropriate family size, for the support of the stepparent or parent of a minor parent and any other individuals living in the home but whose needs are not taken into consideration in the AFDC eligibility determination and are or may be claimed by the stepparent or parent of a minor parent as dependents for purposes of determining his federal personal income tax liability;

(c) Any amount actually paid by the stepparent or parent of a minor parent to individuals not living in the home who are or may be claimed by him as dependents for purposes of determining his personal income tax liability;

(d) Payments by the stepparent and parent of a minor parent for alimony or child support with respect to individuals not living in the household; and

(e) Income of a stepparent and parent of a minor parent receiving Supplemental Security Income (SSI).

(2) Sanction exception. The needs of any sanctioned individual are not eligible for the exclusions listed in this section.

(3) Resources. Resources which belong solely to the stepparent and parent of a minor parent are not considered in determining eligibility of the parent or the assistance group.

Section 6. Alien Income and Resources. (1) For the purposes of this section the alien's sponsor and sponsor's spouse (if living with the sponsor) shall be referred to as sponsor.

(2) The gross non-AFDC income and resources of an alien's sponsor shall be deemed available to the alien, subject to disregards as set forth below, for a period of three (3) years following entry into the United States.

(3) If an individual is sponsoring two (2) or more aliens, the income and resources shall be prorated among the sponsored aliens.

(4) A sponsored alien is ineligible for any month in which adequate information on the sponsor or sponsor's spouse is not provided.

(5) If an alien is sponsored by an agency or organization, which has executed an affidavit of support, that alien is ineligible for benefits for a period of three (3) years from date of entry into the United States, unless it is determined that the sponsoring agency or organization is no longer in existence or does not have the financial ability to meet the alien's needs.

(6) The provisions of this section shall not apply to those aliens identified in subsection (5) of this section.

(a) Income. The gross income of the sponsor is considered available to the assistance group subject to the following disregards:

1. Twenty (20) percent of the total monthly gross earned income, not to exceed \$175;

2. An amount equal to the AFDC assistance standard for the appropriate family size of the sponsor and other persons living in the household who are or may be claimed by the sponsor as dependents

in determining his federal personal income tax liability, and whose needs are not considered in making a determination of eligibility for AFDC;

3. Amounts paid by the sponsor to nonhousehold members who are or may be claimed as dependents in determining his federal personal tax liability;

4. Actual payments of alimony or child support paid to nonhousehold members; and

5. Income of a sponsor receiving SSI or AFDC.

(b) Resources. Resources deemed available to the alien shall be the total amount of the resources of the sponsor and sponsor's spouse determined as if he were an AFDC applicant in this state, less \$1,500.

Section 7. Payment Maximum. (1) The AFDC payment maximum includes amounts for food, clothing, shelter, and utilities.

(2) Countable income is deducted in determining eligibility for and the amount of the AFDC assistance payment, as follows:

Effective July 1, 1989		
Number of Eligible Persons	Payment Maximum	Standard of Need
1 child	\$162	\$394
2 persons	\$196	\$460
3 persons	\$228	\$526
4 persons	\$285	\$592
5 persons	\$333	\$658
6 persons	\$376	\$724
7 or more persons	\$419	\$790

(3) Since the payment maximum does not meet full need, effective July 1, 1989, a forty-five (45) percent ratable reduction shall be applied to the deficit between the family's countable income and the standard of need for the appropriate family size.

(4) The assistance payment shall be fifty-five (55) percent of the deficit or the payment maximum, whichever is the lesser amount.

Section 8. Job Opportunities and Basic Skills (JOBS) Child Care and Supportive Services. (1) With the exception of those in subsections (8) and (12) of this section those individuals participating in the JOBS program shall be entitled to payment of:

(a) Child care;

(b) Transportation; and

(c) Other supportive service costs necessary for participation in an approved JOBS activity, as described in subsection (10) of this section.

(2) JOBS activities are described in 904 KAR 2:006, Section 9.

(3) Child care eligibility in JOBS components. Child care shall be paid for a child meeting the criteria specified in Section 9(1) of this regulation. Child care shall be provided in the following situations:

(a) Precomponent;

(b) Component preparation;

(c) Component participation;

(d) Preemployment; or

(e) On-the-job training (OJT) and work supplementation participants discontinued from AFDC, until the end of the component placement.

(4) Child care eligibility in self-initiated activities.

(a) Child care shall be provided in the same situations as in JOBS components with the following exceptions:

1. OJT participants discontinued due to increased earnings or hours of employment;

2. Component preparation; and

3. Precomponent, for persons waiting to enter self-initiated activities for the first time.

(b) Child care shall be provided only for approved self-initiated

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activities.

(5) Child care limitations.

(a) Child care payments shall:

1. Be made directly to the provider, in an amount equal to the actual cost, up to a payment maximum based on local market rates for components which:

a. Do not provide earned income; or

b. Are work supplementation components.

2. Be allowed as a deduction as outlined in Section 4(2)(d) of this regulation for any component yielding earned income, other than work supplementation.

(b) Payments shall not be made to a provider if the provider is:

1. The parent;

2. The legal guardian;

3. A member of the AFDC assistance unit which includes the child needing care;

4. Not meeting applicable standards of state and local law; or

5. Not allowing parental access.

(c) Local market rates shall be determined by:

1. The type of provider;

2. The age of the child;

3. The special needs of the child. Special needs shall be verified by:

a. Entitlement to disability benefits; or

b. Written statement from a physician or professional from a service agency such as Comprehensive Care, or the Department for Social Services;

4. The amount of time care is needed; and

5. The geographical boundaries of the fifteen (15) area development districts.

(d) Full-time (FT) and part-time (PT) attendance shall be determined by the provider.

(e) FT and PT maximum payment levels shall be established for the following groups of dependent children:

1. "Special needs" includes children in no certain age group;

2. "Infants" includes children under age one (1);

3. "Toddlers" includes children from age one (1) up to age three (3);

4. "Preschool" includes children from age three (3) up to age (6) six [five-(5)];

5. "School-age" includes children age (6) six [five-(5)] and over.

(f) For needs incurred on or after April 1, 1992, child care maximum payments shall be made as follows:

## PURCHASE AREA DEVELOPMENT DISTRICT #1

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$12	12	12	9	12	9	12	9	12	9
Certified	\$11	11	11	8	11	8	11	8	11	8
Unregulated	\$10	10	10	7	10	7	10	7	10	7

[Licensed]	\$10	10	10	7	10	7	10	7	10	7
Certified	\$9	9	9	6	9	6	9	6	9	6
Unregulated	\$8	8	8	5	8	5	8	5	8	5

## PENNYRILE AREA DEVELOPMENT DISTRICT #2

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	11	8	10	7	10	7	10	7
Certified	\$10	10	10	7	9	6	9	6	9	6
Unregulated	\$9	9	9	6	8	5	8	5	8	5

[Licensed]	\$10	10	10	7	9	6	9	6	9	6
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Certified	\$9	9	9	6	8	5	8	5	8	5
Unregulated	\$8	8	8	5	7	4	7	4	7	4

## GREEN RIVER AREA DEVELOPMENT DISTRICT #3

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$13	13	13	10	13	10	13	10	13	10
Certified	\$12	12	12	9	12	9	12	9	12	9
Unregulated	\$11	11	11	8	11	8	11	8	11	8

[Licensed]	\$10	10	9	6	9	6	9	6	8	5
Certified	\$9	9	8	5	8	5	8	5	7	4
Unregulated	\$8	8	7	4	7	4	7	4	6	3

## BARREN RIVER AREA DEVELOPMENT DISTRICT #4

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$13	13	13	10	11	8	11	8	11	8
Certified	\$12	12	12	9	10	7	10	7	10	7
Unregulated	\$11	11	11	8	9	6	9	6	9	6

[Licensed]	\$12	12	12	9	10	7	10	7	10	7
Certified	\$11	11	11	8	9	6	9	6	9	6
Unregulated	\$10	10	10	7	8	5	8	5	8	5

## LINCOLN TRAIL AREA DEVELOPMENT DISTRICT #5

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	11	8	10	7	10	7	10	7
Certified	\$10	10	10	7	9	6	9	6	9	6
Unregulated	\$9	9	9	6	8	5	8	5	8	5

[Licensed]	\$10	10	10	7	9	6	9	6	8	5
Certified	\$9	9	9	6	8	5	8	5	7	4
Unregulated	\$8	8	8	5	7	4	7	4	6	3

## KENTUCKIANA REGIONAL PLANNING AND DEVELOPMENT AGENCY AREA DEVELOPMENT DISTRICT #6

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$15	15	15	12	15	12	14	11	12	9
Certified	\$14	14	14	11	14	11	13	10	11	8
Unregulated	\$13	13	13	10	13	10	12	9	10	7

[Licensed]	\$13	13	13	10	13	10	11	8	11	8
Certified	\$12	12	12	9	12	9	10	7	10	7
Unregulated	\$11	11	11	8	11	8	9	6	9	6

## NORTHERN KENTUCKY AREA DEVELOPMENT DISTRICT #7

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$16	16	16	13	14	11	14	11	13	10
Certified	\$15	15	15	12	13	10	13	10	12	9
Unregulated	\$14	14	14	11	12	9	12	9	11	8

[Licensed]	\$10	10	10	7	10	7	10	7	10	7
Certified	\$9	9	9	6	9	6	9	6	9	6
Unregulated	\$8	8	8	5	8	5	8	5	8	5



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## BUFFALO TRACE AREA DEVELOPMENT DISTRICT #8

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$12	12	12	9	11	8	9	6	9	6
Certified	\$11	11	11	8	10	7	8	5	8	5
Unregulated	\$10	10	10	7	9	6	7	4	7	4

[Licensed	\$10	10	8	5	8	5	8	5	8	5
Certified	\$9	9	7	4	7	4	7	4	7	4
Unregulated	\$8	8	6	3	6	3	6	3	6	3

## GATEWAY AREA DEVELOPMENT DISTRICT #9

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	9	6	9	6	9	6	9	6
Certified	\$10	10	8	5	8	5	8	5	8	5
Unregulated	\$9	9	7	4	7	4	7	4	7	4

[Licensed	\$10	10	8	5	8	5	8	5	8	5
Certified	\$9	9	7	4	7	4	7	4	7	4
Unregulated	\$8	8	6	3	6	3	6	3	6	3

## FIVCO AREA DEVELOPMENT DISTRICT #10

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$14	14	14	11	13	10	13	10	13	10
Certified	\$13	13	13	10	12	9	12	9	12	9
Unregulated	\$12	12	12	9	11	8	11	8	11	8

[Licensed	\$10	10	10	7	10	7	10	7	9	6
Certified	\$9	9	9	6	9	6	9	6	8	5
Unregulated	\$8	8	8	5	8	5	8	5	7	4

## BIG SANDY AREA DEVELOPMENT DISTRICT #11

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$12	12	12	9	12	9	12	9	12	9
Certified	\$11	11	11	8	11	8	11	8	11	8
Unregulated	\$10	10	10	7	10	7	10	7	10	7

[Licensed	\$10	10	10	7	10	7	10	7	10	7
Certified	\$9	9	9	6	9	6	9	6	9	6
Unregulated	\$8	8	8	5	8	5	8	5	8	5

## KENTUCKY RIVER AREA DEVELOPMENT DISTRICT #12

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$13	13	13	10	13	10	11	8	11	8
Certified	\$12	12	12	9	12	9	10	7	10	7
Unregulated	\$11	11	11	8	11	8	9	6	9	6

[Licensed	\$11	11	11	8	11	8	9	6	9	6
Certified	\$10	10	10	7	10	7	8	5	8	5
Unregulated	\$9	9	9	6	9	6	7	4	7	4

## CUMBERLAND VALLEY AREA DEVELOPMENT DISTRICT #13

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	11	8	11	8	11	8	11	8
Certified	\$10	10	10	7	10	7	10	7	10	7

Unregulated	\$9	9	9	6	9	6	9	6	9	6
[Licensed	\$10	10	10	7	10	7	9	6	10	7
Certified	\$9	9	9	6	9	6	8	5	9	6
Unregulated	\$8	8	8	5	8	5	7	4	8	5

## LAKE CUMBERLAND AREA DEVELOPMENT DISTRICT #14

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	10	7	10	7	10	7	10	7
Certified	\$10	10	9	6	9	6	9	6	9	6
Unregulated	\$9	9	8	5	8	5	8	5	8	5

[Licensed	\$10	10	9	6	9	6	9	6	9	6
Certified	\$9	9	8	5	8	5	8	5	8	5
Unregulated	\$8	8	7	4	7	4	7	4	7	4

## BLUEGRASS AREA DEVELOPMENT DISTRICT #15

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$14	14	14	11	13	10	13	10	13	10
Certified	\$13	13	13	10	12	9	12	9	12	9
Unregulated	\$12	12	12	9	11	8	11	8	11	8

[Licensed	\$12	12	12	9	12	9	11	8	11	8
Certified	\$11	11	11	8	11	8	10	7	10	7
Unregulated	\$10	10	10	7	10	7	9	6	9	6

(g) Child care payments shall be limited as follows:

1. Six (6) semesters (three (3) years) for a two (2) year postsecondary program;

2. Eight (8) semesters (nine (9) with good cause) for a four (4) year postsecondary program; or

3. No restrictions on other education and training activities.

(h) These limits apply to both full-time and part-time enrollment.

(i) In preemployment or precomponent, child care payments shall be limited to a period of two (2) weeks up to one (1) month if necessary to guarantee the child care arrangement shall not be lost.

(j) Child care payments shall not be made if:

1. An AFDC-UP qualifying parent is participating; and

2. The nonparticipating parent is not incapacitated.

(6) Authorization of child care payment.

(a) Child care payments shall be authorized upon the receipt of appropriate verification of the cost of care.

(b) Departmental forms required for verification are incorporated by reference in this regulation.

(c) Payments shall be authorized in accordance with 904 KAR 2:050.

(7) Restrictions on authorization of child care payments. Payment shall not be made if:

(a) Verification is not returned by the end of the month following the month in which the cost was incurred;

(b) The participant is sanctioned for noncompliance with JOBS activities, as specified in 904 KAR 2:006; or

(c) A fair hearing decision is pending on an issue of noncompliance with JOBS.

(8) Transportation payments in JOBS components. Transportation reimbursement shall be paid in the following situations:

(a) Precomponent;

(b) Component preparation;

(c) Component participation, with the exception of OJT and work supplementation while the AFDC case remains active;

(d) Transitional extension; or

(e) On-the-job training (OJT) and work supplementation partici-

pants discontinued from AFDC, until the end of the component placement.

(9) Transportation payments in self-initiated activities.

(a) Transportation shall be provided in the same situations as in JOBS components, with the exceptions of:

1. Transitional extension;

2. OJT participants discontinued due to increased earnings or hours of employment;

3. Component preparation; and

4. Precomponent, for persons waiting to enter self-initiated activities for the first time.

(b) Reimbursement shall be paid only for approved self-initiated activities.

(10) Transportation payment amount and authorization.

(a) A standard rate of three (3) dollars per day shall be paid for individuals participating in approved JOBS activities.

(b) Transportation reimbursement shall be made after receipt of appropriate verification. Departmental forms required for verification are incorporated by reference. Payments shall be made as specified in 904 KAR 2:050.

(c) Transportation payments shall be limited in the same manner as child care payments, as described in subsection (4)(g) of this section.

(d) In precomponent, transportation payments are limited to two (2) weeks up to one (1) month if necessary to guarantee that the arrangements shall not be lost.

(11) Restrictions on authorization of transportation payments. Payments shall not be made if:

(a) Appropriate verification is not returned by the end of the month following the month in which the cost was incurred;

(b) The participant is sanctioned for noncompliance with JOBS activities, as specified in 904 KAR 2:006; or

(c) A fair hearing decision is pending on an issue of noncompliance with JOBS.

(12) Other supportive services in JOBS components.

(a) Nonrecurring services shall be provided if necessary for participation in the approved JOBS activities of:

1. Component preparation;

2. Component participation, except for expenses included in the work expense standard deduction for participants in OJT or work supplementation while the AFDC case remains active;

3. Transitional extension;

4. Preemployment; or

5. OJT and work supplementation participants discontinued from AFDC, until the end of the component placement.

(b) These services shall be approved by the case manager as defined in 904 KAR 2:006.

(c) Examples of services which may be approved are the purchase of:

1. Remedial health care items or services not covered under the Medicaid program;

2. Necessary clothing; or

3. Any other item identified by a referral agency, the case manager, or the participant as being necessary for participation.

(13) Other supportive services in self-initiated activities. Nonrecurring services shall be provided in the same situations as in JOBS components, with the following exceptions:

(a) Transitional extension;

(b) OJT participants discontinued due to increased earnings or hours of employment; or

(c) Component preparation.

(14) Limitations on other supportive services.

(a) A cumulative limit of \$300 in a twelve (12) month period, beginning with the first day of the month in which the first supportive service payment is made, shall be in effect for any participant in these approved JOBS activities:

1. Component preparation;

2. Component-related;

3. Transitional extension; or

4. OJT participants discontinued due to increased earnings or hours of employment.

(b) A separate \$300 limit, per job, for preemployment supportive services may be paid.

(c) Other supportive services shall be limited in the same manner as child care payments, as described in subsection (4)(g) of this section.

(15) Restrictions on authorization of supportive service payments. Payments shall not be made for the period during which:

(a) Verification is not returned by the service provider;

(b) The participant is sanctioned for noncompliance with JOBS activities, as specified in 904 KAR 2:006; or

(c) A fair hearing decision is pending on an issue of noncompliance with JOBS.

Section 9. Recoupment. The following provisions are effective for all overpayments discovered on or after April 1, 1982, regardless of when the overpayment occurred.

(1) Necessary action will be taken promptly to correct and recoup any overpayments.

(2) Overpayments, including assistance paid pending hearing decisions, shall be recovered:

(a) The claimant;

(b) The overpaid assistance unit;

(c) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or

(d) Any individual member of the overpaid assistance unit whether or not currently a recipient.

(3) Overpayments shall be recovered through:

(a) Repayment by the individual to the cabinet; or

(b) Reduction of future AFDC benefits, which shall result in the assistance group retaining, for the payment month, family income and liquid resources of not less than ninety (90) percent of the amount of assistance paid to a like size family with no income in accordance with Section 7 of this regulation; or

(c) Civil action in the court of appropriate jurisdiction.

(4) In cases which have both an overpayment and an underpayment, the cabinet shall offset one against the other in correcting the payment to current recipients.

(5) Neither reduction in future benefits nor civil action shall be taken except after notice and an opportunity for a fair hearing as specified in 904 KAR 2:055 is given and the administrative and judicial remedies have been exhausted or abandoned in accordance with Title 904, Chapter 2.

Section 10. Material Incorporated by Reference. (1) Forms necessary for verification of child care and supportive service payments in the JOBS program are incorporated effective October 1, 1990. These forms include the PA-33, revised 10/90, the PA-33.1, revised 10/90, and the PA-32, revised 10/90.

(2) These forms may be inspected and copied at the Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

MIKE ROBINSON, Commissioner

LEONARD E. HELLER, Secretary

APPROVED BY AGENCY: March 2, 1992

FILED WITH LRC: March 26, 1992 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 21, 1992 at 9 a.m. at the Vital Statistics Conference Room, 1st Floor, CHR Building. Individuals interested in attending this hearing shall notify this agency in writing by May 16, 1992, 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: Masten Childers II, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: James E. Randall

(1) Type and number of entities affected: 51% of persons receiving JOBS, self-initiated, or transitional child care in Kentucky are receiving payments at the current market rate maximums. We anticipate that these recipients will receive an increase in child care benefits as a result of the increase in the market rates. These rates will also affect the at-risk child care program which was implemented September 16, 1991.

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

1. First year: The transitional child care program expenditures are projected to increase by 27%, for an added cost of \$150,648, due to the market rate increase. The JOBS program child care expenditures are projected at \$12,728,656 due to the increase in market rates. Prior to the increase, projected expenditures were \$12,187,600. Self-initiated child care expenditures are projected at \$5,177,673 due to the market rate increase. Prior to the increase, projected expenditures were \$4,482,000. Total cost of market rate increase: \$1,387,377. There is no additional cost to the state in the at-risk program since the state receives a yearly allotment for this program. However, the increased rates may reduce the number of families who can access the funds. Total cost of market rate increase: \$1,387,377.

2. Continuing costs or savings: The transitional child care program expenditures are expected to increase by 27%, for an added cost of \$150,648, due to the market rate increase. We project that JOBS program child care expenditures will be \$13,948,549 due to the child care market rate increase. Prior to the increase, projected expenditures will be \$13,493,200. We project that self-initiated child care expenditures will be \$5,695,440 due to the market rate increase. Prior to the increase, projected expenditures were \$4,590,000. Total cost of market rate increase: \$1,801,397.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The anticipated increase in participation was also considered when computing the additional cost.

(b) Reporting and paperwork requirements: The increase rates will require no additional reporting and paperwork requirements.

(2) Effects on the promulgating administrative body: None. The child care market rate increase will not affect administrative costs. This will affect benefits only.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: This change is federally mandated.

(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. Eligibility conditions for JOBS child care, transitional child care, self-initiated child care and at-risk child care must be applied on a consistent and equitable basis in accordance with federal regulations.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 45 CFR 255.1

2. State compliance standards. The state compliance standards are the same as the federal minimum requirements.

3. Minimum or uniform standards contained in the federal mandate. All states which administer the JOBS program are required to update child care payments at least biennially.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. None

#### CABINET FOR HUMAN RESOURCES

##### Department for Social Insurance

##### Division of Management and Development

#### 904 KAR 2:040. Procedures for determining initial and continuing eligibility.

RELATES TO: KRS 205.200(2), 205.245, 20 CFR 416.905, 416.981, 42 CFR 435.530, 435.540, 435.916, 45 CFR 206.10(a)(2)(ii), 206.10(a)(9)(iii), 233.90(c)(1)(iv)

STATUTORY AUTHORITY: KRS 13A.120, 194.050, 205.200

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility under the provisions of KRS Chapter 205 to administer the following public assistance programs: Aid to Families with Dependent Children (AFDC); Medical Assistance (MA); and State Supplementation Program (SSP). [~~under Titles IV-A and XIX of the Social Security Act, namely Aid to Families with Dependent Children (AFDC), and Medical Assistance (MA). In addition, the cabinet is required by Title XVI as amended and by KRS 205.245 to provide supplementation to certain aged, blind and disabled individuals.~~] This regulation sets forth the procedures used [utilized] to determine initial and continuing eligibility for assistance under these [the above] programs.

Section 1. Eligibility Determination Process. (1) Eligibility shall be determined prospectively. [~~In order~~] To receive or continue to receive assistance, a household shall [must] meet all of the eligibility criteria for the month payment is intended to cover.

(2) Each decision regarding eligibility or ineligibility for assistance shall be supported by facts recorded in the applicant's or recipient's case record.

(a) The applicant or recipient shall be the primary source of information and shall be required to:

1. Furnish verification of income, resources, and technical eligibility; [~~if he can reasonably be expected to do so,~~] and [te]

2. Give written consent to those contacts necessary to verify or clarify any factor pertinent to the decision of eligibility. [~~Failure of the applicant or recipient to appear for a scheduled interview or present required information at the time requested.~~]

(b) When informed in writing of the appointment or necessary information to be provided, failure of the applicant or recipient to appear for a scheduled interview or present required information at the time requested shall be considered a failure by the applicant or

recipient to present adequate proof of eligibility.

Section 2. Continuing Eligibility. The recipient shall be responsible for reporting within ten (10) days any change in circumstances which may affect eligibility or the amount of payment. In addition, eligibility shall be reconsidered or redetermined:

(1) When a report is received or information is obtained about changes in circumstances;

~~[(2) Beginning July 1, 1982, monthly, for AFDC cases not exempted by the appropriate federal agency;]~~

~~[(2) [(3) Effective March 1, 1990,] At least every twelve (12) months for [AFDC cases with earned income and] MA cases, and SSP cases in which Supplemental Security Income (SSI) is not received; and~~

~~[(3) [(4)] At least every six (6) months for [all] AFDC cases [without earned income].~~

Section 3. Determination of Incapacity or Permanent and Total Disability. (1) A determination that a parent with whom the needy child lives is incapacitated, or that the individual requesting medical assistance due to disability is both permanently and totally disabled, shall be made by a medical review team following review of both medical and social reports except as listed in subsection (2) or (3) of this section.

(2) A parent shall be considered incapacitated without a determination from the medical review team if:

(a) The parent declares physical inability to work;

(b) The worker observes some physical or mental limitation; and

(c) The parent:

1. ~~[(a)]~~ Is receiving SSI; or

2. ~~[(b)]~~ Is age sixty-five (65) or over; or

3. ~~[(c)]~~ Has been determined to meet the definition of blindness as contained in 42 USC 1382c or 42 USC 416 [Titles II and XVI of the Social Security Act relating to RSDI and SSI] by the Social Security Administration; or

4. ~~[(d)]~~ Has been determined to meet the definition of permanent and total disability as contained in 42 USC 1382c or 42 USC 416 [Titles II and XVI of the Social Security Act relating to RSDI and SSI] by either the Social Security Administration or the Medical Review Team of the Department for Social Insurance; or

5. ~~[(e)]~~ Has previously been determined to be incapacitated or permanently and totally disabled by the medical review team, hearing officer, appeal board or court of proper jurisdiction with no reexamination requested and there is no visible improvement in condition; or

6. ~~[(f)]~~ Is receiving RSDI, federal black lung benefits or railroad retirement benefits based on disability as evidenced by an award letter ~~[or benefit check]; or~~

7. ~~Is receiving Veterans Administration (VA) based on 100% disability, as verified by an award letter; or~~

8. ~~[(g)]~~ Is currently hospitalized and a statement from the attending physician indicated that incapacity will continue for at least thirty (30) days. If application was made prior to admission, the physician is also requested to indicate if incapacity existed as of application date.

~~[(3) The determination that a parent is not incapacitated will not be made by the local office field staff.]~~

~~[(3) [(4)] An individual shall be considered permanently and totally disabled without a determination from the medical review team if the individual:~~

~~(a) Receives RSDI or [.] railroad retirement[, or federal black lung] benefits based on disability; or~~

~~(b) [Previously] Received SSI based on disability during any portion of the twelve (12) months preceding the application and discontinuance was due to income or resources, not to improvement in physical condition; or~~

~~(c) Has been determined to meet the definition of permanent and~~

total disability as contained in 42 USC 416 or 42 USC 1382c by the Social Security Administration; or

(d) Has previously been determined to be permanently and totally disabled by the medical review team, hearing officer, appeal board, or court of proper jurisdiction with no reexamination requested and there is no visible improvement in condition.

(4) The determination that a parent is not incapacitated or not disabled shall not be made by the local office field staff.

Section 4. Reviews of SSP [Supplementation] Cases. ~~SSP [Aged, blind or disabled supplementation] cases shall be periodically reviewed to determine that the special need for which supplementation is granted continues to exist.~~

MIKE ROBINSON, Commissioner

LEONARD E. HELLER, Secretary

APPROVED BY AGENCY: March 16, 1992

FILED WITH LRC: April 1, 1992 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 21, 1992 at 9 a.m. at the Vital Statistics Conference Room, 1st Floor, CHR Building. Individuals interested in attending this hearing shall notify this agency in writing by May 16, 1992, 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: Masten Childers II, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: James E. Randall

(1) Type and number of entities affected: Approximately 15,000 AFDC cases were previously identified for monthly reporting and therefore will have their reinvestigation interval adjusted to 6 months. There are presently about 6,000 AFDC cases based on the deprivation of incapacity and 2,400 MA cases based on disability. An undeterminable number of these cases have had a field determination performed.

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

1. First year: The affected AFDC cases were previously required to mail or deliver in person a monthly report, and appear for a yearly reinvestigation interview. They are now spared the effect and expense of monthly reporting, but must appear every 6 months for a reinvestigation interview. We believe the costs associated with transportation for an extra interview yearly are offset by the termination of mailing or transportation expenses associated with monthly reporting. There is no cost or savings to the regulated entities associated with the amendments in field determination criteria. This simply changes which agency body determines whether incapacity or disability criteria has been met.

2. Continuing costs or savings: Same as first year.

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

(b) Reporting and paperwork requirements: Reporting and paperwork requirements for affected AFDC households are reduced due to the elimination of the monthly report. None to incapacity or disability cases.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The elimination of 15,000 monthly report case actions per month saves approximately \$935,000 in staff time, postage costs and printing. The changes in field determination criteria have no fiscal impact.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The elimination of monthly reporting eliminates the handling of 15,000 forms per month by field staff. The change to field determination criteria reduces the number of medical review team referrals for incapacity cases and may increase referrals for disability cases. Exact numbers are not accessible.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: These amendments are made in accordance with federal regulations; therefore, alternatives were not considered.

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

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments: None

TIERING: Was tiering applied? No - Eligibility requirements for AFDC must be applied on a consistent and equitable basis in accordance with federal regulations. Yes - For Medicaid, tiering was applied in that different criteria for incapacity and disability are set forth in accordance with the difference in the federal standards for these conditions.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 45 CFR 206.10(a)(9)(iii); 45 CFR 233.90(c)(1)(iv); and 42 CFR 435.540.

2. State compliance standards. The state compliance standards are the same as the federal minimum requirements.

3. Minimum or uniform standards contained in the federal mandate. States are required to redetermine eligibility for nonmonthly reporting AFDC households at least every 6 months. States are required to determine incapacity and disability in accordance with federal criteria.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. None

#### CABINET FOR HUMAN RESOURCES Department for Social Services (Proposed Amendment)

#### 905 KAR 2:080. Child day care services.

RELATES TO: KRS 199.892 through 199.896, 45 CFR Part 98, 256, 257, PL 99-457 Part H, 94-142.2

STATUTORY AUTHORITY: KRS 194.050, 199.892

NECESSITY AND FUNCTION: KRS 194.050 provides that the Secretary for the Cabinet for Human Resources shall adopt regulations necessary to operate programs and fulfill the responsibilities vested in the Cabinet for Human Resources. In accordance with KRS 199.892, to enable the Cabinet for Human Resources to qualify to receive federal funds under the child care and development block grant, and pursuant to KRS 194.050, the Department for Social

Services has drafted procedures that shall enable the provisions of child day care services to be implemented.

Section 1. Definitions. (1) "At-risk child care (ARCC)" means child care assistance provided through the state to non-AFDC families who need care in order to work and who may otherwise be at risk of becoming dependent upon AFDC.

(2) "Attending a job training or educational program" means regular and scheduled participation in a program offering appropriate skills training or education, if postsecondary, consistent with employment goals.

(3) "Certificate" means a payment mechanism provided by DSS and used by a family to secure day care from the provider of choice.

(4) "Child care and development block grant (CCDBG)" means child care assistance provided to families through the state to improve the affordability, quality and availability of child care services for a low income family to work or attend training or educational programs.

(5) "Child protective cases" means cases registered for services in which the case file contains case documentation that substantiates child abuse, neglect, dependency or exploitation. This category may include services to prevent abuse, neglect, dependency or exploitation, including multiproblem families.

(6) "Day care" means the provision of essential child care for a portion of a day on a regular basis and is designed to supplement, but not substitute for, the parent's responsibility for the child's protection, development and supervision.

(7) "Dedicated child care workers (DCW)" means the Department for Social Services staff who work strictly with the day care program. The dedicated child care worker provides services to families through the following federally funded programs: social services block grant (SSBG), child care and development block grant (CCDBG), at-risk child care (ARCC), and transitional child care (TCC).

(8) "Dependent care disregard" means a method of providing child care for AFDC and medical assistance recipients with earned income and food stamp recipients with earned income or in training or educational programs which are preparatory to employment by deducting child care expenses from the gross income, thus allowing the AFDC recipient to retain more income to pay child care expenses. In cases where recipients are receiving assistance under more than one (1) program, the highest disregard shall be used.

(9) "Eligibility requirements" means that for a family to qualify for child day care funds, except in those instances where day care is provided under SSBG for child protective cases, a family shall meet both need and income status criteria.

(10) "Employment" means public or private, full- or part-time, permanent or temporary work, including self-employment.

(11) "Family" means one (1) or more adults and children related by blood or law, including stepparents, residing in the same residence.

(12) "Licensed child day care facility" means a facility as governed by KRS 199.894.

(13) "Physical or mental incapacity" means a child under the age of eighteen (18) who has multiple or severe problems diagnosed by a physician or qualified professional, that prevent the child from caring for himself or herself for a part of the day.

(14) "Priorities" mean that the client groups identified for receipt of day care are ranked in chronological order by priority.

(15) "Provider" means a person, including a volunteer, who works in a Type I or Type II day care facility, certified small family day care home, unregulated home or registered home.

(16) "Purchase of care" means the purchase of child day care services from state licensed facilities, certified registered homes or other eligible provider for authorized children.

(17) "Registered provider" means a provider that is registered with the Department for Social Services as a provider of child care services through the child care and development block grant

(CCDBG) or at-risk program (ARCC)

(18) "Small family day care home (SFDCH)" means a home or dwelling unit which voluntarily meets the minimum standards set by the cabinet, with a certified provider, where care is provided for no more than three (3) children, who are unrelated by blood, marriage or adoption to the family child care provider.

(19) "Social services block grant (SSBG)" means child care assistance provided by licensed or certified providers that is reimbursed by the department for families receiving protective and preventive services, including multiproblem families, and low income working parents.

(20) "Special needs child" means a child who has multiple or severe problems, and the severity of the disability requires ongoing specialized care as defined under PL 99-457 Part H or 94-142.2.

(21) "Transitional child care (TCC)" means child care assistance that is provided by the department to families whose eligibility for AFDC has ceased due to earnings from employment, or as a result of the loss of income disregards due to the expiration of the time limit according to the federal regulation on AFDC. The purpose of TCC is to help prevent welfare dependency or potential welfare dependency.

(22) "Type I day care facility" means a facility other than a dwelling unit which regularly receives four (4) or more children for day care; or a facility, including a dwelling unit, which regularly provides day care for thirteen (13) or more children. If preschool children of any day care staff receive care in the facility, they shall be included in the number for which the facility is licensed.

(23) "Type II day care facility" means a home or dwelling unit which regularly provides care apart from parents for four (4), but not more than twelve (12) children. The provider's own preschool children shall be included in the number for which the home is licensed.

(24) "Unregulated provider" means a child care provider who is not subject to be licensed, certified or registered by the state or federal government. Families receiving day care funds through the SSBG may not use unregulated care, however, unregulated care may be used by families receiving TCC or ARCC funds. Relative care as provided through the ARCC program, which is not required to be registered, shall be deemed unregulated.

(25) "Waiting list" means a list maintained by district DSS staff once funds are depleted in a district. The list is based on the availability of district day care funds. TCC families shall not be placed on a waiting list due to the uncapped funding source.

(26) "Without regard to income" means that SSBG child day care services for child protective cases shall be provided or purchased without regard to family income. In situations where the court is involved, parents may be ordered to pay for part or all of the cost of day care for their child. Voluntary payments by parents may be accepted

**Section 2. Lead Agency Responsibilities.** The Department for Social Services, as the lead agency, shall administer the CCDBG program directly, or through contracts or agreements and shall retain overall responsibility for the administration of the program and shall:

- (1) Determine the basic usage and priorities for expenditures;
- (2) Promulgate regulations governing the administration of the plan;
- (3) Submit reports required by the federal government;
- (4) Ensure the program complies with the CCDBG plan and federal requirements;
- (5) Oversee the expenditure of funds;
- (6) Monitor programs and services; and
- (7) Comply with federal requirements in a complaint compliance hearing or appeal hearing.

**Section 3. Eligibility.** A child shall be eligible for services if he:

- (1) Is under the age of thirteen (13) or is under the age of eighteen (18) and:

- (a) Is physically or mentally incapable of caring for himself; or
- (b) Is under court supervision;
- (2) Resides with a family whose income does not exceed:
  - (a) Sixty (60) percent of the states median income for a family of the same size at time of application; or
  - (b) Seventy-five (75) percent of the states median income for a family of the same size at the time of reauthorization; or
  - (c) Receives, or needs to receive protective services under SSBG;
  - (3) Resides with parents who are working or attending a job training or educational program except under CCDBG;
  - (4) Other eligibility conditions or priority requirements including childhood development and before and after school care services, may be established in addition to subsection (1) through (5) of this section and Section 5(4) of this regulation as long as they shall not:
    - (a) Discriminate against children on the basis of:
      1. Race;
      2. National origin;
      3. Ethnic background;
      4. Sex;
      5. Religious affiliation; or
      6. Handicap.
    - (b) Limit parental rights as governed by Section 4 of this regulation; or
    - (c) Violate provisions of Section 5(4) of this regulation.
  - (5) The DCW shall verify the client's eligibility for services and complete the DSS-1A, Application for Services, herein incorporated by reference.

**Section 4. Parental Rights and Responsibilities.** (1) Parents of an eligible child who receive or are offered child care services shall be offered a choice:

- (a) To enroll the child with an eligible child care provider that has a grant or contract, selected by the parent to the maximum extent practicable; or
- (b) To receive a child care certificate, the DSS-76, Day Care Services Agreement and Child Care Certificate, herein incorporated by reference, which shall:
  1. Be issued to the parent;
  2. Be of value commensurate with the value of child care services provided in paragraph (a) of this subsection;
  3. If chosen by the parent, may be used for child care services provided by a sectarian organization or agency;
  4. Not be considered a contract or grant to the provider but assistance to the parent; and
  5. Allow parents to choose from a variety of child care categories in compliance with federal regulations governing child day care programs including:
    - a. Licensed child care facilities;
    - b. Certified child care facilities (SFDCH);
    - c. Unregulated child care facilities; or
    - d. Registered child care facilities.
- (2) Providers of child care services shall afford parents unlimited access to their children and to the provider during normal hours of operation and whenever the child is in the care of the provider.

- (3) The cabinet shall:
  - (a) Maintain a record of substantiated parental complaints; and
  - (b) Make information regarding parental complaints available to the public upon request.
  - (4) The cabinet shall make available to the parents and general public, consumer education about parental options relating to child care services including:
    - (a) Licensing and regulatory requirements; and
    - (b) Complaint procedures.

**Section 5. State and Provider Requirements.** (1) The cabinet shall



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assure that providers of child care services:

(a) Shall comply with licensing and regulatory requirements as governed by 905 KAR 2:010 and 905 KAR 2:070;

(b) That are not required to be licensed or certified as governed by 905 KAR 2:010 and 905 KAR 2:070 shall be registered with the cabinet prior to payment under the block grant using the DSS-77, Day Care Billing Statement, herein incorporated by reference except under TCC and relative provided care under AARC; and

(c) Under CCDBG, nonrelative providers registered with the cabinet shall become certified as governed by 905 KAR 2:070.

(d) Nonrelative providers providing care in the child's home shall be certified by meeting the requirements as follows:

1. The provider shall be at least eighteen (18) years of age;

2. The provider shall be physically capable of providing care to children, as stated by a qualified physician;

3. The provider shall be free of tuberculosis, as stated by a qualified physician or health care specialist;

4. The provider shall not have been convicted of crimes against children, as shown by a criminal records check conducted within the past year by the Kentucky State Police; and

5. The provider shall sign an agreement not to use any form of corporal punishment on the children entrusted into their care.

(2) The cabinet has established maximum child day care payments as follows:

## PURCHASE AREA DEVELOPMENT DISTRICT #1

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$12	12	12	9	12	9	12	9	12	9
Certified	\$11	11	11	8	11	8	11	8	11	8
Unregulated	\$10	10	10	7	10	7	10	7	10	7

[Licensed	\$10	10	10	7	10	7	10	7	10	7
Certified	\$9	9	9	6	9	6	9	6	9	6
Unregulated	\$8	8	8	5	8	5	8	5	8	5

## PENNYRILE AREA DEVELOPMENT DISTRICT #2

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	11	8	10	7	10	7	10	7
Certified	\$10	10	10	7	9	6	9	6	9	6
Unregulated	\$9	9	9	6	8	5	8	5	8	5

[Licensed	\$10	10	10	7	9	6	9	6	9	6
Certified	\$9	9	9	6	8	5	8	5	8	5
Unregulated	\$8	8	8	5	7	4	7	4	7	4

## GREEN RIVER AREA DEVELOPMENT DISTRICT #3

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$13	13	13	10	13	10	13	10	13	10
Certified	\$12	12	12	9	12	9	12	9	12	9
Unregulated	\$11	11	11	8	11	8	11	8	11	8

[Licensed	\$10	10	9	6	9	6	9	6	8	5
Certified	\$9	9	8	5	8	5	8	5	7	4
Unregulated	\$8	8	7	4	7	4	7	4	6	3

## BARREN RIVER AREA DEVELOPMENT DISTRICT #4

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$13	13	13	10	11	8	11	8	11	8

Certified	\$12	12	12	9	10	7	10	7	10	7
Unregulated	\$11	11	11	8	9	6	9	6	9	6

[Licensed	\$12	12	12	9	10	7	10	7	10	7
Certified	\$11	11	11	8	9	6	9	6	9	6
Unregulated	\$10	10	10	7	8	5	8	5	8	5

## LINCOLN TRAIL AREA DEVELOPMENT DISTRICT #5

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	11	8	10	7	10	7	10	7
Certified	\$10	10	10	7	9	6	9	6	9	6
Unregulated	\$9	9	9	6	8	5	8	5	8	5

[Licensed	\$10	10	10	7	9	6	9	6	8	5
Certified	\$9	9	9	6	8	5	8	5	7	4
Unregulated	\$8	8	8	5	7	4	7	4	6	3

## KIPDA DEVELOPMENT DISTRICT #6

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$15	15	15	12	15	12	14	11	12	9
Certified	\$14	14	14	11	14	11	13	10	11	8
Unregulated	\$13	13	13	10	13	10	12	9	10	7

[Licensed	\$13	13	13	10	13	10	11	8	11	8
Certified	\$12	12	12	9	12	9	10	7	10	7
Unregulated	\$11	11	11	8	11	8	9	6	9	6

## NORTHERN KENTUCKY DEVELOPMENT DISTRICT #7

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$16	16	16	13	14	11	14	11	13	10
Certified	\$15	15	15	12	13	10	13	10	12	9
Unregulated	\$14	14	14	11	12	9	12	9	11	8

[Licensed	\$10	10	10	7	10	7	10	7	10	7
Certified	\$9	9	9	6	9	6	9	6	9	6
Unregulated	\$8	8	8	5	8	5	8	5	8	5

## BUFFALO TRACE DEVELOPMENT DISTRICT #8

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$12	12	12	9	11	8	9	6	9	6
Certified	\$11	11	11	8	10	7	8	5	8	5
Unregulated	\$10	10	10	7	9	6	7	4	7	4

[Licensed	\$10	10	9	6	8	5	8	5	8	5
Certified	\$9	9	7	4	7	4	7	4	7	4
Unregulated	\$8	8	6	3	6	3	6	3	6	3

## GATEWAY AREA DEVELOPMENT DISTRICT #9

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	9	6	9	6	9	6	9	6
Certified	\$10	10	8	5	8	5	8	5	8	5
Unregulated	\$9	9	7	4	7	4	7	4	7	4

[Licensed	\$10	10	8	5	8	5	8	5	8	5
Certified	\$9	9	7	4	7	4	7	4	7	4
Unregulated	\$8	8	6	3	6	3	6	3	6	3

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## FIVCO AREA DEVELOPMENT DISTRICT #10

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$14	14	14	11	13	10	13	10	13	10
Certified	\$13	13	13	10	12	9	12	9	12	9
Unregulated	\$12	12	12	9	11	8	11	8	11	8

[Licensed	\$10	10	10	7	10	7	10	7	9	6
Certified	\$9	9	9	6	9	6	9	6	8	5
Unregulated	\$8	8	8	5	8	5	8	5	7	4

## BIG SANDY AREA DEVELOPMENT DISTRICT #11

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$12	12	12	9	12	9	12	9	12	9
Certified	\$11	11	11	8	11	8	11	8	11	8
Unregulated	\$10	10	10	7	10	7	10	7	10	7

[Licensed	\$10	10	10	7	10	7	10	7	10	7
Certified	\$9	9	9	6	9	6	9	6	9	6
Unregulated	\$8	8	8	5	8	5	8	5	8	5

## KENTUCKY RIVER AREA DEVELOPMENT DISTRICT #12

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$13	13	13	10	13	10	11	8	11	8
Certified	\$12	12	12	9	12	9	10	7	10	7
Unregulated	\$11	11	11	8	11	8	9	6	9	6

[Licensed	\$11	11	11	8	11	8	9	6	9	6
Certified	\$10	10	10	7	10	7	8	5	8	5
Unregulated	\$9	9	9	6	9	6	7	4	7	4

## CUMBERLAND VALLEY AREA DEVELOPMENT DISTRICT #13

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	11	8	11	8	11	8	11	8
Certified	\$10	10	10	7	10	7	10	7	10	7
Unregulated	\$9	9	9	6	9	6	9	6	9	6

[Licensed	\$10	10	10	7	10	7	9	6	10	7
Certified	\$9	9	9	6	9	6	8	5	9	6
Unregulated	\$8	8	8	5	8	5	7	4	8	5

## LAKE CUMBERLAND AREA DEVELOPMENT DISTRICT #14

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$11	11	10	7	10	7	10	7	10	7
Certified	\$10	10	9	6	9	6	9	6	9	6
Unregulated	\$9	9	8	5	8	5	8	5	8	5

[Licensed	\$10	10	9	6	9	6	9	6	9	6
Certified	\$9	9	8	5	8	5	8	5	8	5
Unregulated	\$8	8	7	4	7	4	7	4	7	4

## BLUEGRASS AREA DEVELOPMENT DISTRICT #15

	Special Needs		Infants		Toddlers		Pre-school		School-aged	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
Licensed	\$14	14	14	11	13	10	13	10	13	10
Certified	\$13	13	13	10	12	9	12	9	12	9

Unregulated \$12 12 12 9 11 8 11 8 11 8

[Licensed \$12 12 12 9 12 9 11 8 11 8

Certified \$11 11 11 8 11 8 10 7 10 7

Unregulated \$10 10 10 7 10 7 9 6 9 6]

(3) The cabinet shall assess a fee which the family shall pay to the provider for the cost of child day care based on the following sliding scale:

Income Range (Monthly)		FAMILY SIZE Fee per day per family						
		2	3	4	5	6	7	8*
0	399	0.10	0.10	0.10	0.10	0.10	0.10	0.10
400	499	0.20	0.20	0.20	0.20	0.20	0.20	0.20
500	599	0.25	0.25	0.25	0.25	0.25	0.25	0.25
600	699	0.40	0.30	0.30	0.30	0.30	0.30	0.30
700	799	1.00	0.35	0.35	0.35	0.35	0.35	0.35
800	899	2.00	0.60	0.40	0.40	0.40	0.40	0.40
900	999	3.25	1.15	0.45	0.45	0.45	0.45	0.45
1,000	1,099	4.50	2.25	0.80	0.50	0.50	0.50	0.50
1,100	1,199	6.00	3.50	1.60	0.55	0.55	0.55	0.55
1,200	1,299	7.50	5.00	3.10	0.90	0.60	0.60	0.60
1,300	1,399	8.00	6.00	4.60	1.60	1.00	0.65	0.65
1,400	1,499		7.00	6.10	2.65	2.00	0.70	0.70
1,500	1,599		7.75	7.00	4.05	3.05	1.25	0.75
1,600	1,699		8.25	7.85	5.50	4.50	2.30	0.80
1,700	1,799			8.35	7.10	6.25	3.50	1.50
1,800	1,899			8.80	8.35	7.50	5.20	2.50
1,900	1,999			9.30	9.30	8.80	7.00	3.80
2,000	2,099			9.55	9.75	9.75	8.50	5.30
2,100	2,199				10.25	10.25	10.00	7.10
2,200	2,299				10.70	10.70	10.70	8.90
2,300	2,399				11.00	11.25	11.25	10.80
2,400	2,499					11.75	11.75	11.75
2,500	2,599					12.25	12.25	12.25
2,600	2,699					12.60	12.75	12.75
2,700	2,799						12.90	13.00

\*For family size above eight (8), the family fee shall not increase.

(a) Except fees shall not be assessed in:

1. A child protective case under SSBG; or  
2. An AFDC, medical assistance or food stamp case where clients are receiving dependent care disregard.

(b) The DCW shall determine the maximum daily reimbursement rate and parent fee, not to exceed rates as specified in subsection (2) of this section and monitor the payment to the child care provider. If the parent fails to pay the fee the DCW shall:

1. Develop a plan with the parent to pay the fee; or  
2. In TCC cases report nonpayment to DSI if the client refuses to pay.

(c) The DCW shall advise the client to report family and financial changes that may affect authorization of payments. Reauthorizations shall be determined:

1. Every six (6) months; and  
2. Upon receipt of reported changes.

(4) The Cabinet for Human Resources shall, except for SSBG protective service cases, establish priorities for child care services as follows with a ninety (90) day waiting list for approved clients maintained at each local office:

(a) Children with special needs;

(b) Job opportunity and basic skills program or TCC participants who have children ineligible for child care payments under the program;

(c) Families who lose eligibility in another child care program; and

(d) Other low income working parents or parents attending training or educational programs.

(5) The Department for Social Services shall exchange TCC client specific information to the Department for Social Insurance within ten (10) days of discovery.

(a) The DCW shall report the following changes in client information to the local DSI office:

1. Termination of client's job;
2. A child left home;
3. A child moved into the home or a newborn was reported;
4. Client's address changes;
5. An absent parent returns to the home;
6. Client failed to cooperate in paying the fee;
7. Case terminated; or
8. Overpayment or underpayment of TCC benefits.

(b) The DCW shall report the following changes in client information to the Division for Child Support Enforcement:

1. TCC case approval for payments;
2. A child left the home;
3. Payments cease for a child;
4. Client's address changes; or
5. Except for reapprovals for the AFDC program, discontinuances.

(6) The DCW shall terminate day care services when:

(a) DSI determines the client has lost eligibility for TCC benefits;

or

(b) Due to need or income criteria, clients lose eligibility. If due to program policy changes the DCW shall:

1. Reassess the families so clients may be given ten (10) days notice of their eligibility, if they do not meet the new criteria after their authorization period expires;

2. Send written notices explaining new eligibility criteria with a notice of intended action.

(7) The day care worker shall notify the client of their rights as governed by 905 KAR 1:320, Fair hearing.

Section 6. Material Incorporated by Reference. (1) Forms necessary for the implementation of child day care services are herein incorporated by reference.

(2) Material incorporated by reference may be inspected and copied at the Department for Social Services, CHR Building, 6th Floor, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

PEGGY WALLACE, Commissioner

LEONARD E. HELLER, Secretary

APPROVED BY AGENCY: March 27, 1992

FILED WITH LRC: March 30, 1992 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation will be held on May 21, 1992 at 9 a.m. at the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify this agency in writing the following office by May 16, 1992: Masten Childers II, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nancy Rawlings

(1) Type and number of entities affected: The type and number of entities affected are children needing child day care services. It is estimated that CCDBG will serve an additional 3,500 children during KFY '92. SSBG will continue to serve 5,000 children. Currently these children are being served by approximately 500 licensed and certified providers throughout the state. Under the higher payment rates made available under the new initiatives, parents may choose from a variety of providers including, sectarian, nonsectarian, public and private child

day care providers. Thus the number and variety of providers will increase.

(a) Direct and indirect costs or savings to those affected: Direct and indirect costs or savings to those affected are found in a savings to the parents through eligibility for child care services as a result of the CCDBG.

1. First year: Kentucky will receive an allotment of \$13,540,782 in unmatched federal dollars to be obligated in FFY '92 under the CCDBG to be used for direct child care services and to improve and expand existing child care. This is in addition to the \$5,901,700 SSBG federal dollars received for child day care.

2. Continuing costs or savings: The CCDBG has guaranteed federal authorization through FFY '95. Continued authorizations may be made at that time. An SSBG appropriation is made annually up to authorized levels.

3. Additional factors increasing or decreasing costs (note any effects upon competition): A new parent sliding fee scale has been adopted that gradually increases the amount of the parent fee assessed as the families gross income increases. The income scale is set in \$100 increments so as to allow for slight income increases without affecting the amount a parent is required to pay for child care.

(b) Reporting and paperwork requirements: Day care services under SSBG and CCDBG will require an application for services and eligibility will be monitored every six months at redeterminations or when reported changes occur. Providers of child care will bill for payment monthly.

(2) Effects on the promulgating administrative body: The effect on the promulgating administrative body is that the Department for Social Services is the lead agency in administering the CCDBG and is responsible for the coordination of service delivery.

(a) Direct and indirect costs or savings: Since no matching funds are required to receive these federal dollars the state will receive \$13,540,782 under the CCDBG to be used for direct child care services and to improve and expand existing child care.

1. First year: Administrative funding for the CCDBG program is included in the allotment.

2. Continuing costs or savings: The CCDBG program will continue to result in no cost to the state as the federal allotment will pay for benefit and administrative costs.

3. Additional factors increasing or decreasing costs: There are no additional factors that would increase or decrease costs or effect competition for the Department for Social Services.

(b) Reporting and paperwork requirements: By April 1 of each year, the state shall report to the Secretary of HHS the status of funds (obligated or unobligated). Beginning 90 days after the end of the fiscal year 1992, and within 90 days after the end of each succeeding fiscal year, grantees must submit to the Secretary of HHS a financial report for each fiscal year's grant which must include: the total amount of funds expended from the grant during the fiscal year; and the total unliquidated obligations for the program period. The state must audit the use of funds after the close of each 12 month program period and submit a copy to the legislature of the state not later than 30 days after the completion of the audit. The state must also submit to the Secretary of HHS a report of activities carried out with block grant funds covered in the most recent program period.

(3) Assessment of anticipated effect on state and local revenues: Positive effect on state and local revenues are in the payments to day care providers that will be turned over in the local economy in payments to cover care giver costs and supplies. Additionally the ability of parents to enter and remain in the job market will increase.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No other alternate methods were considered because implementation of this program requires that the federal mandate be followed.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: 45 CFR

9832 requires that a record of substantiated parental complaints be maintained and made available to the public upon request may be in conflict with KRS 620.050(4) which limits the department in releasing information regarding investigations of abuse, neglect and dependency.

(a) Necessity of proposed regulation if in conflict: There is not a need to promulgate a proposed regulation to comply with 45 CFR 98.32.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There was not an effort to harmonize this proposed regulation with 45 CFR 98.32.

(6) Any additional information or comments: There are no additional information or comments of which we are aware.

TIERING: Was tiering applied? No. This regulation was not tiered as it implements a new reimbursement rate scale based on a current market rate survey and establishes statewide policy and procedures for implementation of child day care services.

**CABINET FOR HUMAN RESOURCES  
Department for Medicaid Services  
(Proposed Amendment)**

**907 KAR 1:525. Targeted case management services for severely emotionally disturbed children.**

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194.050, 42 USC 1396 a-d, n

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth provisions relating to provision of targeted case management services for severely emotionally disturbed children.

Section 1. Definition. (1) "Case management services" means services necessary to assist the targeted recipient in gaining access to needed medical, social, educational, and other services.

(2) "Severely emotionally disturbed child" means a child that meets the following conditions and circumstances:

(a) The child has a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (excluding those children who are singularly diagnosed as chemically dependent, mentally retarded, or developmentally delayed); and

(b)1. Meets one (1) of the conditions shown in KRS 200.503(2)(a), (b), or (c); or

2. The child presents impairment/behavior of short duration yet of high intensity. Included are severe emotional problems such as suicidal or psychotic trauma reactions where prognosis regarding duration of symptoms cannot be accurately assessed; and

(c) The child has been identified by a regional interagency council (RIAC) as a severely emotionally disturbed child in need of case management services.

(3) "Target group" means the group of Medicaid eligible children that are severely emotionally disturbed.

(4) "Targeted recipient" means a recipient within the target group of severely emotionally disturbed children for whom case management services are provided.

Section 2. Case Management Services. The following services shall be covered as case management services when provided by a qualified case manager to Medicaid eligible recipients in the target

group:

- (1) A written comprehensive assessment of the child's needs;
- (2) Arranging for the delivery of the needed services as identified in the assessment;
- (3) Assisting the child and his family in accessing needed services;
- (4) Monitoring the child's progress by making referrals, tracking the child's appointments, performing follow-up on services rendered, and performing periodic reassessments of the child's changing needs;
- (5) Performing advocacy activities on behalf of the child and his family;
- (6) Preparing and maintaining case records documenting contacts, services needed, reports, the child's progress, etc.;
- (7) Providing case consultation (i.e., consulting with the service providers/collateral's in determining child's status and progress); and
- (8) Performing crisis assistance (i.e., intervention on behalf of the child, making arrangements for emergency referrals, and coordinating other needed emergency services).

Section 3. Excluded Activities. The following activities shall not be considered case management activities:

- (1) The actual provision of mental health or other Medicaid covered services or treatments;
- (2) Outreach to potential recipients;
- (3) Administrative activities related to Medicaid eligibility determinations; and
- (4) Institutional discharge planning.

Section 4. Provider Qualifications. Provider participation shall be limited to the Department for Social Services and the fourteen (14) regional mental health mental retardation centers, licensed in accordance with 902 KAR 20:091.

Section 5. Case Manager Qualifications and Supervision Requirements. (1) Case manager qualifications. Each case manager shall be required to meet the following minimum requirements:

(a) Have a bachelor of arts or bachelor of science degree in any of the behavioral sciences from an accredited institution; and

(b) Have one (1) year of experience working directly with children or performing case management services (except that a master's degree in a human services field may be substituted for the one (1) year of experience); and

(c) Have received training within six (6) months designed and provided by each participating provider directed toward the provision of case management services to the targeted population; and

(d) Have supervision for a minimum of one (1) year by a mental health professional; i.e., psychiatrist, psychologist, master's level social worker (MSW), psychiatric nurse or professional equivalent (a minimum of a bachelor's degree in a human services field, with two (2) years of experience in mental health related children's services). The supervisor shall also complete the required case management certification or training course. [provider staff with at least a master's degree in a human services field.]

(2) Case manager supervision requirement. For at least one (1) year, each case manager shall have supervision performed at least once a month for each case plan.

[Section 6. Implementation Date. The provisions of this regulation shall be applicable with regard to services provided on or after July 1, 1994.]

ROY BUTLER, Commissioner

LEONARD E. HELLER, Secretary

APPROVED BY AGENCY: April 3, 1992

FILED WITH LRC: April 15, 1992 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative

## ADMINISTRATIVE REGISTER - 3270

regulation shall be held on May 21, 1992 at 9 a.m. in the Vital Statistics Conference Room, First Floor East, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 16, 1992, 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: Masten Childers II, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621.

### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: 3,000 severely emotionally disturbed children.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any

effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

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

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

PROPOSED REGULATIONS RECEIVED THROUGH NOON, APRIL 15, 1992

KENTUCKY STATE BOARD OF REGISTRATION  
FOR PROFESSIONAL ENGINEERS & LAND SURVEYORS

201 KAR 18:075. Examination credit for qualified experience.

RELATES TO: KRS 322.040, 322.070, 322.080, 322.090

STATUTORY AUTHORITY: KRS 322.040, 322.070, 322.080, 322.090

NECESSITY AND FUNCTION: Provides for credit on the EIT examination for experience obtained after graduation.

Section 1. (1) Persons eligible to sit for the Engineer-in-training (EIT) Examination who are over the age of forty (40) years and:

(a) Who have lawfully practiced under a licensed engineer or engineers for ten (10) or more years since graduation from an approved college engineering curriculum; or

(b) Who, since graduation from an approved college engineering curriculum, have held the position of assistant professor, associate professor or professor for ten (10) or more years in an approved college of engineering, may, at the discretion of the board, be credited one (1) point per year for each year of experience gained or faculty status held toward the minimum score for the EIT Examination, not to exceed ten (10) points.

(2) Any applicant meeting the requirements set out in subsection (1) of this section who has sat for the EIT Examination after January 1, 1990, may petition the board to have his score recalculated under the provisions of subsection (1) of this section. If the applicant attains the minimum adjusted score under the recalculation, he shall not be required to again sit for the EIT Examination.

(3) This provision shall apply only to applicants who have been residents of Kentucky for one (1) year, and will authorize an applicant attaining the minimum adjusted score on the EIT Examination to sit for the Professional Engineer Examination.

(4) Any licensing board of another state or foreign country requesting certification of registration from this board will be notified that such applicant met the minimum EIT Examination score under the terms of this regulation.

GEORGE ELY, Chairman

APPROVED BY AGENCY: January 10, 1992

FILED WITH LRC: April 15, 1992 at 11 a.m.

PUBLIC HEARING: A public hearing on the adoption of this regulation shall take place at the hour of 1:30 p.m. on the 25th day of May, 1992, at the offices of the Kentucky State Board of Registration for Professional Engineers and Land Surveyors, Kentucky Engineering Center, 160 Democrat Drive, Frankfort, Kentucky 40601. Persons desiring to be heard shall contact Larry Perkins, Executive Director, not later than five (5) days prior to the hearing.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry S. Perkins

(1) Type and number of entities affected: Approximately 5-10 per year.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. All affected parties will be treated equally.

GENERAL GOVERNMENT CABINET

Department of Agriculture

Division of Weights and Measures

302 KAR 16:080. Designated bungee (bungy) or similar apparatus.

RELATES TO: KRS 247.232, 247.234

STATUTORY AUTHORITY: KRS 246.040, 247.232, 247.234, 247.236, 247.990

NECESSITY AND FUNCTION: To establish the criteria for obtaining a permit to operate an amusement ride or attraction in the Commonwealth of Kentucky: designated bungee ("bungy") or similar apparatus.

Section 1. Establishes the following inspection criteria for bungy jumping operations open to the general public. The regulation does not apply to bungy jumping operations that are for demonstration/exhibition purposes, or deemed not open to the general public.

Section 2. Scope. This criteria specifies and gives guidance on the site and site approval, the design, testing of equipment, the management of the operation, the operating procedures, the emergency provisions and procedures. In this criteria the term "bungy (bungee) jumping" includes and refers to permanent and mobile jumping facilities and operations. Each time a mobile operation moves to a new location or each time a mobile operation dismantles and reassembles on the same location shall be considered a new "set-up" for application and inspection purposes.

Section 3. Definitions. The definitions as applied to amusement ride and attractions revised statute and applicable regulation and the following shall apply:

(1) Air bag. A device which cradles the body and which uses an air release breather system to dissipate the energy due to a fall, thereby allowing the person to land without an abrupt stop. Bungee and bungy shall or similar item or material will be considered the same throughout this regulation.

(2) Bungy cord. The elastic rope to which the jumper is attached.

(3) Bungy jumping. When a person free falls from a height and the descent is limited by attachment to the bungy cord.

(4) Bungy jump site. The area designated for the bungy jump operation by the owner or operator and approved by the Kentucky Department of Agriculture.

(5) Carabineer. A shaped metal device with a gate used to



connect sections of the bungee cord, jump rigging, equipment of safety gear. Carabineers used for life supporting activities must be of the locking design.

(6) Catapulting, launching, negative or reverse jumping. The practice of stretching the bungee cord while attached to the jumper who is held on the ground then released and propelled into the air.

(7) Dynamic loading. The load placed on the bungee cord, rigging, harness, etc. by the weight of the jumper plus and the G forces involved.

(8) G force. The unit of force equal to the gravity exerted on a body at rest.

(9) Harness. An assembly to be worn by a jumper and to be attached to a bungee cord. It is designed to prevent the wearer from becoming detached from the bungee system.

(10) Lift. Device or similar equipment, any device utilized to transport customers, general public or employee to work area or jump launch area.

(11) Military specification (Mil-Spec) cord. Preloaded or pre-stretched rubber cords originally developed for military use. These cords are made in conformance with military specifications and are often referred to as "Mil-Spec". These cords are usually cotton or nylon sheathed. There are some nonmilitary sheathed cords in use that may meet the specifications. This type of cord is usually made of three (3) to five (5) sheathed cords contained in one (1) outer sheathing.

(12) New Zealand cord. All rubber cords made of synthetic or natural rubber using continuous loops or strands. These types were developed in New Zealand. These type cords do not usually utilize any sheathing, and are configured as one (1) large cord made of several hundred small rubber strands.

(13) OSHA standards. Occupational Safety and Health Administration 29 CFR 1910, or 1926, latest edition.

(14) Platform. Launch area where jumper will be assembled and depart from.

(15) Safe working load (SWL). The maximum rated load which can be safely handled by equipment or a component of the rigging under specified conditions, expressed in pounds.

(16) Safety factor. The ratio obtained by dividing the breaking load of any piece of equipment by its working load.

(17) Safety harness (safety belt). An assembly worn by a jump master, etc. it is designed to be attached to a safety line to stop the wearer from falling.

(18) Safety line. A line used to connect the safety harness or belt to an anchorage point or rail in situations where there is a risk of a fall.

(19) Sandbagging. The practice of a jumper holding onto any object (including another person) while jumping, for the purpose of exerting more force on the bungee cord in order to stretch it further, and then releasing the object at the bottom of the jump causing the jumper to rebound with more force than could be created by the jumper's weight alone.

(20) Stunt jumping. The combining of any other activity with bungee jumping with disregard for safety clearances as outlined in this criteria.

(21) Tandem, multiple, or double jumping. The practice of two (2) or more harnessed together while jumping simultaneously from the same platform.

(22) Ultimate tensile strength. Achieved when the applied load reaches a maximum prior to failure, expressed in pounds.

Section 4. Operating Approval. (1) The owner/operator shall be issued a permit under KRS 247.234 and applicable KARs (302 KAR 16:010 through 16:060) from the Kentucky Department of Agriculture.

(a) For permanent and mobile installations the permit of operation shall be renewed annually.

(b) For mobile operations inspection fee will be charged at each

"set-up".

(2) Site plan and equipment design and construction.

(a) A report shall be submitted to the construction or "set-up" which shall contain site plans, safety zones, drawings, specifications and certification of equipment and structures, and operating manuals.

(b) The department may require a registered engineer's report that the design and construction of the structures, equipment, access ways, operating areas, and intended method of operations meet applicable engineering standards and local codes.

(c) The owner/operator shall provide a certificate of insurance to the department that an insurance policy exists covering any spectator or patron in the amount required by law.

Section 5. Permanent Platform. (1) The safety working load (SWL) shall be determined by the maximum weight on the platform at any one (1) time, with a safety factor of not less than five (5), to include any dynamic loads from the jumping operation.

(2) Where the platform is not an integral part of the structure to which they are attached, shall have a safety factor of at least five (5) over the total design load, to include any dynamic loads from the jumping operation.

(3) Where the platform is not an integral part of the structure, these platforms will have a back-up safety at all times with a safety factor of at least five (5).

(4) On either type of platform, a balance load must be maintained during all operations.

(5) The platform shall have a slip-resistant floor surface. The platform shall be constructed of an open mesh type steel to insure jump master has visual site of jumper at all times during the jump operation from jump until recovery.

(6) The platform shall have anchor points for safety harness belt lanyards, designed and placed to best suit the operator's need.

(7) The platform shall be constructed to have sufficient working space, for the intended number of persons, as specified in the site manual.

(8) There shall be a self-closing gate with an automatic positive lock system across the jump point when a jumper is not present at the jump point.

(9) Access and platform walkways, stairways, ladders, handrails, etc. shall meet minimum OSHA standards and Kentucky Building Code when and where applicable.

(10) All shackles shall be safety-wired.

(11) The system for recovering the jumper shall be operated by either the jump operator or jump master.

(12) There shall be an alternative method of jumper recovery should the main recovery system fail to recover the jumper.

(13) In a human powered retrieval system or in a friction lowering system, an eleven (11) mm or larger rock climbing rope shall be used.

(14) In a human powered retrieval system where a jumper is pulled back up to the jump platform, a locking mechanism (for example, and ascender or jumper) shall be used to stop and hold the jumper in one (1) place once the applied force on the retrieval rope is removed.

(15) In a friction lowering system there shall be a "dead man switch" or locking mechanism that will stop the lowering action of the system should a situation arise where the person in charge of lowering the jumper becomes unconscious or unable to perform the lowering duties safely.

(16) All bungee cords shall be attached to the anchor point at all times the cord is in the connection area.

Section 6. Bungee Cord(s). (1) The minimum factor of safety (FS) for any configuration bungee cord shall be not less than five (5). The maximum dynamic load possible for a jumper to exert on a bungee cord shall be no greater than one-fifth (1/5) or twenty (20) percent of

that cord's minimum breaking strength. Minimum breaking strength shall be no less than that recommended by the manufacturer.

(2) The maximum G force allowable to a jumper using waist and chest harness is four and five-tenths (4.5) Gs. The maximum G force allowable to a jumper using an ankle harness is three and five-tenths (3.5) Gs.

(3) In a multiple cord design (Mil-Spec) the cords shall be entirely enclosed in a protective sheath.

(4) In a single cord system the binding shall hold the cord threads in the designed positions. The binding shall have the same characteristics as the cords itself.

(5) Bungy cord design, manufacturing, and testing shall meet the following specifications:

(a) All bungy cord manufacturers shall perform conclusive ultimate tensile strength testing on a representative amount of all manufactured bungy cords with stress to failure of the bungy samples. The bungy cord sample must have been constructed using the manufacturer's standard methods which shall include bungy cord end connections. All tests shall be performed or supervised by an independent testing laboratory or a certified engineer. Test results shall be readily available, upon request. The ultimate tensile strength is reached when the applied load reaches a maximum before failure.

(b) A load verses elongation curve, resulting from the aforementioned test shall be used to calculate the maximum G force exerted by the cord on a jumper within the proper weight range. Documentation of these calculations shall be readily available upon request.

(c) All bungy cord manufacturers shall provide specifications on maximum allowable usage of bungy cords expressed in number of jumps.

(d) All bungy cord manufacturers shall provide specifications on maximum deterioration or damage to cords allowed. This may include but is not limited to hours of ultraviolet light exposure, percentage of broken threads, evidence of thread wear, etc.

(6) Bungy cords shall be removed from use and destroyed when:

(a) They exhibit deterioration or damage;

(b) They do not react according to specifications;

(c) They have reached the maximum usage expressed in number of jumps as specified by the manufacturer;

(d) They exhibit any abnormalities as specified by the manufacturer.

(7) Bungy cords shall be considered destroyed when they are cut into lengths not greater than five (5) feet.

(8) All operators shall have an audible system for recording the number of jumps on each individual cord in use. This data shall be readily available to the manufacturer, any jumper, and any regulating authority. This recording system shall be documented in the site manual:

(a) Cord manufacturer;

(b) Cord lot;

(c) Cord serial number;

(d) Total allowable jump per manufacturer specifications;

(e) Record name of jumper to include address and phone number;

(f) Jump date and time.

(9) Any material such as "webbing" used in either of the two (2) end attachment points of a bungy cord regardless of whether it is designed as a single or multiple cord system shall have a strength of at least three (3) times the ultimate tensile of the cord.

(10) All end attachment points subject to wear are to be retired and destroyed when that cord is retired and destroyed.

(11) The unloaded length of the bungy cord plus the rigging system shall be less than one-half (1/2) the designed extended length.

Section 7. Jumper Harness and Hardware. (1) All harness, webbing, bindings, ropes, and hardware shall meet or exceed the

standards as set by Union International Alpinism Association (UIAA) or, the requirements of ANSI A10.14-1975, latest edition.

(2) A jumper harness shall be either a full body harness, a sit harness with shoulder straps, or an ankle harness. Harnesses shall be specifically designed and manufactured for mountaineering or bungy jumping.

(3) Harnesses shall be available to fit the range of patron sizes accepted for jumping.

(4) There shall be a redundant connection (back-up) between the harnesses and the cord(s).

(5) All load supporting slings or webbing shall be flat tubular mountaineering webbing or its equivalent. Minimum breaking strength shall be 6,000 pounds. Slings or webbing shall be formed by sewing, or properly tied with a "water knot" with taped ends.

(6) Carabineers shall be the steel crew gate type with a minimum breaking strength of 6,000 pounds. All carabineers shall be designed and constructed using the standards for mountaineering gear.

(7) All ropes, pulleys, and shackles used to raise, lower, or hold the jumper shall have a minimum breaking strength of 6,000 pounds. All pulleys shall be compatible with the rope.

(8) All anchors shall meet or exceed the following:

(a) Where a single anchor is used to attach the bungy cord to the platform, it shall have a factor of safety of twenty (20).

(b) Where two (2) anchors are used to attach the bungy cord to the platform, each shall have a safety factor of five (5).

(c) Where the anchor(s) is made of wire rope, it shall have swagged ends with the thimble eyes.

(d) Where the anchor(s) is made of "webbing" it shall be manufactured by a company that normally supplies these anchors to crane and rigging companies.

(9) Test of all jumper harnesses and hardware have to be available to the inspector.

(10) All items to be serial numbered.

Section 8. Equipment Inspection and Testing. (1) All bungy cords shall be inspected by the jump master. Frequency of inspection shall be stated in the operations manual. As a minimum the cord(s) shall be inspected prior to opening the site each day, and any other inspections as specified by the bungy cord manufacturer.

(2) All jump rigging lowering system, platform, anchors, and safety gear shall be regularly inspected for damage or wear, by the jump master. Frequency of inspection shall be stated in the operations manual. As a minimum the equipment shall be inspected prior to opening the site each day, and any other inspections as specified by the equipment manufacturers.

(3) All harnesses and harness rigging shall be inspected for damage or wear before use by each jumper.

(4) Hardware subject to abnormal loadings, being impacted against hard surfaces, or having surface damage, shall be replaced.

(5) Ropes, webbing, and slings subject to abnormal shock load shall be replaced.

(6) Any items of equipment, rigging, or safety gear that are found to be substandard shall be replaced immediately. If a replacement is not available, jumping shall cease immediately, until a proper replacement is available.

(7) Each item shall have its own permanent individual identification.

(a) The application of this identification shall not harm the material of the item.

(b) The identification shall be clearly visible to the operators during daily operations.

(c) The identification shall be recorded on the equipment log sheet.

(d) Recovery time between reuse on each bungy cord after each use will be marked on cord and/or entered in log book by serial number.

Section 9. (1) Jump Area.

(a) The jump space is defined using dimensions in the lateral (perpendicular), and longitudinal (parallel) directions with respect to the jumper's direction of launch. The following is used to design this space:

1. Maximum system length - the maximum stretched length of a bungee cord system including static line length.

2. Average cord length - the average of the unstretched (static) bungee cord system length and the maximum system length.

(b) The jump space is defined in two (2) parts: top jump space and bottom jump space. The top jump is directly above the bottom jump space. The jump space is longitudinally and laterally centered under the jump point.

(c) The bottom jump space is a box-shaped volume extending from ground level upward to an altitude lying below the jump point by a distance equivalent to fifty (50) percent of the maximum system length. The longitudinal dimension of this volume (length) is equivalent to 200 percent of the unstretched, static length of the bungee cord system.

(d) The top jump space is a pyramid-shaped volume. The four (4) base points of this pyramid shape are coincident with the topmost four (4) points of the bottom jump space. The top point of this pyramid shape is coincident with the jump point. (See Annex 1)

(e) The jump space shall be free of obstructions with the exceptions of the water or air bag.

(2) Over land.

(a) The jump area shall be fenced or other barriers provided. The fence or barriers shall be designed to prevent people and animals from entering the jump area.

(b) The jump area shall be free of spectators at all times.

(c) The jump area shall be free of any equipment or staff when a jumper is being prepared on the jump platform and until the jumper is stable after the jump.

(d) If the jumper is lowered for recover, a clean, smooth, nonabrasive surface shall be provided for the jumper and cord(s). This recovery area shall be at least ten (10) feet by ten (10) feet.

(e) A place for the jumper to sit and recover shall be provided close to, but outside the landing area.

(f) An air bag certified for a fall from the platform height shall be in place centered under the jumper.

(g) There shall be adequate clearance between the jumper at full extension and the surface of the air bag.

(h) Adequate storage shall be provided on site to protect equipment from damage. The storage shall be secured against unauthorized entry.

(3) Over water.

(a) The jump space/landing area shall be free of other vessels, floating and submerged objects and the public, and when in open water shall be defined by the deployment of buoys. A sign of appropriate size which reads "BUNGY JUMPING KEEP CLEAR" shall be fixed to the four (4) sides of the buoy line.

(b) Minimum water depth shall be nine (9) feet.

(c) The recovery vessel shall:

1. Be properly registered and/or certified by appropriate authorities.

2. Be positioned accurately and remain in a constant position for the recovery.

3. Have a landing pad size of at least five (5) feet by five (5) feet, within and lower than the sides of the vessel.

4. Be able to be maneuvered in the range of water conditions expected and will enable staff to pick up a jumper or other person who has fallen into the water.

5. Have a minimum of two (2) operators: one (1) pilot the vessel and at least one (1) other to assist jumper recovery. At least one (1) jumper recovery assistant shall be certified life guard.

(d) Where the landing area is part of a constructed swimming

pool complex or is specially constructed for bungee jumping the following shall apply:

1. The pool size shall meet the requirements for the jump area size.

2. The minimum water depth shall be nine (9) feet.

3. Rescue equipment shall be available.

4. The jump space and landing area shall be fenced.

5. Only the operators and participants of the bungee jump shall be within the jump space and landing area.

Section 10. Site Manual. (1) Each site shall have an operating manual, referred to as the site manual, for the safe operation of the site. A copy of the manual and any amendments shall be held at each site, and shall be freely available to the staff. As a minimum, the manual shall include:

(a) A site plan view of the site with all components in place, fencing and the jump zone defined.

(b) Job descriptions/position duties and responsibilities.

(c) Personnel qualifications - required and actual.

(d) Staff training procedures and documentation.

(e) Inspection/maintenance procedures - to include inspection frequency, inspection standards, follow-up actions.

(f) Equipment descriptions/certifications/test documentation.

(g) Disaster/emergency plans procedures.

(h) Accident/incident reporting procedures.

(i) Examples of forms to be used.

(j) Examples of logs to be kept.

(k) Daily preopening inspection/maintenance procedures.

(l) Jumper restrictions - age, weight, medical, physical and mental condition.

(m) No jumper below the age of eighteen (18).

(n) No signed certificate allowed for permission for under the age of eighteen (18).

(o) Jumper interview and acceptance procedures.

(p) Jumper preparation procedures.

(q) Jump procedures.

(r) Recovery procedures.

(s) Close-down procedures.

(t) State maximum weather conditions for safe operation.

(2) Any amendments to the site manual shall be approved in writing by the Kentucky Department of Agriculture, Amusement Rides and Attractions Inspection Section before implementation.

Section 11. Operations. (1) There shall be an operating public address system on site.

(2) There shall be a telephone communication link to emergency medical and rescue services within a reasonable distance.

(3) A sign shall be posted listing the medical, weight, and age restrictions for jumpers. The sign shall be clearly visible to intending jumpers. Letters not less than one-half (1/2) inch.

(4) Symbol not less than three and one-half (3 1/2) inches across at any point required for person(s) not able to read the English language.

(5) KRS 247.236, Operation and Construction of Amusement Rides and Attractions, and applicable KARs will be complied with.

(a) Jumper jump area will be secured (enclosed with a mesh type fence constructed of steel, not less than five (5) feet four (4) inches in height with no opening less than two (2) inches except at gate hinge points and at locking catch and these areas only large enough for operation. Landing zone operator must clear the area during jump. Assign position or position will be marked for operator during jump.

(b) Floor will be constructed of steel where no solid material - material of steel to be mesh with no opening less than one (1) inch not greater than two and one-half (2 1/2) inch opening.

(c) The jumpers shall be instructed and prepared in a place separated from the jump point.

(d) Safety type ring to frame to connect to jumper while being prepared for jump at all times.

(e) Approved scales to be used in weighing jumper when fully prepared for jump (Kentucky Department of Agriculture, Division of Weights and Measures inspection of weighing device report must be posted.)

(f) Adjustments for the weight of each jumper shall be made by the jump masters selection of bungy cord(s) and/or adjustment of the length of the rigging.

(g) The jump master shall stop the jumping operations when the weather conditions affect the safe operation of the site.

1. Wind speed and direction indicator with readout will be at jump platform.

2. Ceases operation instruction will be posted at each site indicating limitation due to operation height and wind speeds or other factors due to weather.

(h) The mobile platform for jumping shall be a constant height above the ground or surface.

(i) All staff members shall be easily identifiable from the public or jumpers, by means of uniforms or similar clothing colors, etc.

(j) All operations and passengers on mobile platforms shall wear a safety belt/harness and lanyard attached to the anchor points, at all times the platform is elevated.

(k) The jumper, on a mobile platform shall wear a safety lanyard attached to the anchor points until jump height is reached.

(l) Bungy "catapulting", "negative jumping", "reverse jumping" or "launching" is prohibited.

(m) "Tandem", "double" or "multiple" jumping is prohibited.

(n) "Sandbagging" is prohibited.

Section 12. Unacceptable Operation. (1) Mobile or fixed type cranes not designed, manufactured, tested nor intended to primarily handle personnel.

(2) Lighter than air type aircraft or aircraft not regulated by the Federal Aviation Administration such as hot air balloon, blimp, helicopter or other craft not specified that somehow have escaped to be regulated by Federal Aviation Administration.

(See JUMP SPACE DIAGRAM on next page)

ED LOGSDON, Commissioner

APPROVED BY AGENCY: April 6, 1992

FILED WITH LRC: April 7, 1992 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1992, at 9 a.m. at the Department of Agriculture Conference Room, Capital Plaza Tower, 7th Floor, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 17, 1992, 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 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: Lee Sisney, General Counsel, Department of Agriculture, Capital Plaza Tower, 500 Mero Street, 7th Floor, Frankfort, Kentucky 40601.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl Dills

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: The department has issued 128 amusement ride licenses for calendar year 1990. (63 permanent; 65 mobile units) This includes 661 amusement attractions or devices. In addition to licensing, safety inspection and proof of financial responsibility, each amusement ride license holder is required by this regulation to comply with all applicable statutes and regulations.

1. First year: Costs are associated with filing an application, inspection and issue of permit. Actual cost will depend upon the number of frequency of operations.

2. Continuing costs or savings: Minimal reporting costs and enhanced amusement ride safety will continue beyond the first year.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Actual minimum costs will depend upon the frequency or number of operations and permits issued at each amusement ride site.

(b) Reporting and paperwork requirements: Immediate reports of application, itinerary, inspection and permit issued.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No significant first year costs or savings are implicated by this regulation. However, public safety is enhanced by the report of a possible unsafe condition.

2. Continuing costs or savings: No additional costs or savings continue after the first year.

3. Additional factors increasing or decreasing costs: Actual costs may be minimally increased or decreased by the number of operations reported.

(b) Reporting and paperwork requirements: Processing of reports and inspection reports required by a safety inspection.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method, report by the amusement ride operator is the only method to provide timely notice of an operation.

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

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

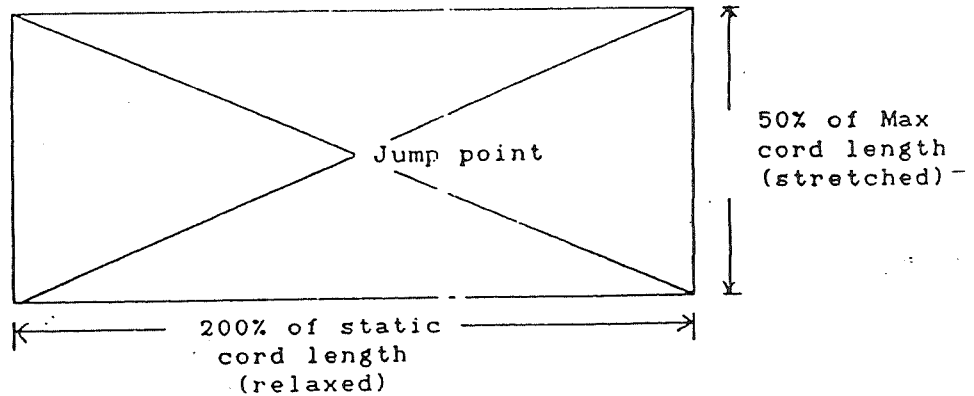
(6) Any additional information or comments:

TIERING: Was tiering applied? No. Pursuant to KRS 247.232, 247.234 and 247.236, this regulation requiring a report of an operation must be applied to all amusement ride or attraction license holders.

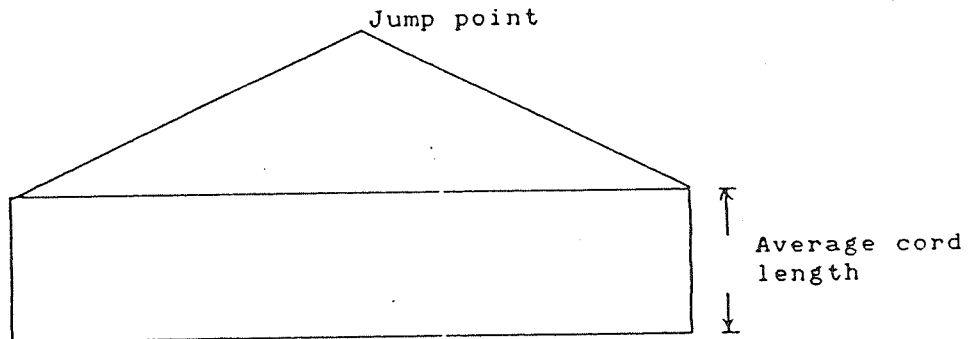
ANNEX 1

JUMP SPACE DIAGRAM

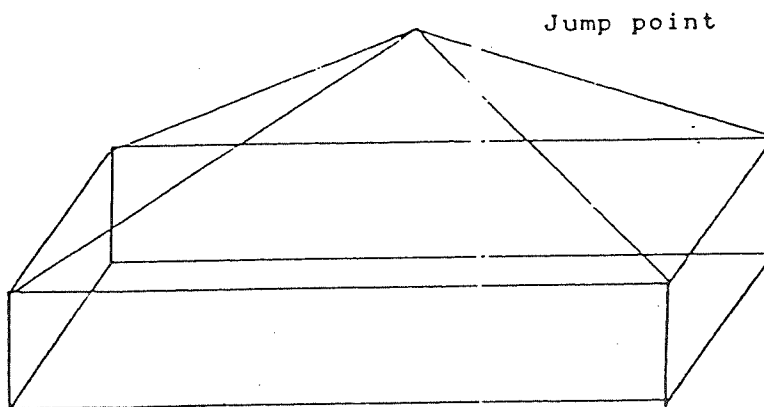
TOP VIEW



SIDE VIEW



OBLIQUE VIEW



$$\text{Average cord length} = \frac{\text{stretched length} + \text{relaxed length}}{2}$$

Cord length = length of bungy cord + length of any rigging from jumper harness to anchor point.

**EDUCATION AND HUMANITIES CABINET  
Department for Libraries and Archives  
Board for the Certification of Librarians**

**725 KAR 2:060. Certification of public librarians.**

RELATES TO: KRS 171.230-171.300

STATUTORY AUTHORITY: KRS Chapter 13A, 171.250, 171.260

NECESSITY AND FUNCTION: Certification of public librarians is mandated by KRS 171.250 and 171.260. Regulations are needed to prescribe the rules by which public librarians shall be certified. This program is administered by the Kentucky Department for Libraries and Archives.

Section 1. Definitions. (1) "Board" means the Kentucky State Board for the Certification of Librarians.

(2) "Library work experience" means employment in a library which includes administration, collection development, technical or public services, or support for public service areas, and excludes secretarial, custodial, groundskeeping, security, food service, driver, and messenger duties.

(3) "Library information services" are duties which require special skills and knowledge to be performed properly.

Section 2. Required Certification by Public Library Position (1) Library directors serving a population of more than 15,000 shall hold or obtain a professional certificate regardless of part-time or full-time employment.

(2) Library directors serving a population of 15,000 or less shall hold or obtain at least the paraprofessional certificate regardless of part-time or full-time employment.

(3) Assistant librarians, bookmobile librarians, branch or department heads shall hold or obtain at least the paraprofessional certificate regardless of part-time or full-time employment.

(4) All other permanent positions, whether held by one (1) or more individuals, providing library information services as determined by local library policy shall be filled by persons who obtain or hold at least the library experience certificate.

Section 3. Types of Certificates. (1) A Professional Certificate I requires a master's degree in library science from an ALA accredited school and is valid for five (5) years;

(2) A Professional Certificate II requires a master's degree in library science from a library school which has not been ALA accredited and is valid for five (5) years;

(3) A Professional Certificate III requires a bachelor's degree with at least twenty-one (21) hours in library science and is valid for five (5) years;

(4) A Professional Certificate IV required successful passage of the library certification examination before July 1, 1980, valid for five (5) years;

(5) A paraprofessional certificate is valid for five (5) years and requires:

(a) Sixty (60) hours of college training, twelve (12) hours of library science (library science hours may be included in the sixty (60) hours of college training), and two (2) years of library work experience; or

(b) A high school diploma or GED, fifteen (15) hours of library science and five (5) years of library work experience.

(6) A library experience certificate is valid for three (3) years and requires a high school diploma or GED and:

(a) Twelve (12) hours in library science; or

(b) Nine (9) hours in library science and three (3) hours in a related field of study; or

(c) Six (6) hours in library science and ten (10) years of library work experience; or

(d) A bachelor's degree and six (6) hours in library science; or

(e) Successful completion of an on-the-job training program as approved by the board.

(7) Professional, paraprofessional and library experience certificates shall be renewed according to 725 KAR 2:070.

(8) A temporary certificate shall be issued only to persons who hold jobs requiring certification as stated in Section 2 of this regulation and who do not meet such requirements. The temporary certificate is valid for one (1) year from date of issuance and may be renewed four (4) times.

Section 4. Sources of Education for Initial Certification. (1) The board shall accept academic credit from college credit courses offered by institutions of higher education which are accredited by their respective regional associations.

(2) The board shall accept library and information science credits from courses offered by:

(a) Graduate schools accredited by the Committee on Accreditation of the American Library Association and these courses shall be approved for all types of certificates;

(b) Colleges whose library and information science departments are accredited by their respective regional associations and these courses shall be approved for all types of certificates;

(c) Accredited colleges which offer individual library and information science courses and these courses shall be approved for all types of certificates;

(d) Community colleges which offer library or information science courses that are nontransferable to a four (4) year college and these courses shall be approved for paraprofessional and library experience certificates. One (1) of these courses may be approved for an initial professional certificate.

(3) The board shall accept nontraditional sources of education toward attainment of specified certificates as follows:

(a) A library institute is an in-depth program of library and information science developed according to approved guidelines and shall be accepted for paraprofessional and library experience certificates. The program shall be submitted to the board for approval sixty (60) days in advance of implementation. One (1) institute will substitute for a three (3) hour college level library and information studies course.

(b) An on-the-job training program consists of at least three (3) structured, library-based training series, developed according to approved guidelines and shall be accepted for the library experience certificate. The program must be submitted to the board for approval sixty (60) days in advance of implementation. Each program will substitute for nine (9) hours of library and information science credit.

(c) Continuing education units (CEU) are educational offerings which provide credit through a certified program. Four (4) CEUs in library topics will equal one (1) three (3) hour credit and may be substituted once toward initial paraprofessional and library experience certificates.

(d) Audited courses are college level library and information science courses for which students register and attend but receive no college credit and shall be accepted for credit toward paraprofessional and library experience certificates until December 31, 1992. Proof of attendance and satisfactory completion of the course must be provided by the course instructor.

(e) Successful completion of an approved on-the-job training program and achievement of the library experience certificate may substitute for three (3) hours of college credit toward the paraprofessional certificate.

Section 5. Application for public library certification should be made to the board.

Section 6. A fee of five (5) dollars shall be charged for all certificates issued.



Section 7. Professional, paraprofessional and library experience certificates shall be issued to voluntary applicants who meet the requirements and submit the required fee.

Section 8. (1) The following materials are hereby incorporated by reference:

(a) The guidelines of the "On-The-Job Training Program", dated January 29, 1992, referred to in Section 4(3)(b) and (e) of this regulation.

(b) The guidelines for a "Library Institute", dated January 29, 1992, referred to in Section 4(3)(a) of this regulation.

(c) The "Application for Public Library Certification", dated January 29, 1992, referred to in Section 5 of this regulation.

(2) The materials incorporated by reference in subsection (1) of this section may be copied or obtained from the Kentucky Department for Libraries and Archives, P. O. Box 537, Frankfort, Kentucky 40602-0537, Monday through Friday, 8 a.m. to 4:30 p.m.

Section 9. 725 KAR 2:020 is repealed.

VERA GUTHRIE, Chair

APPROVED BY AGENCY: January 29, 1992

FILED WITH LRC: April 8, 1992 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1992, at 10:30 a.m. at the Kentucky Department for Libraries and Archives. Individuals interested in being heard at this hearing shall notify this agency in writing by May 17, 1992, 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: Ellen Hellard, Kentucky Department for Libraries and Archives, P.O. Box 537, Frankfort, Kentucky 40602-0537.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ellen Hellard

(1) Type and number of entities affected: 118 counties providing public library service; approximately 500 staff persons.

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

1. First year: \$5 per application @ 100 (est.) = \$500.

2. Continuing costs or savings: \$5 per application @ 50 (est.) = \$250.

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Application submitted to agency with verifying documentation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Approximately \$200 in mailing costs, \$1,000 in staff time - direct costs

2. Continuing costs or savings: Approximately \$100 in mailing costs, \$500 in staff time.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Verifying applications, distributing certificates, maintaining database of applicants.

(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected: Certification is required by statute, the regulations

provide alternative methods of obtaining certification.

(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: 725 KAR 2:020 repealed by this action was extensively revised and clarified by the new regulation 725 KAR 2:060.

TIERING: Was tiering applied? Yes. Smaller counties often cannot afford master's level staff, therefore tiering which establishes lesser educational requirements for certified staff is applied, and jobs with less responsibility require less formal education.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government?

Yes X No    (If yes, complete questions 2-4)

2. State what unit, part or division of local government this administrative regulation will affect. Public Library Boards of Trustees which are either taxing districts or units of city or county government.

3. State the aspect or service of local government to which this administrative regulation relates. Public Library service.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: Certification of public librarians has been in effect for many years. Costs occur when any one library must provide training for new staff who are not already eligible for certification. Therefore specific costs cannot be determined due to local factors of employment.

#### EDUCATION AND HUMANITIES CABINET Department for Libraries and Archives Board for the Certification of Librarians

##### 725 KAR 2:070. Certification renewal of public librarians.

RELATES TO: KRS 171.230-171.320

STATUTORY AUTHORITY: KRS Chapter 13A, 171.250, 171.260

NECESSITY AND FUNCTION: Renewal of certification of public librarians is authorized by KRS 171.250. Regulations are needed to prescribe rules for the manner in which public librarians shall renew their certification. This program is administered by the Kentucky Department for Libraries and Archives.

Section 1. Definitions. (1) "Board" means the Kentucky State Board for the Certification of Librarians.

(2) "Library work experience" means employment in a library which includes administration, collection development, technical or public services, or support for public service areas, and excludes secretarial, custodial, groundskeeping, security, food service, driver, and messenger duties.

(3) "Library information services" mean duties which require special skills and knowledge to be performed properly.

(4) "Professional library association" means an organization of librarians and persons interested in libraries.

(5) "Certification renewal point" means a unit of measurement which is the equivalent of ten (10) contact hours of learning activity.

(6) "Learning activity" means a class, institute, seminar or workshop which is planned, coordinated, administered and evaluated in terms of learning objectives.

Section 2. Required Certification Renewal by Public Library Position. (1) Library directors serving a population of more than 15,000 shall renew the professional certificate every five (5) years regardless of part-time or full-time employment. Ten (10) certification renewal points must be accumulated within the five (5) year period.

(2) Library directors serving a population of 15,000 and less shall renew at least the paraprofessional certificate every five (5) years regardless of part-time or full-time status. Ten (10) certification renewal points must be accumulated within the five (5) year period.

(3) Assistant librarians, bookmobile librarians, branch or department heads shall renew at least the paraprofessional certificate every five (5) years regardless of part-time or full-time status. Ten (10) certification renewal points must be accumulated within the five (5) year period.

(4) All other employees in permanent positions providing library information services as determined by local library policy shall renew the library experience certificate every three (3) years, regardless of part-time or full-time status. Three (3) certification renewal points must be accumulated within the three (3) year period.

Section 3. Types of Certificates. (1) A Professional Certificate I requires a master's degree in library science from an ALA accredited school and renewal is valid for five (5) years;

(2) A Professional Certificate II requires a master's degree in library science from a school which has not been ALA accredited and renewal is valid for five (5) years;

(3) A Professional Certificate III requires a bachelor's degree with at least twenty-one (21) hours in library science and renewal is valid for five (5) years;

(4) A Professional Certificate IV required successful passage of the library certification examination before July 1, 1980, and renewal is valid for five (5) years;

(5) A paraprofessional certificate is valid for five (5) years and requires:

(a) Sixty (60) hours of college training, twelve (12) hours of library science (library science hours may be included in the sixty (60) hours of college training), and two (2) years of library work experience; or

(b) A high school diploma or GED, fifteen (15) hours of library science and five (5) years of library work experience.

(c) Successful completion of an approved on-the-job training program and achievement of the library experience certificate may substitute for three (3) hours of college credit toward the paraprofessional certificate.

(6) A library experience certificate is valid for three (3) years and requires a high school diploma or GED and:

(a) Twelve (12) hours in library science; or

(b) Nine (9) hours in library science and three (3) hours in related field of study; or

(c) Six (6) hours in library science and ten (10) years of library work experience; or

(d) A bachelor's degree and six (6) hours in library science; or

(e) Successful completion of an on-the-job training program as approved by the board.

Section 4. Sources of Learning Activities which Provide Certification Renewal Points. (1) The board shall accept job-related coursework or continuing education offerings from institutions of higher education as follows:

(a) Classes, institutes, seminars, workshops, conferences, lecture series or internships;

(b) Courses may be taken for academic credit or audited.

(2) The board shall accept activities in professional library

associations as follows:

(a) Participation in seminars, workshops, conferences and lecture series;

(b) The holding of an association office, with statement specifying learning activity and derived educational benefit.

(3) The board shall accept participation in seminars, workshops, conferences and lecture series sponsored by the Kentucky Department for Libraries and Archives.

(4) The board shall accept participation in workshops, lecture series and on-the-job training programs sponsored by individual libraries.

(5) The board shall accept self-directed learning activities as follows:

(a) Writing reviews of library materials or library-related books, articles, or chapters which are published in statewide, regional or national publications; or

(b) Editing a library publication with statewide, regional or national distribution; or

(c) Making a prepared library-related presentation to library staff, library school students and/or library trustees; or

(d) Preparing for and teaching a course, workshop, seminar or institute; and

(e) Documenting that each learning activity incorporates new subject matter.

(6) The board shall accept participation in group learning activities which must be documented as job-related.

Section 5. Application for public librarian certification renewal should be made to the board.

Section 6. A fee of five (5) dollars shall be charged for all certificate renewals issued.

VERA GUTHRIE, Chair

APPROVED BY AGENCY: April 6, 1992

FILED WITH LRC: April 8, 1992 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1992 at 10:30 a.m. at the Kentucky Department for Libraries and Archives. Individuals interested in being heard at this hearing shall notify this agency in writing by May 17, 1992, 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 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: Ellen Hellard, Kentucky Department for Libraries and Archives, P.O. Box 537, Frankfort, Kentucky 40602-0537.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ellen Hellard

(1) Type and number of entities affected: 118 counties providing public library service; approximately 500 staff persons.

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

1. First year: \$5 per renewal application @ 100 (est.) = \$500, direct cost.

2. Continuing costs or savings: \$5 per renewal application @ 100 (est.) = \$500 direct cost.

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Renewal application

submitted to agency with supporting documentation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Approximately \$150 in mailing costs, \$2,000 in staff time.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: Should additional local staff need certification renewal, more agency staff time would be needed.

(b) Reporting and paperwork requirements: Verification of applications, distribution of certificates, maintenance of file and data base, mailing renewal notices.

(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected: Renewal requirements for certification provide several alternative methods.

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes. Jobs with less responsibility require fewer renewal points.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government?

Yes X No    (If yes, complete questions 2-4)

2. State what unit, part or division of local government this administrative regulation will affect. Public library boards of trustees which are either taxing districts or units of city or county government.

3. State the aspect or service of local government to which this administrative regulation relates. Public library service.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: Certification renewal dates vary by person, therefore specific dollar estimates for a year cannot be determined. Costs for renewal (actually continuing education) are spread over 3 to 5 years per person.

#### PUBLIC PROTECTION AND REGULATION CABINET Kentucky Racing Commission

##### 810 KAR 1:024. Racing commission.

RELATES TO: KRS 230.210 et seq.

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: To regulate conditions under which racing shall be conducted in Kentucky. The function of this administrative regulation is to outline the positions and duties of the commission.

Section 1. Statutory Powers of the Commission. (1) The commission as constituted in KRS 230.220 shall be responsible as a body for the regulation of racing in Kentucky, under the terms defined in KRS Chapter 230 and other statutes pertaining to racing.

(2) Individual members of the commission may be assigned

specific areas of responsibility; and, with the consent of the commission, may act with full authority of the commission in such areas.

Section 2. Commission Executive Director. The executive director of the commission shall be appointed by the Governor, for a term not to exceed four (4) years. He shall possess the powers and perform the duties imposed upon him by KRS Chapter 230 and shall perform other duties as the commission may direct.

Section 3. Administrative Staff. The following positions and duties may compose, with the executive director, the administrative staff of the commission:

(1) Senior steward in overall supervision of all commission matters pertaining to racing.

(2) State steward, responsible for all commission matters at the race meetings to which he is assigned and for other duties as may be directed.

(3) Associate steward, who may be assigned by the commission to serve under the state steward as they may direct.

(4) Public relations director, responsible for the promotion of the thoroughbred industry in Kentucky.

Section 4. Commission License Administrator. The commission may employ a person or persons who shall be responsible for processing license applications of all persons, other than associations, required to be licensed by 810 KAR 1:024 and collecting fees therefor. All license applications received by the license administrator shall be subject to approval by the licensing committee and the commission. The licensing administrator or his assistants shall:

(1) Be present on association grounds prior to the opening of a race meeting to accept license applications and shall maintain an office on association grounds to accept license applications during the race meeting;

(2) File daily reports to the commission on license applications received with accountings of fees received and forwarded to the commission;

(3) Be responsible for the photographing of license applicants for whom same is required;

(4) Be bonded.

Section 5. Commission Supervisor of Pari-mutuel Betting. (1) The commission shall employ or designate a supervisor with accounting experience who shall be responsible for ascertaining whether the proper amounts have been paid from pari-mutuel pools to the betting public, to the association, and to the Commonwealth, by checking, auditing, and filing with the commission verified reports accounting for daily pari-mutuel handle distribution and attendance for each preceding racing day and a final report at the conclusion of each race meeting in the Commonwealth.

(2) Daily reports to the commission shall show for each race: number of horses started, number of betting interests, total money wagered in each betting pool, and refunds, if any for each day. The sum of all betting pools, and total refunds also, total pari-mutuel handle for the comparable racing day for the preceding year, and cumulative total and daily average pari-mutuel handle for the race meeting.

(3) Daily reports also shall show: amount of state pari-mutuel tax due, taxable admission, tax exempt admissions, total admissions, temperature, weather and track conditions, post time of first race, program purses, distance and conditions of each race, and any minus pools resulting with explanation.

(4) The commission supervisor of pari-mutuel betting shall submit to the commission on or before thirty (30) days after the close of each race meeting a final verified report giving in summary form a recapitulation of the daily reports for each race meeting and other information as the commission may require.

(5) The commission supervisor of pari-mutuel betting or his representative shall have access to all association books, records, and pari-mutuel equipment for checking accuracy of same.

Section 6. Commission Veterinarian. The commission shall employ a graduate veterinarian licensed in Kentucky and experienced in equine medicine and practice. He shall advise the commission and the stewards on all equine veterinary matters. The commission veterinarian's prime responsibility shall be the supervision and control of the detention area and for the collection of samples for the testing of horses for prohibited medication as outlined in 810 KAR 1:018. The commission may employ persons to assist the commission veterinarian in maintaining the detention area and collecting specimens. Except as provided in 811 KAR 1:090, Section 13(1), the commission veterinarian shall not treat, prescribe, or sell any drug supplies for any horse registered to race at any race track where he is employed, except in case of emergency; nor shall he buy or sell, for himself or another, any horse under his supervision; nor shall he be employed by or receive any compensation whether directly or indirectly from any licensed owner or trainer; nor shall he wager on a race under his supervision; nor shall he sell insurance; nor shall he be licensed to participate in racing in any other capacity.

(1) The commission veterinarian shall be responsible for inspecting and reporting all horses entered for racing soundness; maintaining and posting in the racing secretary's office a veterinary list of horses ineligible to race because of sickness or unsoundness; control of communicable equine diseases; insect control; sanitary conditions in the stable area, and shall observe and report all cruel or inhumane treatment of horses to the stewards.

(2) The commission veterinarian shall be attendant on the stewards and the racing secretary at scratch time each day, and shall examine horses as racing officials may request, and shall make reports to the racing officials as promptly as possible.

(3) A commission veterinarian shall be present in the paddock for saddling, shall inspect the horses for physical fitness, general conditions, and any unsoundness, shall accompany each field to the starting gate, and observe all horses after the finish of each. If, in the opinion of a commission veterinarian, a horse suffers an injury while in the paddock, during the post parade, or at the starting gate, which shall render the horse unfit to race, he shall recommend to the stewards that the horse be excused and placed on the veterinary list. All horses requested to be scratched for physical reasons after scratch time shall be inspected by a commission veterinarian, who shall report the condition of the horse to the stewards.

Section 7. Commission Chemist. (1) The commission may acquire, operate and maintain a testing laboratory and related facilities, for the purpose of performing tests as the commission may require. The commission chemist shall be a graduate chemist experienced in chemical testing techniques for conducting tests on urine, blood, and other specimens from thoroughbreds delivered to the commission chemist or his representative by the commission veterinarian.

(2) The commission chemist shall report to the state steward all substances he might find in his tests which are not normal in the body of the horse as outlined in 810 KAR 1:018. His duties shall be limited to these reports and need not include the possible effects on the physiology of a horse.

Section 8. Chief Investigative Officer. The commission may employ an investigator experienced in police work who shall advise the commission as to any person on association grounds, or among license applicants, whose conduct or reputation is such that the person's presence on association grounds may reflect on the honesty and integrity of thoroughbred racing or interfere with the orderly conduct of thoroughbred racing. The chief investigative officer shall:

(1) Maintain a current file on persons against whom rulings have been issued in racing jurisdictions and reported through the Association of Racing Commissioners International. The file also shall contain reports received from the U.S. Trotting Association and the Thoroughbred Racing Protective Bureau as to investigations, arrest records, and other information. The file shall also contain reports as to ejections or exclusions from association grounds in Kentucky and other racing jurisdictions.

(2) Investigate and ascertain the truth of statements made on license applications;

(3) Investigate possible infractions of racing administrative regulations at the request of the commission or stewards;

(4) Participate and cooperate with members of the track security police, Thoroughbred Racing Protective Bureau, state and local police on all other investigations pertaining to racing in the Commonwealth.

Section 9. Commission Inspector. The commission may employ a person or persons who shall be responsible for ascertaining that all persons required to be licensed under 810 KAR 1:003 have same in their possession on association grounds, and for conducting investigations on association grounds at the request of the stewards or the director of security.

Section 10. Horse Identifier. The commission may employ a person or persons who shall be responsible for the proper identification of all horses entered to be raced. A horse identifier may accompany the commission veterinarian on the prerace examination of all starters. Every starter shall be examined in the paddock by a horse identifier for sex, age, color, markings, and lip tattoo, for comparison with its registration certificate; photographs may be used as an aid in identification. If a horse identifier has any doubt as to the identity of a horse entered to be raced, the horse identifier shall so notify the paddock judge and the stewards. The horse identifier shall also be responsible for safekeeping of registration certificate and racing permits for horses, recording information required thereon, and returning same to owners at the conclusion of the race meeting.

Section 11. Investigative Powers. To ensure compliance with these administrative regulations or to investigate possible infraction of these administrative regulations, the commission and its representatives shall have free access to all offices, files, records, enclosures, property and facilities owned or possessed by associations or located on association grounds.

Section 12. Publication of Administrative Regulation Changes. All administrative regulations adopted, revised, or repealed subsequent to the publication of an administrative regulation or rule book shall be signed by the secretary and published by posting same with the effective date, in compliance with the statutes, of the change on the bulletin board in the racing secretary's office of each association, and by forwarding a copy of same to the Association of Racing Commissioners International, and to the Daily Racing Form or such publication as the commission may deem appropriate to advise the public of such changes for publication therein.

WAYNE G. LYSTER, III, Chairman

APPROVED BY AGENCY: April 14, 1992

FILED WITH LRC: April 14, 1992 at 3 p.m.

PUBLIC HEARING: A public hearing will be held on May 21, 1992 at 10 a.m. at the offices of the Kentucky Racing Commission at the Kentucky Horse Park, 4063 Iron Works Pike, Building B, Lexington, Kentucky. Those interested in attending the hearing should contact in writing: Michael A. Fulkerson, Chief Administrative Officer, Kentucky Racing Commission, 4063 Iron Works Pike, Lexington, Kentucky 40511.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michael A. Fulkerson

(1) Type and number of entities affected:

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

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues:

N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. There is nothing to tier.

**PUBLIC PROTECTION AND REGULATION CABINET  
Kentucky Racing Commission**

**810 KAR 1:025. Licensing thoroughbred racing.**

RELATES TO: KRS 230.210 et seq.

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this administrative regulation is to outline the licensing procedures and requirements for participation in thoroughbred racing.

Section 1. License Required. No person, legal entity, or association shall conduct any thoroughbred race for any stakes, purse, or reward in the Commonwealth without first securing a license therefor from the commission. No person shall participate in thoroughbred racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which employment requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, without first securing a license therefor from the commission.

Section 2. Conditions Precedent to Issuance of License. Thoroughbred racing and participation therein in the Commonwealth shall be privileges, not rights, granted only by the commission by license, subject to the conditions precedent established in these administrative regulations. Acceptance of a license shall be construed as consent and agreement to the following conditions precedent by the licensee and failure to comply shall be grounds for immediate voidance or revocation of the license:

(1) Representations made on or with license application shall be complete and correct.

(2) Licensee shall abide by all rulings, and decisions of the stewards and all such decisions by the stewards shall remain in force

unless reversed or modified only by the commission upon proper appeal. All rulings and decisions of the stewards may be appealed to the commission, except those made by the stewards as to findings of fact as occurred during and incident to the running of a race and as to determination of the extent of disqualification of horses in a race for fouls committed during the race. All such excepted rulings and decisions by the stewards shall be final with no right of review by the commission or courts.

(3) Licensee shall consent to a reasonable search of his person and property in his possession by the commission or its representatives, such property being restricted to that on association grounds and including, without limiting thereby, tack rooms, living or sleeping quarters, motor vehicles, trunks, boxes, and containers of any sort, and licensee shall consent to seizure of any object which may be evidence indicating a violation of an administrative regulation. Licensee shall cooperate in every way with the commission or its representatives during the conduct of an investigation, to include responding correctly under oath to the best of his knowledge to all questions asked by the commission or its representatives pertaining to racing matters.

(4) A licensed trainer shall be responsible for the condition of horses in his charge and shall be held to a high standard of care in taking all precautions as are reasonable and necessary to safeguard the horses from tampering. Upon a finding of a positive for a prohibited medication, drug, or substance, in a saliva, urine, blood, or other specimen taken from a horse, the trainer of the horse shall have the burden of proof showing freedom from negligence in the exercise of a high degree of care in safeguarding the horse from tampering.

Section 3. Standards for Granting Licenses and Racing Dates to Associations. The commission may issue a license to any association which applies for a license to conduct a thoroughbred race meeting on such days as the commission may deem appropriate, if the commission finds that the proposed conduct of racing by the association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employees, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which the association proposed to conduct a race meeting, and capability to comply with the administrative regulations and rulings of the commission, the licensing of the association would serve to nurture, promote, develop, or improve the thoroughbred industry in the Commonwealth. As a condition precedent to the issuance of the license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth under KRS 137.170, 138.480, and 138.510, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

Section 4. Standards for Granting Licenses to Participants in Racing. The commission may issue a license to any person who applies for a license to participate in thoroughbred racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, if the commission finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interest of racing and the maintenance of the honesty, integrity,

and high quality thereof.

Section 5. Grounds for Refusal, Suspension, or Revocation of a License. The commission in its discretion may refuse to issue a license to an applicant, or may suspend or revoke a license issued, or order disciplinary measures, on the following grounds:

- (1) Denial of a license to an applicant, or suspension or revocation of a license in another racing jurisdiction; the commission may require reinstatement in the original racing jurisdiction where applicant was denied a license or where his license was suspended or revoked;
- (2) Conviction of a crime or violation of any statute or administrative regulation dealing with a controlled substance;
- (3) Falsification, misrepresentation, or omission of required information in license application to the commission; failure to disclose to the commission complete ownership or beneficial interest in a horse entered to be raced; misrepresentation or attempted misrepresentation in connection with the sale of a horse or other matter pertaining to racing or registration of thoroughbreds;
- (4) Making false or misleading statements to the commission or the stewards in the course of an investigation;
- (5) Failure to comply with any order or ruling of the commission, stewards, or racing official pertaining to a racing matter;
- (6) Ownership of any interest in, or participation by any manner in, any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise, or association with any person so engaged in such activity;
- (7) Person less than sixteen (16) years of age;
- (8) Person unqualified by experience or competence to perform the activity permitted by license as determined by standard examinations prescribed by the stewards;
- (9) Intoxication, use of profanity, fighting or any conduct of a disorderly nature on association grounds;
- (10) Employment or harboring of unlicensed persons required by these administrative regulations to be licensed;
- (11) Discontinuance of or ineligibility for activity for which license was issued;
- (12) Possession on association grounds, without written permission from the commission or stewards, of firearms, battery, buzzer, or electrical device, or other appliance other than an ordinary whip which could be used to alter the speed of a horse in a race or workout;
- (13) Possession on association grounds by a person other than a licensed veterinarian of:
  - (a) Hypodermic needle, or hypodermic syringe, or other device which could be used to administer any substance to a horse; or
  - (b) Narcotics, medication, or drugs, or substance which could be used to alter the speed of a horse in a race.
- (14) Use of profane, abusive, or insulting language to or interference with a commissioner, member of the commission staff, or racing official, while such persons are in the discharge of their duties;
- (15) Cruelty to a horse or neglect of a horse entrusted to a licensee's care;
- (16) Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of same immediately to the stewards;
- (17) Causing, or attempting to cause, or participation in any way in any attempt to cause the prearrangement of a race result, or failure to report knowledge of same immediately to the stewards;
- (18) Entering, or aiding and abetting the entering of, a horse ineligible or unqualified for the race entered;
- (19) Drug addiction, bad moral character, intemperate habits, bad reputation for honesty, truth and veracity, or involvement in a subject of public notice as involved in any activity which, in the opinion of the commission, may be inconsistent with the best interests of racing by reflection on the honesty and integrity of the sport of racing, or

association with persons so characterized;

(20) Violation of any administrative regulation of the commission, or aiding or abetting any person in violation of any such administrative regulation.

Section 6. License Applications for Associations. Any person or legal entity desiring to conduct thoroughbred racing in the Commonwealth may apply to the commission for association license. The application shall be made in writing on application forms prescribed by the commission and filed at the commission general office on or before September 1 of the year preceding the calendar year in which the license is to be in force. The application shall contain:

- (1) Name and location of track. Initial applications shall be accompanied by other physical information as the commission may require.
- (2) Names and addresses of all officers, directors, stockholders, and other persons owning or controlling a beneficial interest in the association with such degree of ownership or type of interest shown; names and addresses of all persons capable of exercising any control over affairs of the association as trustee or guardian or lessor, or mortgagee, or fiduciary. Any corporation, partnership, or other legal entity which owns or controls a beneficial interest in the association directly, or through other corporations or legal entities, shall similarly file with the application lists showing the names and addresses of all officers, directors, stockholders, and other persons owning or controlling a beneficial interest in the legal entities with such degree of ownership or type of interest thereunto pertaining. No application shall be acted upon by the commission until the commission is satisfied a full disclosure has been made.
- (3) Days and hours thereof on which racing is requested to be conducted; and number of races to be run on each day.
- (4) Names of racing officials and persons responsible for track security and fire protection.
- (5) Proposed purse schedule, showing minimum purse, average daily distribution, added money for each stake, if any.
- (6) An operating report on forms prescribed by the commission if applicant is currently licensed.
- (7) Such other information as the commission may from time to time require to ascertain the fitness of the applicant to conduct racing.

Section 7. License Application for Participants in Racing. (1) Any person other than an association required to be licensed by Section 1 of this administrative regulation and desiring to participate in thoroughbred racing in the Commonwealth may apply to the commission for a license. The application shall be made in writing on application forms prescribed by the commission and filed at the commission general office or with the commission license administrator at the association on or after January 2 of the calendar year in which the license is to be in force, but not later than twenty-four (24) hours after applicant has arrived on association grounds.

(2) Applications from persons not previously licensed in Kentucky shall include the names of two (2) reputable persons who shall attest to the good reputation of the applicant and to the capability and general fitness of the applicant to perform the activity permitted by the license.

(3) Applications from persons whose age is not readily ascertainable by the licensing committee shall be accompanied by an attested copy of birth certificate or work permit showing applicant is sixteen (16) years or older.

(4) Fingerprint identification shall be required of all licensees, unless waived by the commission. Fingerprint identification shall not be required of absentee owners and casual delivery personnel who do not enter the stable area.

(5) Applications from persons, corporations, partnerships, lessors, or other legal entities involving more than one (1) individual person desiring to race horses in the Commonwealth shall, in addition to



designating the person or persons to represent the entire ownership of the horses, be accompanied by documents which fully disclose the identity and degree and type of ownership held by all individual persons who own or control a present or reversionary interest in the horses. No application shall be acted upon by the commission until the commission is satisfied a full disclosure has been made.

(6) Applications from persons desiring to treat, or prescribe for, or attend any horse on association grounds as a practicing veterinarian, shall be accompanied by evidence that the person is currently licensed as a veterinarian by the Commonwealth of Kentucky. An accredited practicing veterinarian not licensed by the commission or the Commonwealth, however, may with permission of the stewards in an emergency be called in as a consultant, or to serve as a veterinarian for one (1) horse on a temporary basis, and shall not thereby be considered as participating in racing in this state.

(7) Applications from persons desiring to treat, or prescribe for, or attend any horse on association grounds as a dental technician shall be accompanied by the name of a licensed veterinarian who shall attest to the technical competence of the applicant and under whose sponsorship and direction the applicant shall work on association grounds.

(8) Applications from persons not previously licensed in the capacity of farrier shall not be forwarded with recommendation to the commission by the licensing committee until the applicant has been administered a standard examination by an experienced farrier known to the stewards so as to provide the licensing committee a reasonable basis for recommendation as to the technical proficiency of the applicant for a farrier's license.

(9) The following annual fees shall accompany the application and shall not be refundable:

(a) Thirty-five (35) dollars - owner license, trainer, assistant trainer, veterinarian, dental technician, blacksmith, farrier, or apprentice farrier license; jockey, farm manager/agent, racing official, steward, commission veterinarian, commission supervisor of pari-mutuel betting, commission director of security, commission license administrator, commission inspector, commission horse identifier; commission chemist, testing laboratory employee; racing department employee license, racing secretary, assistant racing secretary, director of racing, starter and assistant starter, paddock judge, patrol judge, placing judge, timer;

(b) Twenty-five (25) dollars - veterinarian assistant, stable-area supplier license (suppliers of horse feed, tack, medication, or food vendors); person employed by a concern contracting with the association to provide a service or commodity and which employment requires their presence on association grounds during a race meeting, jockey apprentice;

(c) Forty-five (45) dollars - jockey agent;

(d) Ten (10) dollars - association employee and occupational license, valet, jockey room custodian, clerk of scales, entry clerk, photo finish operator, film patrol or video tape operator and projectionist, flagman, or outrider, association security department including police chief, detectives, policemen, watchmen, firemen, ambulance drivers and attendants; track superintendent, groundsman, mechanics, carpenters; maintenance department manager and employees, admission department manager and employees; concessions manager and employees, parking manager and employees; all other persons employed by the association;

(e) Five (5) dollars - stable employee license (foreman, exercise boy, groom, hotwalker, watchman, or pony boy);

(f) Twenty (20) dollars - mutuel department employee license, manager, calculator, sheet writer, supervisor, ticket checker, ticket seller, ticket cashier, messenger, runner, outbook clerk, program clerk, porter, information and change clerk, boardman, ticket room and money room clerk, assistant, totalizer employee;

(g) Thirty (30) dollars - life colors.

Section 8. Licensing Committee. The commission may appoint a licensing committee including the executive director and commission steward or their designated representative. The licensing committee shall review all applications for all licenses, and forward all such applications to the commission with recommendations thereon, subject to security checks, for final action. The licensing committee may issue to a license applicant a temporary permit to participate in the activity for which license application was made pending administrative processing and final action on such license application by the commission.

Section 9. Term of License. Licenses issued by the commission for participation in racing shall be valid from the date of issuance through the calendar year shown on such license at all race meetings conducted by associations in the Commonwealth during the calendar year, unless sooner suspended, revoked, or voided. The commission may renew any license. License renewal shall not be construed to be a waiver of or to condone any violation which occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee. The validity of a license does not preclude or infringe on the common law rights of associations to eject or exclude persons, licensed or unlicensed, from association grounds.

Section 10. Possession of License Required. No person required to be licensed by these administrative regulations may participate in any activity required to be licensed on association grounds during a race meeting without having been issued a valid license therefor and having the license in his possession. All licenses specified under Section 7(9)(b) to (f) of this administrative regulation shall include a color photograph of the licensee and shall be openly displayed on the backside of association grounds at all times.

Section 11. Applicability of Rules and Rulings to Household. Administrative regulations pertaining to, and rulings against, licensees shall apply in like force to the spouse and members of the immediate family or households of the licensee, unless there is a showing on the part of an affected spouse, or affected member of the immediate family or household of the licensee, and the stewards in their discretion so find, that the continuation of participation in racing by the affected person shall in no way circumvent the intent of the administrative regulation, or effect of the ruling, by permitting a person under the control or direction of the licensee to serve in essence as a substitute for a suspended licensee, or person ineligible to participate in a particular activity.

Section 12. Notice for Discontinuance of Employment. Licensed associations, racing officials, owners, trainers, jockeys, agents, farriers, stable employees, and all other licensees who have accepted with advance notice the conditions under which a race meeting is planned to be conducted, shall before terminating employment, engagements, or activities under such conditions, so notify the commission and respective interested persons or associations of his intention at least fifteen (15) days before termination. The commission shall upon notice to parties in interest conduct a hearing on the matter. If the commission finds that the cause of termination is unreasonable, unlawful, or contrary to these administrative regulations, the commission shall so advise all parties in interest and shall take appropriate action against offending parties. If the commission finds that the cause of termination is reasonable, lawful, and not contrary to these rules, the commission shall so advise all parties in interest and shall use its best efforts to settle the dispute.

WAYNE G. LYSTER, III, Chairman

APPROVED BY AGENCY: April 14, 1992

FILED WITH LRC: April 14, 1992 at 3 p.m.

PUBLIC HEARING: A public hearing will be held on May 21, 1992

## ADMINISTRATIVE REGISTER - 3285

at 10 a.m. at the offices of the Kentucky Racing Commission at the Kentucky Horse Park, 4063 Iron Works Pike, Building B, Lexington, Kentucky. Those interested in attending the hearing should contact in writing: Michael A. Fulkerson, Chief Administrative Officer, Kentucky Racing Commission, 4063 Iron Works Pike, Lexington, Kentucky 40511.

### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michael A. Fulkerson

(1) Type and number of entities affected:

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

1. First year: There are none.

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Different license categories have different fee structures.

TIERING: Was tiering applied? Yes. Different license categories have different fee structures.

### PUBLIC PROTECTION AND REGULATION CABINET Kentucky Racing Commission

#### 810 KAR 1:026. Racing associations.

RELATES TO: KRS 230.210 et seq.

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: To regulate conditions under which racing shall be conducted in Kentucky. The function of this administrative regulation outlines the requirements for racing associations.

Section 1. Maintenance of Grounds, Facilities and Uniform Track. Each association shall at all times maintain its grounds and facilities so as to be neat and clean, painted and in good repair, with special consideration for the comfort and safety of patrons, employees, and other persons whose business requires their attendance; with special consideration for the health and safety of horses there stabled, exercising, or entered to race; and shall have available adequate and proper implements to maintain a uniform track, weather conditions permitting.

Section 2. Results Boards, Totalizators Required. Each association shall provide and maintain mechanically operated totalizators and electronic boards showing odds, results, and other race information located in plain view of patrons.

Section 3. Starting Gate. Each association shall provide and

maintain a working starting gate on every day horses are permitted to exercise on its racing strip. Each association shall have in attendance one (1) or more persons qualified to keep the starting gates in good working order whenever the gates are in use, and each association shall provide for periodic inspections of the gates.

Section 4. Stabling. Each association shall be responsible for providing and maintaining fire-resistant barns and stalls in good repair, and in a clean, and sanitary condition. Each barn and each stall shall be numbered in consecutive order for ready ascertainment of location and identification and adequate drainage therefor shall be maintained. The racing commission shall submit to the racing secretary prior to the opening of each race meeting a list of locations of approved off-track stabling facilities from which horses may be permitted to race. The locations shall be considered for purposes of these administrative regulations "association grounds."

Section 5. Stands for Officials. Each association shall provide and maintain stands commanding an uninterrupted view of the entire racing strip for racing officials. The stands and location shall be approved by the commission. Patrol judge stands shall be constructed so the floor shall be at least six (6) feet higher than the track rail.

Section 6. Distance Pole Markings. Each association shall cause quarter poles to be painted red and white, eighth poles to be painted green and white, and 16th poles to be painted black and white.

Section 7. Lighting. Each association shall provide and maintain flood lights so as to insure adequate illumination in the stable area and parking area. Adequacy of track lighting for night racing shall be determined by the commission.

Section 8. Facilities for Stable Employees. Each association shall provide and maintain in good repair adequate living quarters and conveniently located sanitary facilities, which shall include showers, toilets, and wash basins for stable employees. No personnel shall be permitted to sleep in any stall or barn loft.

Section 9. Facilities for Jockeys. Each association shall provide and maintain adequate facilities for jockeys scheduled to ride each day. The facilities shall include accommodations for rest and recreation of jockeys on racing days, showers, toilets, wash basins, mirrors, arrangements for safekeeping of apparel and personal effects, snack bar, and other accommodations as requested by the clerk of scales.

Section 10. Facilities for Commission. Each association shall provide adequate office space for the commission on association grounds and shall make available to the commission, and mark accordingly, a season box of six (6) to eight (8) seats and appropriate parking places for use of the commission throughout each racing day. Each association shall honor for access to preferred parking facilities and all other areas on association grounds any ring, lapel button, or automobile emblem issued or designated as approved at any time by the commission, or by the Association of Racing Commissioners International.

Section 11. Sanitary Facilities for Patrons. Each association shall, on every racing day, provide adequate and sanitary toilets and wash rooms, and furnish free drinking water for patrons and persons having business at the association.

Section 12. Manure Removal. Each association shall provide and maintain adequate manure pits of the size and construction to handle refuse from stalls. The contents of the manure pits shall be removed from the stable area as promptly as is possible.

## ADMINISTRATIVE REGISTER - 3286

Section 13. Photo Finish Cameras. Each association shall provide and maintain at the finish line two (2) photo finish cameras for photographing the finish of races; one (1) camera to be held in reserve. The photo finish photographer shall promptly furnish to the stewards and placing judges prints of all finishes as may be requested and in such number as may be required for public posting. The association shall maintain a one (1) year file of all photo finishes.

Section 14. Patrol Films or Video Tapes. Each association shall at all times during a race meeting provide and maintain personnel and equipment necessary to produce adequate motion pictures or video tapes and record each race from start to finish.

(1) Projection or viewing equipment shall be adequate to permit simultaneous showing of head-on and side-angle views of the running of each race.

(2) Films and video tapes, shall be retained and secured by the association for not less than one (1) year and shall be available at all times to the commission and stewards. Each visual record of a race involving any questions, dispute, or controversy shall be filed with the commission upon order of the stewards.

(3) Films, and video tapes, shall be made available for viewing at the track by licensees who owned, trained, or rode a horse in the race requested to be viewed, and to members of the press.

Section 15. Ambulances. Each association shall provide and maintain at least one (1) man-ambulance and at least one (1) horse-ambulance during times horses are permitted to exercise or race. The ambulances shall be equipped, manned, and ready for immediate duty, and shall be located at an entrance to the racing strip.

Section 16. First Aid Room. Each association shall equip and maintain adequate first aid facilities with not less than two (2) beds and attendance of a competent physician and registered nurse during race hours unless the association can transport injured individuals to a fully-equipped hospital emergency room in five (5) minutes or less in an ambulance manned by a certified paramedic and certified emergency medical technician. The ambulance shall be on standby on association premises during race hours. In the absence of a competent physician, paramedics shall be equipped, at a minimum, with the following equipment: heart monitor and defibrillator, cellular phone, and airways intubation equipment.

Section 17. Track Kitchen. Each association shall provide adequate eating facilities within the stable area, maintained in a clean and sanitary manner at all times horses are stabled on association grounds.

Section 18. Communication System. Each association shall install and maintain in good working service communication system between the stewards' stand and patrol judges, parimutuel department, starting gate, public address announcer, and clerk of the scales.

Section 19. Fire Prevention. Each association shall be responsible for maintaining an adequate program for fire prevention and fire suppression. Each association within fifteen (15) days before commencement of a race meeting shall be inspected by the state or local fire marshal whose certification that the association plant and stable area meet fire safety requirements is necessary for the commission to approve commencement of the race meeting. Each association shall maintain a firefighting unit of trained personnel equipped with high-expansion foam fire extinguishers and other equipment as may be recommended by the local fire inspection authority. Each association shall prohibit:

- (1) Smoking in stalls, under shed rows, and in feed rooms;
- (2) Open fires, oil or gas lamps in stable area; and

- (3) Locking of stalls occupied by horses.

Section 20. Association Police. Each association shall provide and maintain competent police and watchman services, night and day, in and about association grounds, and shall furnish daily to the commission a report on any disturbances, drunkenness, or disorderly conduct committed by any person on association grounds.

Section 21. Security. Each association shall cause to be excluded from association grounds all persons designated by order of the commission or stewards to be excluded. Each association shall take measures to maintain security of horses on association grounds so as to protect from injury due to frightening of or tampering with said horses. Each association shall exclude from the paddock area, race strip, and winner's entrance all persons who have no immediate connection with the horses entered except members of the commission, racing officials, and duly accredited members of the news media.

Section 22. Vendors and Suppliers. Each association shall supervise the practice and procedures of all vendors of food, horse feed, medication, and tack, who have entry to the stable area. No association by virtue of this section shall attempt to control or monopolize proper selling to owners, trainers, or stable employees, nor shall an association grant a concession to any vendor of feed, racing supplies, or racing services. Every vendor of horse feeds or medications shall file with the commission veterinarian a list of products which he proposes to sell, including any new preparation or medication. No association shall permit the sale of any alcoholic beverage, beer excepted, within the stable area.

Section 23. Ejection or Exclusion From Association Grounds. (1) Exclusion from racing association grounds shall not be based upon race, creed, color, sex, or national origin.

(2) Associations shall eject or exclude from association grounds all persons believed to be engaged in a bookmaking activity or solicitation of bets or touting, and a report thereof shall be submitted promptly to the commission, to the stewards, and to the local police. Associations shall eject or exclude from association grounds all persons who as a business or for any compensation, shall, directly or indirectly, accept any thing of value to be wagered or to be transmitted or delivered for wager to any pari-mutuel wagering enterprise, or participate in any such transmission.

(3) Associations shall eject or exclude from the stable areas on association grounds all persons, except those whose presence in the stable area is authorized as:

- (a) Persons licensed to conduct an activity, the conduct of which requires the presence of the licensee in the stable area;
- (b) Duly accredited members of the news media;
- (c) Guests of licensed owner or licensed trainer physically in the company of the owner or trainer;
- (d) Persons physically in the company of and under the control and supervision of a racing official, association security guard, association public relations department representative.

(4) Reports of all ejections or exclusions from association grounds for any reason shall be made immediately to the commission and the stewards. The reports shall state the name of all persons and circumstances.

Section 24. Ownership of Associations. Each association shall file with the commission a revised list of persons whose identity is required by 810 KAR 1:025, Section 6(2), immediately upon transfer of any beneficial interest or control in the association as from time to time may occur.

Section 25. Plan of Association Grounds. Each association shall

file with the commission existing maps and plans of association grounds, showing all structures, piping, fire hydrants, fixed equipment, racing strip, noting elevation as filled, drained, and gapped, and composition of track base and cushion. Each association shall file revised maps or plans of association grounds upon any material change as may occur from time to time.

Section 26. Attendance Report. (1) In addition to filing with the commission a copy of the report required by KRS 138.480 to be filed with the Department of Revenue on admission taxes, each association shall file with the commission daily attendance reports showing a turnstile count of all persons admitted to association grounds where pari-mutuel wagering is conducted. The attendance report shall indicate the daily number of paid admissions, taxed complimentary admissions, and tax exempt admissions.

(2) On request from the commission, each association shall file with the commission a current badge list showing the names of all persons issued tax exempt admission credentials.

(3) Tax exempt admission credentials shall not be transferable and associations shall exclude or eject from association grounds any person attempting to use tax exempt admissions credentials not issued to him by the association.

Section 27. Financial Report. In addition to filing with the commission copies of reports required by KRS 137.180 and 138.530 to be filed with the Department of Revenue on pari-mutuel and license taxes, each association shall furnish to the commission within sixty (60) days after the close of its fiscal year three (3) copies of its balance sheet and operating statement for the fiscal year along with a comparison to the prior year, which shall be duly sworn to by the treasurer of the association and certified by a licensed certified public accountant. The financial report shall be in a form as may be prescribed from time to time by the commission.

Section 28. Horseman's Bookkeeper. (1) Each association shall maintain a separate bank account, to be known as the "horsemen's account", with at all times sufficient funds in the account to pay all money owing to horsemen in regard to purses, stakes, rewards, claims, and deposits. Withdrawals from this account shall at all times be subject to audit by the commission, and the horsemen's bookkeeper in charge of the account shall be bonded.

(2) All portions of purse money shall be made available to earners thereof within forty-eight (48) hours, dark days excluded after the result of the race in which the money was earned has been declared official; except, however, when the stewards shall order money withheld until final adjudication of a dispute determining which persons are entitled to the money in dispute.

(3) No portion of purse money other than jockey fees shall be deducted by the association for itself or for another, unless so requested in writing by the person to whom the purse monies are payable, or his duly authorized representative. Irrespective of whether requested, the horsemen's bookkeeper shall mail to each owner a duplicate of each record of a deposit, withdrawal, or transfer of funds affecting such owner's racing account at the close of each race meeting.

Section 29. Outriders. Each thoroughbred association shall employ at least two (2) outriders to escort starters to the post and to assist in the returning of all horses to the unsaddling area. No outrider shall lead any horse that has not demonstrated unruliness, but shall assist in the control of any horse which might cause injury to a jockey or others. Each association shall provide traditional wearing apparel. Outriders shall be required to be present on the racing strip, mounted, and ready to assist in the control of any unruly horse or to recapture any loose horse, at all times horses are permitted on the racing strip for exercising or racing. All persons exercising horses during training

hours, or accompanying horses to the starting gate during racing hours shall wear a protective helmet. The term "exercising" includes breezing, galloping, or ponying horses.

Section 30. Valets. Each thoroughbred association shall employ a sufficient number of persons licensed as valets to attend each individual rider on a day's racing program. The valets shall be under the immediate supervision and control of the clerk of scales. No rider shall employ a valet or be attended by any person other than the valet assigned to him by the clerk of scales. No valet shall be assigned to the same rider for more than two (2) consecutive racing days. Valets shall be responsible for the care and cleaning up of his assigned riders apparel and equipment; shall insure his rider has the proper equipment and colors for each race; shall present the proper equipment and attend the saddling of his rider's mount; and shall attend the weighing out of his rider. No valet or other jockey room attendant may place a wager for himself or another, directly or indirectly, on races run while he is serving as a valet. Each association shall provide uniform attire for valets who shall wear same at all times while performing their duties within public view.

Section 31. Minimum Purse and Stakes Values. No thoroughbred association shall program or run any race the purse for which is less than \$2,000 in cash without special permission of the commission. No thoroughbred association shall program or run any stakes race the added value of which is less than \$10,000 in cash added by the association to stakes fees paid by owners. The minimum cash amounts paid by the association shall be exclusive of nomination, eligibility, entrance, and starting fees, and exclusive of other cash awards, premiums, prizes, or objects of value.

Section 32. Maximum Number of Races. No association shall program or run more than nine (9) races on any single racing day without special permission of the commission.

Section 33. Two (2) Year Old Races. Beginning on March 1 of each year, each thoroughbred association shall program in the conditions book at least four (4) two (2) year old races each week.

WAYNE G. LYSTER, III, Chairman

APPROVED BY AGENCY: April 14, 1992

FILED WITH LRC: April 14, 1992 at 3 p.m.

PUBLIC HEARING: A public hearing will be held on May 21, 1992 at 10 a.m. at the offices of the Kentucky Racing Commission at the Kentucky Horse Park, 4063 Iron Works Pike, Building B, Lexington, Kentucky. Those interested in attending the hearing should contact in writing: Michael A. Fulkerson, Chief Administrative Officer, Kentucky Racing Commission, 4063 Iron Works Pike, Lexington, Kentucky 40511.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michael A. Fulkerson

(1) Type and number of entities affected:

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

1. First year: N/A

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues:  
N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: Existing regulation did not provide the quality of first aid care the associations wanted.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. There is nothing to tier.

## PUBLIC PROTECTION AND REGULATION CABINET Kentucky Racing Commission

### 810 KAR 1:027. Entries, subscriptions and declarations.

RELATES TO: KRS 230.210 et seq.

STATUTORY AUTHORITY: KRS 230.260

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this administrative regulation is to outline requirements for entry, subscription and declaration of thoroughbred horses in order to race.

Section 1. Definitions. (1) "Declaration" means the withdrawal of a horse from a race, before closing, by the owner, trainer, or person deputized by either.

(2) "Scratch" means withdrawal of a horse entered from a race, after closing, by the owner, trainer, or person deputized by either.

Section 2. Entering Required. No horse shall be qualified to start in any race unless it has been and continues to be duly entered therein. Entries or subscriptions for any horse, or the transfer of same, may be refused or cancelled by the association without notice or reason given.

Section 3. Procedure for Making Entries. (1) All entries, subscriptions, declarations, and scratches shall be filed with the racing secretary and shall not be considered as having been made until received by the racing secretary. The racing secretary shall maintain a record of the time of receipt of same for a period of one (1) year.

(2) An entry shall be in the name of a horse's licensed owner, as completely disclosed and registered with the racing secretary under these administrative regulations and made by the owner, trainer, or a licensed authorized agent of the owner or trainer.

(3) An entry shall be in writing, except that an entry may be made by telephone to the racing secretary. Telephone entries shall be confirmed promptly in writing if requested by the stewards, the racing secretary, or an assistant to the racing secretary.

(4) An entry shall clearly designate the horse entered. When entered for the first time during a meeting, every horse shall be designated by name, age, color, sex, sire, and dam as reflected by its registration certificate.

(a) No horse shall race, unless correctly identified to the satisfaction of the stewards as being a horse duly entered.

(b) Establishing identity of a horse shall be the responsibility of its owner and of any other person seeking to identify it. All such persons shall be subject to appropriate disciplinary action for incorrect identification.

(c) An entry shall clearly state all medications, drugs, or substances which the horse shall receive as prerace treatment. Medications, drugs, or substances shall be categorized into two (2) sections and shall be designated as follows: nonsteroidal anti-inflammatory drug

shall be designated by (B); and all bleeder medications shall be designated by (L). Horses racing for the first time with either of the above categories shall be clearly designated with (1).

(5) No alteration, except an error corrected with the permission of the stewards, shall be made in an entry after the closing of entries.

(6) No horse shall be entered in two (2) races to be run on the same day.

(7) A horse which has not started in the past ninety (90) days shall not be permitted to start unless it has at least one (1) published workout within twenty (20) days of entry at a distance satisfactory to the stewards of the meeting. If a horse has done the requisite workout, but through no fault of the trainer, the workout does not appear in the past performances, it shall be permitted to start and the correct workout shall be publicly displayed on the bulletin boards where photo finishes are shown at least fifteen (15) minutes prior to the first race and for the duration of the day's racing. The workouts shall be displayed on the television monitors and tote board for fifteen (15) minutes prior to the first race. A horse which has never started shall not be entered until the trainer has produced satisfactory evidence to indicate to the starter that it has been adequately schooled from the starting gate.

Section 4. Stabling Requirement. No entry shall be accepted for any horse not stabled on association grounds where the race is to be run, unless its stabling elsewhere has been approved by the commission in its approved off-track stable list.

Section 5. Limitation as to Spouses. No entry in a race shall be accepted for a horse owned wholly or in part by, or trained by, a person whose spouse is under license suspension at time of the entry. If the license of a jockey has been suspended for a routine riding offense, the stewards may waive the application of this section as to the duly licensed spouse of the suspended jockey.

Section 6. Mutuel Entries. (1) Horses entered in the same race and trained by the same trainer shall be joined as a mutuel entry and single betting interest; except as provided in subsection (5) of this section.

(2) Horses entered in the same race and owned wholly, or in part by the same owner or spouse thereof, shall be joined as a mutuel entry and single betting interest.

(3) No more than two (2) horses having common ties through ownership or training to be joined as a mutuel entry shall be entered in a purse race. When making a double entry of horses owned wholly, or in part by the same owner or spouse thereof, a preference for one (1) of the horses shall be made.

(4) Two (2) horses having common ties through ownership shall not start in a purse race to the exclusion of a single interest. In purse races where the number of starters is limited to ten (10) or less, two (2) horses having common ties through training shall not start to the exclusion of a single entry.

(5) In thoroughbred stakes races with added money of \$100,000 or more, permission may be granted by the commission to uncouple mutuel entries of horses sharing common ties through training, which are owned by different owners.

Section 7. Subscriptions. (1) Any subscriber to a stakes race may transfer or declare a subscription prior to closing.

(2) Joint subscriptions and entries may be made by any one (1) of the joint owners of a horse. Each owner shall be jointly and severally liable for all payments due.

(3) Death of a horse or a mistake in its entry when the horse is eligible, shall not release the subscriber or transferee from liability for all stakes fees due. Fees paid in connection with a subscription to a stakes race that is run shall not be refunded, except as otherwise stated in the conditions of a stakes race.

(4) Death of a nominator or original subscriber to a stakes race shall not render void any subscription, entry, or right of entry thereunder. All rights, privileges, and obligations shall attach to the successor owner, including the legal representatives of the decedent.

(5) If a horse is sold privately, or sold at public auction, or claimed, stakes engagements for it shall be transferred automatically with the horse to its new owner. If the horse is transferred to a person whose license is suspended or otherwise unqualified to race or enter it, the subscription shall be void as of the date of the transfer.

(6) All stakes fees paid toward a stakes race shall be allocated to the winner thereof unless otherwise provided by the condition for the stakes race. If a stakes race is cancelled for any reason, all subscription fees paid shall be refunded.

Section 8. Closings. (1) Entries for purse races and subscriptions to stakes races shall close at the time designated by the association in previously published conditions for the races. If a race is not split, an entry, subscription, or declaration shall not be accepted after closing time. If a purse race fails to fill, or in case of an emergency, the racing secretary may extend the closing time, provided the approval of a steward has been obtained.

(2) If the hour of closing is not specified for stakes races, subscriptions and declarations may be accepted until midnight of the day of closing provided, they are received in time for compliance with every other condition of the race.

(3) Entries which have closed shall be complied without delay by the racing secretary and along with declarations, shall be posted.

Section 9. Number of Starters in a Race. (1) The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate and extensions approved by the commission as can be positioned across the width of the track at the starting point for the race. The maximum number of starters further shall be limited by the number of horses which, in the opinion of the stewards, considering the safety of the horses and riders, and the distance from the start to the first turn, may be afforded a fair and equal start.

(2) At tracks measuring less than a mile in circumference, no more than ten (10) horses shall start in any race without consent of the stewards, and no more than twelve (12) horses shall start without approval of the commission.

(3) A claiming race in the printed condition book for which eight (8) or more horses representing different betting interests are entered shall be run. All other purse races in the printed condition book for which six (6) or more horses representing different betting interests are entered shall be run.

(4) If a purse race in the printed condition book fails to fill with the minimum number of entries required by subsection (3) of this section to be run, the association may cancel or declare off the race. The names of all horses entered in the race shall be publicly posted in the office of the racing secretary not later than 1 p.m. the same day.

Section 10. Split or Divided Races. (1) If a race is cancelled or declared off, the association may split any race programmed for the same day and which may previously have been closed. Races printed in the condition book shall have preference over substitute and extra races.

(2) When a purse race is split, forming two (2) or more separate races, the racing secretary shall give notice of the split not less than fifteen (15) minutes before such races are closed in order to grant time for the making of additional entries to the split races.

(3) Division of entries upon the splitting of any race shall be made in accordance with the conditions under which entries and subscriptions were made, and in the absence of specific prohibition by such conditions:

(a) Horses originally joined as a mutuel entry may be placed in

different divisions of a split race unless the person making the multiple entry, at the time of the entry, indicates such coupling of horses is not to be uncoupled if the race is split.

(b) Division of entries in any split stakes race may be made according to age, or sex, or both.

(c) Entries for any split race not divided by any method provided in this administrative regulation, shall be divided by lot so as to provide a number of betting interests as nearly equal as possible for each division of such split race.

Section 11. Post Positions. Post positions for all races shall be determined by lot, drawn in the presence of those making the entries for the race. Post positions in split races also shall be redetermined by lot in the presence of those making the entries for the split race. The racing secretary shall assign pari-mutuel numbers for each starter to conform with the post position drawn, except when a race includes two (2) or more horses joined as a single betting interest.

Section 12. Also-eligible List. (1) If the number of entries for a race exceeds the number of horses permitted to start, as provided by Section 9 of this regulation, the names of no more than eight (8) horses entered but not drawn into the race as starters shall be posted on the entry sheet as "also-eligible" to start.

(2) After a horse has been excused from a race at scratch time, a new drawing shall be taken as to horses on the also-eligible list. The starting and post position of horses drawn from the also-eligible list shall be determined by the sequence draw, unless otherwise stipulated in the published conditions of the race.

(3) An owner or trainer of a horse on the also-eligible list not wishing to start the horse in a race shall notify the racing secretary prior to scratch time for the race. The horse shall forfeit any preference to which it may have been entitled.

(4) If entries are closed two (2) racing days prior to the running of a race, a horse on an also-eligible list that has been drawn into a race as a starter for the succeeding day, shall not be permitted to run in the race for which it had been listed as also-eligible.

Section 13. Preferred List; Stars. (1) The racing secretary shall maintain a list of horses which were entered but denied an opportunity to race because they were eliminated from a race programmed in the printed condition book either by overfilling or failure to fill. The racing secretary shall submit, for approval of the commission at least thirty (30) days prior to the opening date of a race meeting a detailed description of the manner in which preference will be allocated.

(2) No preference shall be given a horse otherwise eligible for a race if it also is entered for a race on the succeeding day.

Section 14. Arrears. Unless approved by the racing secretary, no horse shall be entered or raced unless its owner has paid all stakes fees owed.

Section 15. Declarations. Declarations shall be made in the same form, time, and procedure as required for the making of entries. Declarations shall be irrevocable. No declaration fee shall be required by any licensed association.

Section 16. Scratches. Scratches shall be irrevocable and shall be permitted under the following conditions:

(1)(a) Except as provided in paragraph (b) of this subsection, a horse may be scratched from a stakes race for any reason at any time up until fifteen (15) minutes prior to post time for the race preceding the stakes race by filing written notification of an intention to scratch with the racing secretary. Upon receiving a scratch from a stakes race, the racing secretary shall promptly notify the stewards and pari-mutuel manager, and shall cause public announcement of same to be made.



(b) If a list of also-eligibles has been drawn, scratches shall be filed at the regular scratch time as posted by the racing secretary. Thereafter, a horse shall not be excused without a valid physical reason.

(2) A horse shall not be scratched from a purse race unless:

(a) The approval of the stewards has been obtained; and

(b) Intention to scratch has been filed in writing with the racing secretary, or his assistant, at or before the time conspicuously posted as "scratch time." A scratch of one (1) horse coupled in a mutuel entry in a purse race shall be made at or before the posted scratch time, unless permission is granted by the stewards to allow both horses to remain in the race until a later appointed scratch time.

(3) In purse races, horses that are physically disabled or sick shall be permitted to be scratched first. If:

(a) Horses representing more than ten (10) betting interests in either of the two (2) daily double races; or

(b) Horses representing more than eight (8) betting interests in any other purse race, remain in after horses with physical excuses have been scratched, owners or trainers may be permitted at scratch time to scratch horses without physical excuses. Scratches down to respective minimum numbers for the races may be made. This privilege shall be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(4) Entry of a horse which has been scratched, or excused from starting by the stewards, because of a physical disability or sickness shall not be accepted until the expiration of three (3) calendar days after it was scratched or excused.

Section 17. Official Publication Statistics. In determining eligibility, allowances and penalties, the reports, records, and statistics as published in the Daily Racing Form, Racing Times or such publication as the commission may deem appropriate to advise the public and the monthly chart books, or corresponding official publications of any foreign county, shall be considered official, but may be corrected until forty-five (45) minutes prior to post time of the race.

WAYNE G. LYSTER, III, Chairman

APPROVED BY AGENCY: April 14, 1992

FILED WITH LRC: April 14, 1992 at 3 p.m.

PUBLIC HEARING: A public hearing will be held on May 21, 1992 at 10 a.m. at the offices of the Kentucky Racing Commission at the Kentucky Horse Park, 4063 Iron Works Pike, Building B, Lexington, Kentucky. Those interested in attending the hearing should contact in writing: Michael A. Fulkerson, Chief Administrative Officer, Kentucky Racing Commission, 4063 Iron Works Pike, Lexington, Kentucky 40511.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michael A. Fulkerson

(1) Type and number of entities affected:

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

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues:

N/A

(4) Assessment of alternative methods; reasons why alternatives

were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict:

(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. There is nothing to tier.

#### PUBLIC PROTECTION AND REGULATION CABINET Kentucky Racing Commission

##### 810 KAR 1:028. Disciplinary measures.

RELATES TO: KRS 230.210 et seq.

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: To regulate conditions under which racing shall be conducted in Kentucky. The function of this administrative regulation is to outline the disciplinary powers of the stewards and commission.

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

(1) Declare ineligible for racing or disqualify in a race any thoroughbred as provided for under 810 KAR 1:012 and 1:016. Declare ineligible for racing or disqualify any licensed person in violation of 810 KAR 1:025, Section 5 or in violation of any other regulation contained in Chapter 810 or 811 of the Kentucky Administrative Regulations;

(2) Suspend the license of any person involved in a violation of an administrative regulation for a period of time not less than five (5) nor more than 365 days as may be deemed appropriate by the stewards in keeping with the seriousness of the violation;

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

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

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

(1) Declare ineligible for racing or disqualify in a race any thoroughbred or any licensed person found to be in violation of 810 KAR 1:025, Section 5 or in violation of any other regulation contained in Chapter 810 or 811 of the Kentucky Administrative Regulations;

(2) Deny, suspend, revoke, or declare void the license of any person involved in a violation of an administrative regulation for a period of time not less than five (5) nor more than 365 days as may be deemed appropriate by the commission in keeping with the seriousness of the violation;

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

excluded or ejected from association grounds for any length of time the commission may deem the presence of the person remains inconsistent with maintaining the honesty and integrity of the sport of thoroughbred racing in the Commonwealth;

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

(5) In lieu of a license suspension or revocation, the commission may set a forfeiture in any amount, which the licensee may pay to the commission in lieu of the imposed license suspension or revocation. The forfeitures paid to the commission in lieu of shall not accrue to the personal benefit of any commissioner or steward(s).

WAYNE G. LYSTER, III, Chairman

APPROVED BY AGENCY: April 14, 1992

FILED WITH LRC: April 14, 1992 at 3 p.m.

PUBLIC HEARING: A public hearing will be held on May 21, 1992 at 10 a.m. at the offices of the Kentucky Racing Commission at the Kentucky Horse Park, 4063 Iron Works Pike, Building B, Lexington, Kentucky. Those interested in attending the hearing should contact in writing: Michael A. Fulkerson, Chief Administrative Officer, Kentucky Racing Commission, 4063 Iron Works Pike, Lexington, Kentucky 40511.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michael A. Fulkerson

(1) Type and number of entities affected:

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

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes. N/A

#### PUBLIC PROTECTION AND REGULATION CABINET Kentucky Racing Commission

810 KAR 1:029. Hearings, reviews and appeals.

RELATES TO: KRS 230.210 et seq.

STATUTORY AUTHORITY: KRS 230.240

NECESSITY AND FUNCTION: To regulate conditions under which racing shall be conducted in Kentucky. The function of this administrative regulation outlines the procedures and requirements

relating to hearings, reviews, and appeals.

Section 1. Stewards' Hearing. (1) Before holding any stewards' hearing provided for under these administrative regulations, notice in writing shall be given to any party charged with a violation other than a routine riding offense occurring in a race unless waived in writing by the person charged.

(2) The notice required by Section 2(1) of this administrative regulation shall:

(a) Notify the party of the specific statute or administrative regulation the infraction for which he is charged, and a brief statement of the facts supporting the charge.

(b) State the time and place of hearing.

(c) State that the party charged may be represented by legal counsel, or by a representative of any racing trade organization of which he is a member.

(3) All stewards' hearings shall be closed and the stewards shall cause no public announcement to be made concerning a matter under investigation until conclusion of the hearing, and the party charged has been notified of the decision.

(4) The state steward shall conduct the hearing in such a manner as to ascertain and determine the substantial rights of the parties involved and shall not be bound by technical rules of procedure and evidence.

(5) All testimony shall be given under oath and a record shall be made of the hearing, either by use of a tape recorder or by court reporter's transcript. The party charged with the violation may, however, waive the recording and the transcription of the testimony. The stewards shall not be required to receive testimony under oath in cases where their ruling is based solely upon a review of the video tapes of a race.

(6) If, at the conclusion of the hearing the stewards shall find that a statute or an administrative regulation has been violated, they shall promptly issue a written ruling which sets forth the full name of every person charged with the violation; identification of the persons, if licensed, by license classification and address; the statute or administrative regulation number and pertinent parts of the statute or administrative regulation violated, the finding by the stewards as to the violation of the statute or administrative regulation, and the penalty affixed by the stewards. Copies of the rulings shall be delivered to each party in interest, delivered to the commission, posted in the racing secretary's office, and forwarded to the office of the Association of Racing Commissioners International.

(7) At least the state steward and one (1) association steward shall be present at all times at the hearing.

(8) Review and appeal. Any party who is the subject of any order or ruling of the stewards may apply to the commission for a review of the stewards' order or ruling, except as to extent of disqualification for a foul in a race or as to a finding of fact as occurred during an incident to the running of a race.

(9) Application for review. An application to the commission for review of a steward's order or ruling shall be made within ten (10) days after the order or ruling is issued in writing, and shall:

(a) Be in writing and addressed to the commission secretary at the commission general office;

(b) Contain the signature of the applicant, and the address to which notices may be mailed to applicant;

(c) Set forth the order or ruling requested to be reviewed and the date thereof;

(d) Set forth the reasons for making the applications; and

(e) Request a hearing.

Section 2. Commission Hearings. Before holding any commission hearing provided for under these administrative regulations, the commission shall:

(1) Give written notice to all parties either personally or by mail.

If indispensable and necessary parties propose a large class, notice shall be served upon a reasonable number thereof as representatives of the class. Notice as provided in this section shall include a statement of:

(a) Time and place of such hearing as designated by the commission and chairman. No hearing shall be less than five (5) days nor more than thirty (30) days after service of notice, unless at the request of a party and in order to provide a fair hearing;

(b) The legal authority and jurisdiction under which the hearing is to be held;

(c) Specific designation of the particular statute or administrative regulation alleged to have been violated; and

(d) A clear and concise factual statement sufficient to inform each party with reasonable definiteness of the type of acts or practices alleged to be in violation of the statute or administrative regulations promulgated thereunder. In fixing the times and places for hearings, due regard shall be had for the convenience of the parties and their representatives.

(2) The right of any party to subpoena witnesses and documentary evidence through the commission, employing the rights of discovery and use of subpoenas as would be available under the Kentucky Civil Rules of Procedure, pretrial and trial procedures also shall be governed by Kentucky Rules of Civil Procedure.

Section 3. Special Prosecutor. (1) The commission may request the Attorney General to appoint a special prosecutor to carry the burden of proof showing a statute or an administrative regulation violation. If the matter involves a violation and requires a proceeding of an adversary nature; the prosecutor shall be one who has had no prior participation in the matter of any kind. The commission also may request that the Attorney General, or a member of his staff other than the special prosecutor, serve as law officer for the commission to assist the presiding officer in rendering decisions of a judicial nature. The special prosecutor shall have the services of the Kentucky State Police for investigatory purposes.

(2) The commission shall: permit all parties to be represented by counsel; permit all parties to respond and present evidence and argument on all issues involved; permit all parties to examine commission memoranda and data and all other information which is or has been considered by the commission in investigating and hearing the matter or which may be offered as evidence.

(3) The commission shall administer oaths and issue subpoenas upon its own motion or when requested by an appearing party. Each party shall pay the cost of its subpoenas and the expenses of its witnesses. If a subpoena is disobeyed, any party may apply to the Franklin Circuit Court for an order requiring obedience; failure to comply with an order from the Franklin Circuit Court shall be cause for punishment as a contempt of the court under KRS 421.110.

(4) Unless varied by the commission, the order of proof in the de novo hearing may be:

(a) Evidence presented by the prosecution as to alleged violations;

(b) Cross-examination of prosecution witnesses and redirect examination;

(c) Evidence presented by a party charged, in defense or explanation;

(d) Cross-examination of party charged and his witnesses, redirect examination;

(e) Rebuttal or other evidence, on behalf of the prosecution or any other party in interest as deemed pertinent by the presiding officer;

(f) Closing argument by party charged; and

(g) Closing argument by prosecution.

(5) The commission shall keep a record of each hearing which shall include:

(a) All pretrial and trial pleadings, motions, and interlocutory

rulings;

(b) All evidence received or considered;

(c) A statement of matters officially noticed;

(d) Questions and offers of proof and rulings thereon;

(e) Proposed findings and exceptions;

(f) All commission memoranda or data submitted to the commission in connection with the commission's consideration of the case;

(g) All stenographic recordings taken and transcriptions made. Oral proceedings shall be reported stenographically upon request of any party and shall be paid for by the parties desiring copies; and

(h) Final adjudication including findings of fact, based exclusively on evidence presented at the hearing and matters officially noticed, and any decision, opinion, and ruling by the commission on the matter.

(6) The commission may take official notice of technical facts or customs or procedures common to racing, but all parties to the hearing shall be duly notified. Each party shall have an opportunity to contest facts so noticed, including commission memoranda and commission data.

(7) Members of the commission participating in the adjudication of a matter before it shall not, directly or indirectly:

(a) In connection with any issue of fact in the matter before the commission, consult with any person or party who was engaged in the investigation or prosecution of the matter before the commission, or conduct any personal investigation outside the record, without giving an opportunity for all parties to participate.

(b) In connection with any issue at law, no party or representative shall be consulted without giving all parties an opportunity to participate.

(8) The commission may make an informal disposition of the matter by stipulation, agreed settlement, consent order, or by default.

(9) Upon conclusion of the hearing, the commission shall: take the matter under advisement, render a decision as promptly as possible, and issue a ruling in final adjudication of the matter. The final ruling shall set forth the full name of every person charged with a violation; the identification of the person, if licensed, by license classification and address; the statute or administrative regulation number and pertinent parts of the statute or administrative regulation alleged to have been violated; a separate statement of findings of fact; a separate statement of conclusions of law; a separate statement of reasons for the decisions; and penalties fixed by the commission, if any. Copies of the ruling shall be delivered to each party in interest, posted in the racing secretary's office of the association where the matter arose, and forwarded to the office of the Association of Racing Commissioners International.

Section 4. Appeal from Commission Order or Ruling. Any person or licensee aggrieved by any order or decision of the commission may appeal to the Franklin Circuit Court. The appeal shall be made within ten (10) days after the entry of the order or decision of the commission by posting and filing in the office of the Franklin Circuit Court Clerk:

(1) A bond to secure the costs of the action in a sum approved by the circuit clerk. The bond shall be secured by corporate surety approved by the Department of Insurance.

(2) An attested copy of the order or decision appealed from.

(3) An attested copy of the transcript of evidence heard by the commission and the cost of the transcript of evidence heard by the commission. The cost of the transcript shall be borne by the appellant. Appeals from a commission order or decision shall be taken as provided in KRS 243.560 to 243.590.

Section 5. Suspensions Pending Appeal. Any person alleged to have committed a violation under Section 1 of this administrative regulation may request a stay of imposition of the steward's sanction.

Pending appeal, a hearing on the request for stay shall be held within forty-eight (48) hours of the request for a stay by the commission. If the commission is not able to hold a hearing within forty-eight (48) hours, the stay shall be automatically granted. It shall be the policy of the commission to grant stays, except:

(1) In any case where a licensee is alleged to have committed a flagrant violation of the status or prescribed administrative regulations of racing which presents a clear and present danger to the immediate integrity of racing; and

(2) Wherein it is impossible for the commission to secure necessary scientific evidence or indispensable witnesses within forty-eight (48) hours, then the commission or its designated hearing officer may refuse a request for the stay of any penalty imposed, as long as a hearing is held no later than thirty (30) days from the initial steward's determination of a violation.

Section 6. Continuances. (1) All applications for continuance made prior to a hearing shall be in writing, shall set forth the reasons therefor, and shall be filed with the commission after giving notice of the application by mail or otherwise to all parties or their representative. At the time of the hearing, applications for continuance may be made orally. If requested, and in the manner prescribed by the commission, the party applying for the continuance shall substantiate the reasons contained in the application.

(2) If an application is made for continuance due to illness of an applicant, licensee, witness, or counsel, such application shall be accompanied by a medical certificate attesting to such illness and inability.

(3) An application for continuance of any commission hearing shall be received by the commission at least ninety-six (96) hours prior to the time fixed for a hearing. An application received by the commission within the ninety-six (96) hour period shall not be granted unless a satisfactory arrangement in writing is made with the commission for the payment of all expenses resulting from the continuance. However, the commission may waive payment of such expenses for extenuating circumstances.

(4) If the commission approves the application for continuance, the commission shall set a date for the continued hearing.

Section 7. Commission Hearing Officer. (1) Any hearing authorized or required by KRS 230.210 to 230.360 may be conducted by the commission, or may be conducted by a hearing officer appointed by the commission to serve in its place. Hearings shall be conducted in the name of the commission at any time or place designated by the chairman. The hearing officer may, in receiving evidence on behalf of the commission, make rulings affecting the competency, relevancy, and materiality of evidence to be presented and upon motions presented during the taking of evidence so as to expedite the preparation of the case. The commission may require the entire record to be certified to it for initial decision, and the hearing officer shall submit written findings of fact, conclusions of law and recommendations which shall be incorporated in and become a part of the record. In the absence of a requirement by the commission that a record be certified to it for initial decision, the hearing officer shall render a decision, and the absence of either an appeal to the commission, or a review upon motion of the commission, the hearing officer's decision shall become the decision of the commission.

(2) A hearing officer may be a full-time employee, serve by contract, or be paid upon a per diem basis in the discretion of the commission.

Section 8. Disqualification of Commission Members and Hearing Officer. A commission member or hearing officer may at any time withdraw from the proceeding if he deems himself disqualified, and upon the filing in good faith before the termination of the hearing of an affidavit of personal bias or disqualification of any member or hearing officer, the commission shall determine the matter as a part of the record and decision in the case. If a commission member or hearing officer withdraws or disqualifies himself, any other member of the commission participating in the hearing shall have the authority to complete the hearing and to participate in the decision. In cases where the hearing is conducted by the commission, members participating in the decision shall hear all the evidence, or shall read the evidence prior to making a decision thereon. At least a majority of the members of the commission shall hear all the evidence or read the record before making a final decision.

WAYNE G. LYSTER, III, Chairman

APPROVED BY AGENCY: April 14, 1992

FILED WITH LRC: April 14, 1992 at 3 p.m.

PUBLIC HEARING: A public hearing will be held on May 21, 1992 at 10 a.m. at the offices of the Kentucky Racing Commission at the Kentucky Horse Park, 4063 Iron Works Pike, Building B, Lexington, Kentucky. Those interested in attending the hearing should contact in writing: Michael A. Fulkerson, Chief Administrative Officer, Kentucky Racing Commission, 4063 Iron Works Pike, Lexington, Kentucky 40511.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michael A. Fulkerson

(1) Type and number of entities affected:

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

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict:

(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. There is nothing to tier.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE  
Minutes of the April 1, 1992 Meeting

The April meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, April 1, 1992 at 10 a.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 March 2, 1992 meeting were approved.

**Present were:**

**Members:** Representative Tom Kerr, Chairman; Senators Pat McCuiston, Bill Quinlan; Representatives Jim Bruce and James Yates.

**Guests:** Gwen Horton, John E. Kelsey, Kentucky Commission on Human Rights; Susan Stopher, State Board of Accountancy; Nathan Goldman, Paul Stone, Board of Nursing; Don C. Paris, Ronnie L. Galloway, James P. Daniels, Kentucky Real Estate Appraisers Board; Grant Winston, Tom Edwards, Thomas A. Young, Pete Pfeiffer, Don McCormick; Department of Fish and Wildlife Resources; Sara Bell, Gina Hampton, Economic Development Cabinet; Jack Damron, Tom Campbell, Lori Poole, Corrections Cabinet; Sandra G. Pullen, Transportation Cabinet; Dianne Worthy, Teresa Bowling, H. M. Snodgrass, Debbie Schumacher, Akeel H. Zaheer, Kevin Noland, Sally Hamilton, Department of Education; Beverly H. Haverstock, Teresa Suter, Harlan Stubbs, Workforce Development Cabinet; Valerie Salven, William A. Miller, L. T. Grant, Bob Whittaker, Larry M. Greathouse, Labor Cabinet; Jim Corum, Timothy A. Sturgill, Masten Childers II, Cabinet for Human Resources; Tracy Prewitt, Nancy C. Tullis, Associated Services; Patricia G. Brown, Ashar Tullis, Seven Counties Services; Daniel B. Howard.

**LRC Staff:** Joe Hood, Greg Karambellas, Tom Troth, Patrice Carroll, Susan Wunderlich, Donna Pierce, Peggy Jones, Susan Eastman.

The Subcommittee determined that the following administrative regulations were not deficient:

**Kentucky Real Estate Appraisers Board**

These administrative regulations had been found deficient by the Subcommittee during the interim. During the current regular session, legislation was enacted, with an emergency clause, establishing new requirements and procedures. If these administrative regulations expire, the agency will not be able to execute the duties imposed upon it by law. Agency personnel agreed to meet with Subcommittee staff to develop amendments to the current administrative regulations that would make them conform to the newly enacted legislation. Upon this basis, the Subcommittee approved a motion that these administrative regulations were not deficient and that they were not subject to expiration. 201 KAR 30:100. Appraisers classification, fees, education, continuing education, experience, testing, application, renewal and report requirements and practice standards.

201 KAR 30:110. Appraiser roster, transmission, fees, deletions, notification, and hearing.

201 KAR 30:120 (Temporary appraisal permits.

201 KAR 30:130 (Standards for education approval - fees.

**Corrections Cabinet: Juvenile Holding Facilities**

501 KAR 9:025. Administration; management. (Found deficient, ARRS, 1/3/91.) Since this administrative regulation had been amended to delete provisions to which the Subcommittee had objected, the Subcommittee approved a motion that this administrative regulation was not deficient and that it was not subject to expiration.

**Education and Humanities Cabinet: Department of Education: School District Finance**

702 KAR 3:250. Preschool grant allocations. (Found deficient, ARRS, 8/6/91.) Representative Bruce stated that he was the member who requested that this regulation was found deficient. He added that he felt it was no longer deficient, and moved that the original finding of deficiency be removed. The motion passed.

**Instructional Services**

704 KAR 3:410. Preschool education program for four year old children. (Found deficient, ARRS, 11/8/90 and 8/6/91.) Representative Bruce stated that he was the member who requested that this regulation was found deficient. He added that he felt it was no longer deficient, and moved that the original finding of deficiency be removed. The motion passed.

**Cabinet for Human Resources: Department for Health Services: Sanitation**

902 KAR 10:085. Kentucky on-site sewage disposal systems regulation. (Found deficient, ARRS, 8/5/91) An agreement on the amendment of this administrative regulation was reached by Subcommittee members and staff, and Cabinet personnel. The Cabinet has filed an amendment embodying that agreement to this administrative regulation. The Cabinet will file this amendment as an emergency administrative regulation. Therefore, the Subcommittee approved a motion that this regulation was not deficient and was not subject to expiration.

The Subcommittee determined that the following administrative regulations, as amended, complied with KRS Chapter 13A:

**Human Rights Commission** (Found Deficient by IJC on State Government, Quad. Review)

These administrative regulations were amended to provide the correct statutory and regulatory authority; to specify the material, and edition date, incorporated by reference; and to comply with KRS 13A.222 drafting requirements. 104 KAR 1:010. Posting, distribution and availability of notices.

104 KAR 1:020. Administrative proceeding under the Kentucky Civil Rights Act.

104 KAR 1:030. Employer records and reports.

104 KAR 1:040. Guidelines for employment advertisement.

104 KAR 1:050. Guidelines on discrimination because of sex, religion, employment selection, and national origin.

104 KAR 1:060. Records and reports for multiple dwelling developments and reporting form.

**Board of Accountancy**

201 KAR 1:100. Continuing professional education requirements. The Subcommittee approved an amendment that made clear the total number of continuing education hours required.

**Tourism Cabinet: Department of Fish and Wildlife Resources: Game**

301 KAR 2:047. Specified areas; seasons, limits for upland game birds, furbearers and small game. This administrative regulation was amended to correct statutory citations, amend the title, comply with KRS 13A.222 in the expression of mandatory requirements, and to clarify an exemption.

301 KAR 2:250. Seasons and limits for upland game birds, furbearers, and small game. This administrative regulation was amended to clarify language relating to hunting and trapping seasons.

**Economic Development Cabinet: Department of Business Development**

These administrative regulations were amended to comply with objections raised by the Task Force on Economic Development during the quadrennial review. The two following regulations were amended at the Subcommittee meeting to correct format and to clarify language.

306 KAR 1:020. Application process.

**Bond Project**

306 KAR 2:010. Economic development bond project reporting requirements.

**Corrections Cabinet: Office of the Secretary**

501 KAR 6:020. Corrections policies and procedures. Policy 03-01-01 was amended to provide a level of impairment for the monitoring of the use of intoxicants which is measurable by a breathalyzer; that if an employee is under the influence of alcohol, it may be the sole basis for disciplinary action, and shall be considered in determining the impact on job performance; that refusal to submit to a breathalyzer may be grounds for disciplinary action; and that an employee shall notify his supervisor if he uses medication which may affect his job performance.

501 KAR 6:040. Kentucky State Penitentiary. This regulation was amended to add the correct KRS references to the policies incorporated by reference.

501 KAR 6:090. Frankfort Career Development Center. This regulation was amended to add the correct KRS references to the policies incorporated by reference. FCDC 08-01-02 was amended to add a reference to the NFPA 101 Life Safety Code.

**Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers**

601 KAR 1:040. Application for operating authority. This regulation was amended to correct the revision date of the material incorporated by reference to March 1992, instead of February, 1992.

**Education and Humanities Cabinet: Department of Education: Instructional Services**

704 KAR 3:006. Annual performance reports and standards of student, program, service, and operational performance. Section 1(2)(a) was amended to delete the word "biennial" concerning state mandated testing program reports.

**Labor Cabinet: Workers' Compensation Board**

803 KAR 25:011. Procedure for adjustments of claims. Valerie Salven, Counsel to the Department of Workers' Claims, appeared before the Subcommittee and requested that the regulation be amended by deleting the last sentence of Section 7(4) to conform to other provisions in the regulation concerning applications for retraining benefits. She also requested that the Form 103 (Application for Retraining Incentive Benefits) be amended to add a requirement that 2 x-rays and the reports on them be included when Form 103 is filed. On motion of Representative Bruce, the amendments were agreed by the Subcommittee.

Robert Whitaker, attorney with the Special Fund, requested an amendment to Section 5(4) concerning the scheduling order and the time allowed when a party is adjourned after the issuance of the scheduling order. Ms. Salven stated that the agency did not agree with this amendment because it would delay disposition of cases. Since the agency did not agree, there was no motion to approve this amendment.

**The Subcommittee determined that the following regulations complied with KRS Chapter 13A:**

**Human Rights Commission**

104 KAR 1:070. Records and reports for apprenticeships and training programs.

**Board of Nursing**

201 KAR 20:390. Nursing incentive scholarship fund.

**Tourism Cabinet: Department of Fish and Wildlife Resources: Fish**

301 KAR 1:085 & E. Mussel shell harvesting. Objections had been raised to the provision in Section 2 restricting musseling licenses in 1992 to those who held valid licenses in 1990-1991, and, in 1993, to the same category of licenses who purchased licenses in 1991 or 1992. Subcommittee staff explained the basis for the objections: lack of statutory authority to restrict licenses in this manner; constitutional restrictions against preference for a particular class of licensees and the restriction of trade. Representative Allen and Chairman Kerr questioned the authority of the agency to restrict licenses in such a manner. Representative Allen stated that he believed it was inappropriate to grant such a preference and not to provide equal opportunity to all who wished to obtain a license. Chairman Kerr stated that the restriction raised constitutional questions. Agency personnel referred to laws in other states permitting such restrictions. It was pointed out that the existence of such laws did not, in themselves, establish the constitutionality of such restrictions; that there was no definitive U.S. Supreme Court ruling on the issues; that there was no similar Kentucky statute. Chairman Kerr asked whether other methods had been considered such as a lottery or the award of licenses on a first-come first-served basis.

**Economic Development Cabinet: Department of Business Development**

It was noted that these administrative regulations were amended to comply with objections raised by the Task Force on Economic Development during the quadrennial review.

306 KAR 1:010. Definitions.

306 KAR 1:030. Eligibility requirements.

306 KAR 1:040. Qualification.

306 KAR 1:050. Removal of designation.

306 KAR 1:060. Conflict of interest.

306 KAR 1:070. Duties of the authority.

306 KAR 1:090. Geographic neighborhood area.

**Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers**

601 KAR 1:190 & E. Paratransit as a complement to fixed route bus service.

**Education and Humanities Cabinet: Department of Education: Instructional Services**

704 KAR 3:007. Kentucky distinguished educator program criteria.

**Education Professional Standards Board**

704 KAR 20:110. Business administrators.

704 KAR 20:310. Written examination and internship prerequisites for vocational teachers.

704 KAR 20:610. Kentucky primary alternative certification program.

704 KAR 20:640. Repeal of 704 KAR 20:140.

704 KAR 20:650. Criteria for preparation-certification programs.

**Workforce Development Cabinet: Department for Adult and Technical Education: Adult Education**

780 KAR 9:010. Testing program.

**Labor Cabinet: Workers' Compensation Board**

803 KAR 25:061. Hearing officers.



## ADMINISTRATIVE REGISTER - 3296

**Public Protection and Regulation Cabinet: Department of Housing, Buildings and Construction: Plumbing**  
815 KAR 20:120. Water supply and distribution.

**The following regulations were deferred upon agreement by the promulgating agency and the Subcommittee:**

**Board of Registration for Professional Engineers and Land Surveyors**

201 KAR 18:131 & E. Disciplinary and grievance hearing procedures.

**Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division for Air Quality: General Administrative Procedures**

401 KAR 50:010. Definitions and abbreviations of terms used in Title 401, Chapters 50, 51, 53, 55, 57, 59, 61, 63, and 65.

401 KAR 50:012. General applications.

401 KAR 50:047. Test procedures for capture efficiency.

**New Source Requirements; Nonattainment Areas**

401 KAR 51:001. Definitions and abbreviations of terms used in Title 401, Chapter 51.

401 KAR 51:017. Prevention of significant deterioration of air quality.

**New Source Standards**

401 KAR 59:001. Definitions and abbreviations of terms used in Title 401, Chapter 59.

401 KAR 59:185. New solvent metal cleaning equipment.

401 KAR 59:190. New insulation of magnet wire operations.

401 KAR 59:210. New fabric, vinyl and paper surface coating operations.

401 KAR 59:212. New graphic arts facilities using rotogravure and flexography.

401 KAR 59:214. New factory surface coating operations of flat wood paneling.

401 KAR 59:225. New miscellaneous metal parts and products surface coating operations.

401 KAR 59:230. New synthesized pharmaceutical product manufacturing operations.

401 KAR 59:240. New perchloroethylene dry cleaning systems.

401 KAR 59:315. Specific new sources.

**Existing Source Standards**

401 KAR 61:001. Definitions and abbreviations of terms used in Title 401, Chapter 61.

401 KAR 61:050. Existing storage vessels for petroleum liquids.

401 KAR 61:090. Existing automobiles and light-duty truck

surface coating operations.

401 KAR 61:095. Existing solvent metal cleaning equipment.

401 KAR 61:100. Existing insulation of magnet wire operations.

401 KAR 61:105. Existing metal furniture surface coating operations.

401 KAR 61:110. Existing large appliance surface coating operations.

401 KAR 61:120. Existing fabric, vinyl and paper surface coating operations.

401 KAR 61:122. Existing graphic arts facilities using rotogravure and flexography.

401 KAR 61:124. Existing factory surface coating operations of flat wood paneling.

401 KAR 61:125. Existing can surface coating operations. 401 KAR 61:130. Existing coil surface coating operations.

401 KAR 61:132. Existing miscellaneous metal parts and products surface coating operations.

401 KAR 61:137. Leaks from existing petroleum refinery equipment.

401 KAR 61:150. Existing synthesized pharmaceutical product manufacturing operations.

401 KAR 61:155. Existing pneumatic rubber tire manufacturing plants.

401 KAR 61:160. Existing perchloroethylene dry cleaning systems.

401 KAR 61:175. Leaks from existing synthetic organic chemical and polymer manufacturing equipment.

**General Standards of Performance**

401 KAR 63:001. Definitions and abbreviations of terms used in Title 401, Chapter 63.

401 KAR 63:025. Asphalt paving operations.

**Public Protection and Regulation Cabinet: Public Service Commission: Utilities**

807 KAR 5:066. Water.

**The Subcommittee had no objections to emergency regulations which had been filed.**

**The Subcommittee adjourned at 11 a.m. until May 5, 1992 at 2 p.m. in Room 131 of the Capitol Annex.**

**AMENDMENTS & OTHER RELEVANT MATERIAL PERTAINING TO REGULATIONS REVIEWED AT THIS MEETING ARE ATTACHED TO THE APPROPRIATE REGULATIONS. REGULATIONS AND ATTACHMENTS THERETO ARE SUBMITTED WITH THIS REPORT TO BE REFERRED TO THE APPROPRIATE JURISDICTIONAL COMMITTEE.**

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.

**HOUSE COMMITTEE ON  
BUSINESS ORGANIZATIONS AND PROFESSIONS  
Meeting of March 17, 1992**

The House Committee on Business Organizations and Professions met on Tuesday, March 17, 1992, and considered administrative regulations referred by LRC.

The committee approved as presented:

201 KAR 2:105 - Kentucky Board of Pharmacy  
201 KAR 11:230 - Kentucky Real Estate Commission

The meeting adjourned at 1:35 p.m.

**HOUSE AND SENATE COMMITTEES ON  
HEALTH AND WELFARE  
Meeting of March 26, 1992**

The House and Senate Committees on Health and Welfare met jointly on March 26, 1992 and submit this report:

The committees voted to find 902 KAR 8:030 deficient, relating to a merit system for local health departments, at the request of the Cabinet for Human Resources. The regulation will be considered during the Health Care Reform Task Force deliberations.

The committees voted to approve 902 KAR 22:010 and 902 KAR 22:030, relating to midlevel health care practitioners and networks. Senator Roeding was concerned about allowing a midlevel health care practitioner to reorder drugs on the formulary.

The committees took no action on the following regulations:

907 KAR 1:040  
907 KAR 1:376  
907 KAR 1:410  
907 KAR 1:432

**ECONOMIC DEVELOPMENT, TOURISM AND ENERGY  
Meeting of April 14, 1992**

The Economic Development, Tourism and Energy Committee (combined House and Senate) met on Tuesday, April 14, 1992, and considered these administrative regulations. The committee moved that the Enterprise Zone administrative regulations 301 KAR 1:010 through 301 KAR 1:090 and 306 KAR 2:010 have been amended to comply with the recommendations of the Economic Development Task Force regarding deficiencies found during quadrennial review, and these administrative regulations, as amended, are found to be in compliance and no longer subject to expiration.

**SENATE AND HOUSE EDUCATION COMMITTEES  
Meetings of April 14, 1992**

The Senate and House Education Committees met on April 14, 1992 and approved the following administrative regulations and removed their findings of deficiency:

704 KAR 7:060, Missing Kentucky school children program.  
707 KAR 1:040, Tuition and support programs for deaf-blind children.

**SENATE COMMITTEE ON  
AGRICULTURE AND NATURAL RESOURCES  
HOUSE COMMITTEE ON  
NATURAL RESOURCES AND ENVIRONMENT  
Meeting of April 14, 1992**

The Senate Committee on Agriculture and Natural Resources and the House Committee on Natural Resources and Environment met jointly April 14, 1992, and submit this report:

The committee agreed to pass over Department of Fish and Wildlife Resources administrative regulation 301 KAR 1:085 & E.

The committee determined that Department of Fish and Wildlife Resources administrative regulations 301 KAR 2:047 and 301 KAR 2:250 do comply with KRS Chapter 13A.

The meeting adjourned April 14, 1992, at 1:40 p.m.

**HOUSE AND SENATE  
STATE GOVERNMENT COMMITTEES  
Meeting of April 14, 1992**

The House and the Senate State Government Committees met this date, reviewed the following regulations of the Kentucky Commission on Human Rights, and found them no longer deficient:

104 KAR 1:010, Posting, distribution and availability of notices.  
104 KAR 1:020, Administrative proceeding under the Kentucky Civil Rights Act.  
104 KAR 1:030, Employer records and reports.  
104 KAR 1:040, Guidelines for employment advertisement.  
104 KAR 1:050, Guidelines on discrimination because of sex, religion, employment selection, and national origin.  
104 KAR 1:060, Records and reports for multiple dwelling developments and reporting form.  
104 KAR 1:070, Records and reports for apprenticeships and training programs.



## ADMINISTRATIVE REGISTER - K1

### CUMULATIVE SUPPLEMENT

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## ADMINISTRATIVE REGISTER - K2

### LOCATOR INDEX - EFFECTIVE DATES

NOTE: Emergency regulations expire 120 days from publication or upon replacement or repeal.

#### VOLUME 17

Emergency Regulation	17 Ky.R Page No.	Effective Date	Regulation	17 Ky.R Page No.	Effective Date
200 KAR 17:030E	3085	4-15-91	601 KAR 1:190	3600	(See 18 Ky.R.)
Replaced		8-22-91	704 KAR 3:035		
200 KAR 17:040E	3088	4-15-91	Amended	3254	(See 18 Ky.R.)
Replaced		8-22-91	780 KAR 2:130		
200 KAR 17:050E	3090	4-15-91	Amended	3260	(See 18 Ky.R.)
Replaced		8-22-91	805 KAR 4:085		
415 KAR 1:010E	3356	4-25-91	Amended	3270	(See 18 Ky.R.)
Replaced		9-25-91	805 KAR 4:100		
415 KAR 1:020E	3357	4-25-91	Amended	3272	(See 18 Ky.R.)
Replaced		9-25-91	805 KAR 4:110		
415 KAR 1:030E	3358	4-25-91	Amended	3274	(See 18 Ky.R.)
Replaced		9-25-91	807 KAR 5:014	3072	
900 KAR 4:010E	3360	4-16-91	Withdrawn		9-13-91
Replaced		10-6-91	900 KAR 4:010	3342	(See 18 Ky.R.)
902 KAR 20:290E	3363	5-7-91	902 KAR 10:030		
Replaced	3538	8-21-91	Amended	3048	(See 18 Ky.R.)
			902 KAR 20:290		
			Amended	3538	8-21-91
			902 KAR 55:075	3606	(See 18 Ky.R.)
			905 KAR 1:180		
			Amended	3558	8-22-91
			905 KAR 1:320	3608	(See 18 Ky.R.)
			905 KAR 1:330	3612	8-22-91
			905 KAR 5:060	3075	
			Amended	3470	(See 18 Ky.R.)
			905 KAR 5:070	3618	8-22-91

Regulation	17 Ky.R Page No.	Effective Date
201 KAR 16:010		
Amended	3494	
Withdrawn		11-27-91
415 KAR 1:010	3592	(See 18 Ky.R.)
415 KAR 1:020	3594	(See 18 Ky.R.)
415 KAR 1:030	3597	(See 18 Ky.R.)

#### VOLUME 18

Emergency Regulation	18 Ky.R Page No.	Effective Date	Emergency Regulation	18 Ky.R Page No.	Effective Date
101 KAR 1:325E	256	6-21-91	405 KAR 8:010E	1798	11-1-91
Replaced	82	9-6-91	Replaced	2774	4-3-92
101 KAR 2:035E	4	6-14-91	405 KAR 8:030E		
Died		10-7-91	Resubmitted	3135	3-18-92
105 KAR 1:215E	979	8-21-91	405 KAR 8:040E		
Replaced	1326	11-8-91	Resubmitted	3145	3-18-92
109 KAR 13:010E	1288	10-4-91	405 KAR 10:001E	2119	11-27-91
Replaced	2199	1-10-92	Replaced	2842	4-3-92
200 KAR 5:330E	980	8-30-91	405 KAR 12:001E	2122	11-27-91
Replaced	1894	1-10-92	Replaced	2472	4-3-92
200 KAR 18:020E	2915	3-6-92	405 KAR 16:001E	2124	11-27-91
201 KAR 18:131E	2768	1-21-92	Replaced	2844	4-3-92
301 KAR 1:085E	2520	1-3-92	405 KAR 16:180E		
301 KAR 2:044E	619	8-9-91	Resubmitted	3158	3-18-92
Replaced	1329	10-22-91	405 KAR 18:001E	2130	11-27-91
301 KAR 2:220E	1268	10-15-91	Replaced	2849	4-3-92
Replaced	1381	12-17-91	405 KAR 18:180E		
302 KAR 16:080E	3130	4/7/92	Resubmitted	3160	3-18-92
405 KAR 7:001E	2108	11-27-91	405 KAR 20:001E	2136	11-27-91
Replaced	2834	4-3-92	Replaced	2853	4-3-92
405 KAR 7:021E	2112	11-27-91	405 KAR 24:001E	2140	11-27-91
Replaced	2458	4-3-92	Replaced	2495	4-3-92
405 KAR 8:001E	2112	11-27-91	415 KAR 1:040E	7	6-13-91
Replaced	2837	4-3-92	Replaced	715	9-25-91



# ADMINISTRATIVE REGISTER - K3

Emergency Regulation	18 Ky.R Page No.	Effective Date	Emergency Regulation	18 Ky.R Page No.	Effective Date
500 KAR 8:010E	9	5-31-91	907 KAR 1:004E	629	7-23-91
Withdrawn		7-1-91	Replaced	507	10-6-91
Resubmitted	257	7-1-91	907 KAR 1:010E	265	7-1-91
Replaced	1333	11-8-91	Replaced	519	10-6-91
500 KAR 8:020E	258	7-1-91	907 KAR 1:011E	640	7-23-91
Replaced	1334	11-8-91	Replaced	520	10-6-91
500 KAR 8:030E	259	7-1-91	907 KAR 1:012E	645	7-24-91
Replaced	1132	11-8-91	Replaced	525	10-6-91
501 KAR 6:020E	983	8-21-91	907 KAR 1:013E	646	7-24-91
Replaced	795	11-8-91	Replaced	911	10-16-91
Resubmitted	1813	11-13-91	907 KAR 1:021E	267	7-1-91
Replaced	1927	2-7-92	Replaced	594	10-6-91
501 KAR 6:150E	1814	10-16-91	907 KAR 1:022E	650	7-19-91
Replaced	1405	1-10-92	Replaced	526	10-16-91
Resubmitted	3162	3-30-92	907 KAR 1:025E	654	7-19-91
601 KAR 1:190E	2770	2-11-92	Replaced	1142	10-16-91
601 KAR 12:060E	621	7-26-91	907 KAR 1:027E	268	7-1-91
Replaced	1007	10-1-91	Replaced	538	10-6-91
601 KAR 40:020E	2770	2-4-92	907 KAR 1:040E	269	7-1-91
701 KAR 5:050E	2772	1-21-92	Replaced	541	10-6-91
Replaced	2920	4-3-92	907 KAR 1:044E	661	7-29-91
701 KAR 5:090E	10	5-29-91	Replaced	915	10-16-91
Replaced	217	9-6-91	907 KAR 1:045E	662	7-29-91
702 KAR 1:001E	259	7-11-91	Replaced	916	10-16-91
Replaced	569	10-6-91	907 KAR 1:140E	1826	11-7-91
702 KAR 3:220E	1293	9-18-91	Replaced	2583	3-7-92
Replaced	476	11-8-91	907 KAR 1:150E	1828	11-7-91
704 KAR 3:006E	260	7-11-91	Replaced	2584	3-7-92
Replaced	1340	11-8-91	907 KAR 1:340E	664	7-23-91
704 KAR 20:580E	263	6-17-91	Replaced	547	10-6-91
Replaced	75	8-2-91	907 KAR 1:480E	270	7-1-91
806 KAR 17:066E	2144	12-6-91	Replaced	595	10-6-91
Replaced	2787	3-7-92	907 KAR 1:485E	271	7-1-91
900 KAR 2:050E	1816	10-16-91	Replaced	596	10-6-91
Replaced	2823	3-7-92	907 KAR 1:490E	271	7-1-91
900 KAR 2:060E	1818	10-16-91	Replaced	598	10-6-91
Replaced	2824	3-7-92	907 KAR 1:495E	272	7-1-91
902 KAR 20:006E	985	8-22-91	Replaced	599	10-6-91
Replaced	1347	1-10-92	907 KAR 1:505E	665	7-23-91
902 KAR 22:010E	2185	12-9-91	Replaced	600	10-6-91
Replaced	2856	3-26-92	907 KAR 1:510E	666	7-23-91
902 KAR 22:030E	2186	12-9-91	Replaced	601	10-6-91
Replaced	2921	3-26-92	907 KAR 1:515E	666	7-23-91
903 KAR 5:270E	265	6-17-91	Replaced	1053	10-6-91
Replaced	608	9-6-91	907 KAR 1:520E	667	7-23-91
904 KAR 2:006E	622	7-19-91	Replaced	603	10-6-91
Replaced	1047	10-6-91	907 KAR 1:525E	668	7-23-91
904 KAR 2:015E	1294	9-24-91	Replaced	1054	10-6-91
Replaced	881	10-16-91	907 KAR 1:530E	669	7-23-91
Resubmitted	2188	12-4-91	Replaced	606	10-6-91
Replaced	2441	3-7-92	907 KAR 1:535E	670	7-29-91
904 KAR 2:016E	1298	9-24-91	Replaced	966	10-16-91
Replaced	1245	11-25-91	907 KAR 1:540E	1318	9-24-91
Resubmitted	3164	3-31-92	Replaced	1970	1-10-92
904 KAR 2:110E	1308	9-24-91	908 KAR 1:300E	1830	10-16-91
Replaced	1595	1-10-92	Replaced	1782	1-10-92
904 KAR 2:116E	2192	11-21-91	908 KAR 1:310E	1831	10-22-91
Replaced	2826	3-7-92	Replaced	2586	3-7-92
904 KAR 2:360E	1310	9-24-91			
Replaced	1891	11-25-91			
904 KAR 3:010E	1819	11-7-91			
Replaced	2043	2-7-92			
904 KAR 3:020E	11	6-5-91	Regulation	18 Ky.R Page No.	Effective Date
Replaced	202	8-21-91	11 KAR 4:040		
904 KAR 3:025E	15	6-5-91	Amended	320	
Replaced	246	8-21-91	Amended	1056	11-8-91
904 KAR 3:035E	1822	11-7-91	11 KAR 5:030		
Replaced	2047	2-7-92	Expired**		4-14-92
905 KAR 2:080E	1313	10-8-91	11 KAR 8:030		
Replaced	1734	1-10-92	As Amended	274	7-8-91
Resubmitted	3172	4-9-92	Amended	1152	11-14-91
905 KAR 8:150E	628	7-23-91	11 KAR 12:001	2069	2-7-92
Replaced	593	10-6-91			



# ADMINISTRATIVE REGISTER - K4

Regulation	18 Ky.R Page No.	Effective Date	Regulation	18 Ky.R Page No.	Effective Date
30 KAR 1:040			105 KAR 1:215	934	
As Amended	276	8-2-91	As Amended	1326	11-8-91
30 KAR 1:050			105 KAR 1:220	936	11-8-91
As Amended	276	8-2-91	105 KAR 1:230	939	11-8-91
31 KAR 4:070	555		105 KAR 1:240	940	11-8-91
As Amended	1320		106 KAR 1:080		
45 KAR 1:020			Amended	54	
Repealed	2197	1-10-92	Withdrawn		8-27-91
45 KAR 1:030	1692		106 KAR 1:081	1697	
As Amended	2195	1-10-92	Amended	2310	1-27-92
45 KAR 1:040	1693		106 KAR 1:090		
As Amended	2196	1-10-92	Amended	68	
45 KAR 1:050	1695		Withdrawn		8-27-91
As Amended	2197	1-10-92	106 KAR 1:091	1712	
101 KAR 1:325			Amended	2325	
Amended	82	9-6-91	As Amended	2522	1-27-92
101 KAR 2:035			106 KAR 1:100		
Amended	83		Amended	73	
Withdrawn		10-7-91	Withdrawn		8-27-91
Expired**		4-14-92	106 KAR 1:101	1717	1-27-92
101 KAR 2:045			106 KAR 1:111	1719	1-27-92
Amended	1155	12-8-91	106 KAR 1:120		
Expired**		4-14-92	Amended	73	
101 KAR 2:055			Withdrawn		8-27-91
Expired**		4-14-92	106 KAR 1:121	1720	
101 KAR 2:065			Amended	2329	1-27-92
Expired**		4-14-92	106 KAR 1:131	1721	
101 KAR 2:075			Amended	2330	1-27-92
Expired**		4-14-92	107 KAR 1:025		
103 KAR 18:100			Amended	1910	
Expired**		4-14-92	Withdrawn		2-3-92
104 KAR 1:010			107 KAR 1:050		
Amended	2862		Amended	1910	
As Amended	3178		Withdrawn		2-3-92
104 KAR 1:020			108 KAR 1:030	2070	
Amended	2863		As Amended	2773	3-5-92
As Amended	3179		108 KAR 1:040	3065	
104 KAR 1:030			109 KAR 10:010		
Amended	2867		Recodified from 200 KAR 4:005		7-8-91
As Amended	3183		Amended	723	
104 KAR 1:040			As Amended	1326	11-8-91
Amended	2868		109 KAR 11:010		
As Amended	3184		Recodified from 200 KAR 8:010		7-8-91
104 KAR 1:050			Amended	725	12-8-91
Amended	2869		109 KAR 11:020		
As Amended	3186		Recodified from 200 KAR 8:020		7-8-91
104 KAR 1:060			Amended	727	12-8-91
Amended	1870		109 KAR 11:030		
As Amended	3187		Recodified from 200 KAR 8:030		7-8-91
104 KAR 1:070			Amended	728	12-8-91
Amended	2871		109 KAR 12:010		
105 KAR 1:070			Recodified from 200 KAR 11:010		7-8-91
Amended	722	11-8-91	109 KAR 12:020		
105 KAR 1:110			Recodified from 200 KAR 11:020		7-8-91
Repealed	932	11-8-91	Amended	729	
105 KAR 1:120	920		As Amended	1328	11-8-91
As Amended	1320	11-8-91	109 KAR 12:030		
105 KAR 1:130	921		Recodified from 200 KAR 11:030		7-8-91
As Amended	1321	11-8-91	Amended	730	
105 KAR 1:140	922		As Amended	1328	11-8-91
As Amended	1321	11-8-91	109 KAR 12:040		
105 KAR 1:150	924	11-8-91	Recodified from 200 KAR 11:040		7-8-91
105 KAR 1:160	925		Amended	731	
As Amended	1322	11-8-91	As Amended	1329	11-8-91
105 KAR 1:170	927		109 KAR 12:050		
As Amended	1323	11-8-91	Recodified from 200 KAR 11:050		7-8-91
105 KAR 1:180	928	11-8-91	Amended	732	11-8-91
105 KAR 1:190	929	11-8-91	109 KAR 13:010	1723	
105 KAR 1:200	931		As Amended	2199	1-10-92
As Amended	1324	11-8-91	200 KAR 3:010		
105 KAR 1:210	932	11-8-91	Amended	325	9-11-91



# ADMINISTRATIVE REGISTER - K5

			18 Ky.R Regulation	Effective Page No.	Date
200 KAR 3:045	1352				
Amended	2199	1-10-92			
As Amended					
200 KAR 4:005			200 KAR 13:010		
Recodified as 109 KAR 10:010		7-8-91	Repealed	1725	1-10-92
200 KAR 5:050			200 KAR 14:010		
Amended	1352		As Amended	277	7-29-91
As Amended	2200	1-10-92	200 KAR 14:080		
200 KAR 5:075			As Amended	278	7-29-91
Repealed	1724	1-10-92	200 KAR 14:090		
200 KAR 5:076	1724	1-10-92	As Amended	279	7-29-91
200 KAR 5:300			200 KAR 16:010		
Repealed	1725	1-10-92	Repealed	2069	2-7-92
200 KAR 5:301			200 KAR 16:020		
Amended	1354	1-10-92	Repealed	2069	2-7-92
200 KAR 5:303			200 KAR 16:030		
Repealed	1725	1-10-92	Repealed	2069	2-7-92
200 KAR 5:304			200 KAR 16:040		
Amended	1355	1-10-92	Repealed	2069	2-7-92
200 KAR 5:305			200 KAR 16:050		
Amended	1356	1-10-92	Repealed	2069	2-7-92
200 KAR 5:306			200 KAR 16:070		
Amended	1357		Repealed	2069	2-7-92
As Amended	2201	1-10-92	200 KAR 16:080		
200 KAR 5:307			Repealed	2069	2-7-92
Amended	1359	1-10-92	200 KAR 16:090		
200 KAR 5:308			Repealed	2069	2-7-92
Repealed	1725	1-10-92	200 KAR 17:020		
200 KAR 5:309			As Amended	671	8-22-91
Amended	1362	1-10-92	Expired**		4-14-92
200 KAR 5:310			200 KAR 17:030		
Amended	1363	1-10-92	As Amended	674	8-22-91
200 KAR 5:311			200 KAR 17:040		
Amended	1364	1-10-92	As Amended	677	8-22-91
200 KAR 5:312			Expired**		4-14-92
Amended	1365	1-10-92	200 KAR 17:050		
200 KAR 5:313			As Amended	679	8-22-91
Amended	1366	1-10-92	200 KAR 18:010		
200 KAR 5:314			Repealed	2915	3-6-92
Repealed	1725	1-10-92	200 KAR 18:020	3065	
200 KAR 5:315			201 KAR 1:001	3067	
Amended	1367	1-10-92	201 KAR 1:015		
200 KAR 5:316			Amended	2972	
Repealed	1725	1-10-92	201 KAR 1:020		
200 KAR 5:317			Amended	2972	
Amended	1369	1-10-92	201 KAR 1:040		
200 KAR 5:330	1255		Amended	2973	
Amended	1894	1-10-92	201 KAR 1:045		
200 KAR 6:010			Amended	2974	
Repealed	1725	1-10-92	201 KAR 1:050		
200 KAR 6:011	1725	1-10-92	Amended	2975	
200 KAR 6:015			201 KAR 1:065		
Amended	1370	1-10-92	Amended	2976	
200 KAR 6:040			201 KAR 1:080		
Amended	1371	1-10-92	Amended	2977	
200 KAR 7:010			201 KAR 1:100		
Amended	1375	1-10-92	Amended	2872	
200 KAR 8:010			As Amended	3188	
Recodified as 109 KAR 11:010		7-8-91	201 KAR 1:130	3067	
200 KAR 8:020			201 KAR 1:140	3069	
Recodified as 109 KAR 11:020		7-8-91	201 KAR 1:150	3070	
200 KAR 8:030			201 KAR 2:010		
Recodified as 109 KAR 11:030		7-8-91	Amended	1159	
200 KAR 11:010			Died*		11-7-91
Recodified as 109 KAR 12:010		7-8-91	Amended	1911	2-19-92
200 KAR 11:020			201 KAR 2:061	2449	
Recodified as 109 KAR 12:020		7-8-91	As Amended	2773	3-4-92
200 KAR 11:030			201 KAR 2:105		
Recodified as 109 KAR 12:030		7-8-91	Amended	2348	
200 KAR 11:040			Amended	2832	
Recodified as 109 KAR 12:040		7-8-91	As Amended	2917	3-25-92
200 KAR 11:050			201 KAR 2:167	2734	
Recodified as 109 KAR 12:050		7-8-91	Withdrawn		2-14-92
200 KAR 12:020			Resubmitted	3071	
Amended	1378	1-10-92	201 KAR 2:200	3072	



# ADMINISTRATIVE REGISTER - K6

Regulation	18 Ky.R Page No.	Effective Date	Regulation	Effective Page No.	Date
201 KAR 9:031			301 KAR 2:111		
Amended	88		Amended	309	
As Amended	991	9-24-91	As Amended	682	8-28-91
201 KAR 9:041			301 KAR 2:140		
Amended	89	8-30-91	Amended	1161	11-26-91
201 KAR 9:175			301 KAR 2:170		
Amended	327		As Amended	18	6-26-91
As Amended	992	9-24-91	Amended	3216	
201 KAR 9:300	210		301 KAR 2:190		
As Amended	996	10-11-91	Repealed	1331	10-22-91
201 KAR 9:305	211		301 KAR 2:195	948	
As Amended	996	9-24-91	As Amended	1331	10-22-91
201 KAR 10:060			301 KAR 2:210		
Amended	3209		Amended	3220	
201 KAR 10:080	1726		301 KAR 2:220		
As Amended	2524	1-29-92	Amended	1381	12-17-92
201 KAR 11:230			301 KAR 2:250		
Amended	2592	3-25-92	Amended	2597	
201 KAR 13:050			301 KAR 3:021		
Amended	3209		Amended	90	8-28-91
201 KAR 18:040			301 KAR 3:080		
Amended	3210		Repealed	619	8-9-91
201 KAR 18:075	3271		301 KAR 10:010	212	
201 KAR 18:131	2450		Amended	704	9-25-91
201 KAR 20:056			302 KAR 16:080	3271	
Amended	331		302 KAR 20:230	2070	
As Amended	997	9-24-91	As Amended	2774	2-10-92
201 KAR 20:200			302 KAR 45:010		
Amended	3211		Amended	743	
201 KAR 20:215			As Amended	1840	11-26-91
Amended	3212		306 KAR 1:010		
201 KAR 20:220			Amended	2876	
Amended	3213		306 KAR 1:020		
201 KAR 20:390			Amended	2877	
Amended	2874		As Amended	3194	
201 KAR 22:020			306 KAR 1:030		
Amended	334	9-24-91	Amended	2877	
201 KAR 22:040			306 KAR 1:040		
Amended	335	9-24-91	Amended	2878	
201 KAR 22:053			306 KAR 1:050		
Amended	1379	1-10-92	Amended	2879	
201 KAR 22:070			306 KAR 1:060		
Amended	336	9-24-91	Amended	2879	
201 KAR 22:101			306 KAR 1:070		
Amended	338	9-24-91	Amended	2880	
201 KAR 22:110			306 KAR 1:090		
Amended	339	9-24-91	Amended	2881	
201 KAR 22:135			306 KAR 2:010		
Amended	340	9-24-91	Amended	2881	
201 KAR 23:070			As Amended	3194	
Amended	733		400 KAR 1:070	556	
As Amended	1838	11-22-91	Withdrawn		9-3-91
201 KAR 30:100	940	11-22-91	401 KAR 4:220		
201 KAR 30:110	945	11-22-91	As Amended	22	6-26-91
201 KAR 30:120	946		401 KAR 5:031		
As Amended	2203	11-22-91	Amended	1388	
201 KAR 30:130	947	11-22-91	Amended	2331	1-27-92
301 KAR 1:015			401 KAR 6:310		
Amended	735	10-22-91	As Amended	34	5-22-91
301 KAR 1:075			401 KAR 8:010		
Amended	736	10-22-91	Amended	1165	
301 KAR 1:085			As Amended	1841	11-26-91
Amended	74	7-31-91	401 KAR 8:020		
Amended	1160	11-26-91	Amended	1170	
Amended	2350		As Amended	1845	11-26-91
301 KAR 1:200			401 KAR 8:070		
Amended	738	10-22-91	Amended	1175	
301 KAR 2:044			As Amended	1849	11-26-91
Amended	740		401 KAR 8:150		
As Amended	1329	10-22-91	Amended	1180	
301 KAR 2:047			As Amended	1853	11-26-91
Amended	2593				
As Amended	3190				



# ADMINISTRATIVE REGISTER - K7

Regulation	18 Ky.R Page No.	Effective Date	Regulation	18 Ky.R Page No.	Effective Date
401 KAR 8:200			401 KAR 51:017		
Amended	1186		Amended	750	
As Amended	1857	11-26-91	Died*		10-15-91
401 KAR 30:010			Amended	2605	
Amended	2978		401 KAR 58:005		
401 KAR 30:031	3074		Recodified from 401 KAR 63:045		2-24-92
401 KAR 31:010			401 KAR 58:010		
Amended	92	9-25-91	Recodified from 401 KAR 63:050		2-24-92
401 KAR 31:030			401 KAR 59:001	2741	
Amended	103	9-25-91	Amended	2933	
401 KAR 31:040			401 KAR 59:185		
Amended	106	9-25-91	Amended	2616	
401 KAR 31:060			Amended	2936	
Amended	118		401 KAR 59:190		
Amended	706	9-25-91	Amended	2619	
401 KAR 31:110			Amended	2938	
Amended	122		401 KAR 59:210		
Amended	708		Amended	2622	
As Amended	999	9-25-91	Amended	2939	
401 KAR 32:010			401 KAR 59:212		
Amended	125		Amended	2625	
Amended	710		Amended	2941	
As Amended	1001	9-25-91	401 KAR 59:214		
401 KAR 32:100			Amended	763	
Amended	127	9-25-91	Died*		10-15-91
401 KAR 34:230			Amended	2629	
Amended	132		Amended	2943	
Amended	712	9-25-91	401 KAR 59:225		
401 KAR 35:200			Amended	767	
Amended	136		Died*		10-15-91
As Amended	1003	9-25-91	Amended	2632	
401 KAR 35:220			Amended	2945	
Amended	139	9-25-91	401 KAR 59:230		
401 KAR 35:240			Amended	771	
Amended	143	9-25-91	Died*		10-15-91
401 KAR 37:100			Amended	2635	
Amended	145	9-25-91	Amended	2947	
401 KAR 45:010	3076		401 KAR 59:240		
401 KAR 45:020	3078		Amended	774	
401 KAR 45:030	3080		Died*		10-15-91
401 KAR 45:040	3084		Amended	2638	
401 KAR 45:050	3086		Amended	2949	
401 KAR 45:060	3089		401 KAR 59:315	2744	
401 KAR 45:070	3090		401 KAR 61:001	2746	
401 KAR 45:080	3092		Amended	2950	
401 KAR 45:090	3094		401 KAR 61:050		
401 KAR 45:100	3097		Amended	2640	
401 KAR 45:110	3103		401 KAR 61:090		
401 KAR 45:130	3106		Amended	2643	
401 KAR 45:135	3107		Amended	2953	
401 KAR 45:140	3109		401 KAR 61:095		
401 KAR 45:160	3111		Amended	2646	
401 KAR 45:210	3115		401 KAR 61:100		
401 KAR 45:250	3117		Amended	2650	
401 KAR 48:050			401 KAR 61:105		
Amended	147	9-25-91	Amended	2652	
401 KAR 50:010			401 KAR 61:110		
Amended	744		Amended	2655	
Died*		10-15-91	401 KAR 61:120		
Amended	2599		Amended	2658	
Amended	2926		401 KAR 61:122		
401 KAR 50:012			Amended	2661	
Amended	749		Amended	2955	
Died*		10-15-91	401 KAR 61:124		
Amended	2604		Amended	777	
Amended	2929		Died*		10-15-91
401 KAR 50:046	952		Amended	2664	
Died*		10-15-91	401 KAR 61:125		
401 KAR 50:047	2734		Amended	2667	
401 KAR 51:001	2737		401 KAR 61:130		
Amended	2930		Amended	2670	



# ADMINISTRATIVE REGISTER - K8

Regulation	18 Ky.R Page No.	Effective Date	Regulation	18 Ky.R Page No.	Effective Date
401 KAR 61:132			405 KAR 10:050		
Amended	780		Amended	409	
Died*		10-15-91	Withdrawn		8-15-91
Amended	2672		405 KAR 10:200		
Amended	2956		Amended	411	
401 KAR 61:137			As Amended	1868	11-26-91
Amended	784		405 KAR 12:001	2472	4-3-92
Died*		10-15-91	405 KAR 16:001	2475	
Amended	2676		Amended	2844	4-3-92
401 KAR 61:150			405 KAR 16:180		
Amended	787		Amended	416	
Died*		10-15-91	Amended	1114	
Amended	2678		As Amended	2234	
401 KAR 61:155			Withdrawn		3-5-92
Amended	2680		Amended	3017	
401 KAR 61:160			405 KAR 16:190		
Amended	790		Amended	420	
Died*		10-15-91	As Amended	1872	11-26-91
Amended	2682		405 KAR 16:200		
401 KAR 61:175			Amended	424	
Amended	792		Amended	1117	
Died*		10-15-91	As Amended	2237	12-17-91
Amended	2684		405 KAR 16:210		
401 KAR 63:001	2750		Amended	431	
Amended	2958		As Amended	1875	
401 KAR 63:025			As Amended	2243	11-26-91
Amended	2686		405 KAR 18:001	2482	
401 KAR 63:045			Amended	2849	4-3-92
Recodified to 401 KAR 58:005		2-24-92	405 KAR 18:180		
401 KAR 63:050			Amended	434	
Recodified to 401 KAR 58:010		2-24-92	Amended	1123	
405 KAR 7:001	2453		As Amended	2245	
Amended	2834	4-3-92	Withdrawn		3-5-92
405 KAR 7:015			Amended	3020	
Amended	341	12-17-91	405 KAR 18:190		
405 KAR 7:020			Amended	438	
Amended	343		As Amended	1877	11-26-91
Amended	1060		405 KAR 18:200		
Repealed	2112	11-27-91	Amended	442	
405 KAR 7:021	2458	4-3-92	Amended	1125	
405 KAR 7:030			As Amended	2248	12-17-91
Amended	353	11-26-91	405 KAR 18:220		
405 KAR 7:035	560		Amended	449	
Amended	1069		As Amended	1880	
As Amended	1865	11-26-91	As Amended	2254	11-26-91
405 KAR 7:030			405 KAR 20:001	2490	
Amended	356		Amended	2853	4-3-92
As Amended	2204	11-26-91	405 KAR 20:010		
405 KAR 8:001	2460		Amended	452	12-17-91
Amended	2837	4-3-92	405 KAR 24:001	2495	4-3-92
405 KAR 8:010			415 KAR 1:010		
Amended	360		Amended	311	9-25-91
Amended	1072		415 KAR 1:020		
Withdrawn		10-30-91	Amended	312	
Amended	1912		As Amended	1005	9-25-91
Amended	2542		415 KAR 1:030		
As Amended	2774	4-3-92	Amended	313	9-25-91
405 KAR 8:020			415 KAR 1:040	214	
Amended	375	11-26-91	Amended	715	9-25-91
405 KAR 8:030			500 KAR 8:010		
Amended	379		Amended	148	
Amended	1087		Withdrawn		7-1-91
As Amended	2207		Amended	454	
Withdrawn		3-5-92	Amended	1131	
Amended	2992		As Amended	1333	11-8-91
405 KAR 8:040			500 KAR 8:020	564	
Amended	394		Amended	1132	
Amended	1100		As Amended	1334	11-8-91
As Amended	2220		500 KAR 8:030	565	
Withdrawn		3-5-92	Amended	1132	11-8-91
Amended	3004		500 KAR 9:015		
405 KAR 10:001	2468		Expired**		4-14-92
Amended	2842	4-3-92			



# ADMINISTRATIVE REGISTER - K9

Regulation	18 Ky.R Page No.	Effective Date	Regulation	18 Ky.R Page No.	Effective Date
501 KAR 6:020			601 KAR 1:120		
Amended	150	9-6-91	Repealed	2072	2-7-92
Amended	795	11-8-91	601 KAR 1:140		
Amended	1927	2-7-92	Amended	2363	
Amended	2352	3-7-92	Withdrawn		12-18-91
Amended	2882		Amended	2698	
501 KAR 6:030			Withdrawn		3-2-92
Amended	455	10-6-91	601 KAR 1:180	2072	2-7-92
Amended	1929	2-7-92	601 KAR 1:190	2902	
Amended	2688	4-3-92	601 KAR 2:010		
Amended	3022		Amended	2365	
Amended	3222		Withdrawn		12-18-91
501 KAR 6:040			Amended	2700	
Amended	797	11-8-91	As Amended	2919	4-3-92
Amended	2884		601 KAR 9:135		
501 KAR 6:050			Amended	2367	3-7-92
Amended	152	9-6-91	601 KAR 11:040		
Amended	1403	1-10-92	Amended	3228	
Amended	3224		601 KAR 12:060	567	
501 KAR 6:060			As Amended	1007	10-1-91
Amended	1194	12-8-91	601 KAR 40:010	955	11-8-91
Amended	3225		Amended	2701	4-3-92
501 KAR 6:070			601 KAR 40:020	956	11-8-91
Amended	153	9-6-91	Amended	2702	4-3-92
Amended	457		603 KAR 5:066		
As Amended	1006	10-6-91	Amended	2370	3-7-92
Amended	1931	2-7-92	603 KAR 5:070		
Amended	3226		Amended	460	
501 KAR 6:080			As Amended	1008	
Amended	154	9-6-91	As Amended	1335	10-1-91
501 KAR 6:090			Amended	2372	3-7-92
Amended	459	10-6-91	603 KAR 5:071		
Amended	1196	12-8-91	Amended	464	10-1-91
Amended	2885		603 KAR 5:250		
501 KAR 6:130			As Amended	280	7-2-91
Amended	798	11-8-91	605 KAR 1:010		
Amended	1404	1-10-92	Amended	466	10-1-91
501 KAR 6:140			605 KAR 1:030		
Amended	155	9-6-91	Amended	467	10-1-91
Amended	800	11-8-91	605 KAR 1:050		
Amended	1197	12-8-91	Amended	469	10-1-91
501 KAR 6:150			605 KAR 1:090		
Amended	1405	1-10-92	Amended	470	10-1-91
Amended	1933	3-7-92	605 KAR 1:130		
Amended	3024		Amended	471	10-1-91
501 KAR 6:160			605 KAR 1:160		
Amended	1935	2-7-92	Amended	474	10-1-91
Amended	2690	4-3-92	605 KAR 1:190		
601 KAR 1:029			As Amended	1338	11-8-91
Amended	2354		701 KAR 1:001	2754	4-3-92
Withdrawn		12-18-91	701 KAR 5:020		
Amended	2691	4-3-92	Amended	1199	
601 KAR 1:030			As Amended	1882	12-8-91
Amended	2355		701 KAR 5:050		
Withdrawn		12-18-91	Amended	2704	
Amended	2692	4-3-92	As Amended	2920	4-3-92
601 KAR 1:031	2499		701 KAR 5:090	217	9-6-91
Withdrawn		12-18-91	701 KAR 5:100	219	
Resubmitted	2753	4-3-92	As Amended	685	9-6-91
601 KAR 1:040			701 KAR 7:010		
Amended	2359		Repealed	568	10-6-91
Withdrawn		12-18-91	701 KAR 7:011	568	10-6-91
Amended	2695		702 KAR 1:001	569	10-6-91
Amended	2961		702 KAR 1:010		
As Amended	3195		Repealed	259	7-11-91
601 KAR 1:045			702 KAR 1:060		
Amended	2362		Repealed	2754	4-3-92
Withdrawn		12-18-91	702 KAR 3:200		
Amended	2697	4-3-92	Repealed	2755	4-3-92
601 KAR 1:116	1258		702 KAR 3:201	2755	4-3-92
Amended	1897	1-10-92	702 KAR 3:220		
Expired**		4-14-92	Amended	476	11-8-91



# ADMINISTRATIVE REGISTER - K10

Regulation	18 Ky.R Page No.	Effective Date	Regulation	18 Ky.R Page No.	Effective Date
702 KAR 3:250	220		704 KAR 15:030		
As Amended	686	9-6-91	Recodified to 704 KAR 20:003		3-9-92
702 KAR 4:050			704 KAR 15:040		
Amended	1936		Recodified to 704 KAR 20:032		3-9-92
Withdrawn		11-21-91	704 KAR 15:090		
Amended	2377		Repealed	574	10-6-91
As Amended	2785	3-7-92	704 KAR 15:091	574	10-6-91
702 KAR 4:110			704 KAR 20:001		
Repealed	259	7-11-91	Recodified from 704 KAR 15:010		3-9-92
702 KAR 4:120			704 KAR 20:002		
Repealed	259	7-11-91	Recodified from 704 KAR 15:020		3-9-92
702 KAR 4:130			704 KAR 20:003		
Repealed	259	7-11-91	Recodified from 704 KAR 15:030		3-9-92
702 KAR 5:010			704 KAR 20:005		
Amended	3026		Amended	2886	
702 KAR 5:030			Withdrawn		4-8-92
Amended	477	11-8-91	704 KAR 20:032		
Amended	3027		Recodified from 704 KAR 15:040		3-9-92
702 KAR 5:080			704 KAR 20:110		
Amended	157		Amended	2887	
Withdrawn		7-24-91	704 KAR 20:128		
Amended	478		Recodified from 704 KAR 15:015		3-9-92
Amended	1133	11-8-91	704 KAR 20:132		
702 KAR 5:140			Amended	2888	
Repealed	570	10-6-91	Withdrawn		4-8-92
702 KAR 5:141	570	10-6-91	704 KAR 20:165		
702 KAR 5:150			Amended	2889	
Amended	481	10-6-91	Withdrawn		4-8-92
702 KAR 7:065			704 KAR 20:194		
Amended	1200	12-8-91	Amended	2890	
702 KAR 7:100			Withdrawn		4-8-92
Expired**		4-14-92	704 KAR 20:195		
704 KAR 3:005			Amended	2891	
Repealed	260	7-11-91	Withdrawn		4-8-92
704 KAR 3:006	571		704 KAR 20:310		
Amended	1136		Amended	2892	
As Amended	1340	11-8-91	704 KAR 20:450		
Amended	2705		Repealed	263	6-17-91
As Amended	3197		704 KAR 20:580		
704 KAR 3:007	2757		Amended	75	8-2-91
704 KAR 3:010			704 KAR 20:590	221	9-6-91
Repealed	574	10-6-91	704 KAR 20:600	223	9-6-91
704 KAR 3:012	574	10-6-91	704 KAR 20:610	2903	
704 KAR 3:025			704 KAR 20:640	2906	
Repealed	574	10-6-91	704 KAR 20:650	2906	
704 KAR 3:030			705 KAR 3:011	575	10-6-91
Repealed	574	10-6-91	705 KAR 3:020		
704 KAR 3:035			Repealed	2754	4-3-92
As Amended	45	7-5-91	705 KAR 3:050		
704 KAR 3:304			Repealed	575	10-6-91
Expired**		4-14-92	705 KAR 3:060		
704 KAR 3:410			Repealed	2754	4-3-92
Amended	160		705 KAR 3:090		
As Amended	687	9-6-91	Repealed	575	10-6-91
704 KAR 4:015			705 KAR 4:205		
Repealed	2754	4-3-92	Repealed	2754	4-3-92
704 KAR 4:020			705 KAR 5:010		
Amended	1202		Repealed	2754	4-3-92
As Amended	2256	1-10-92	705 KAR 5:050		
704 KAR 7:055			Repealed	575	10-6-91
Expired**		4-14-92	707 KAR 1:040		
704 KAR 7:060			Amended	1939	
Amended	2707	4-3-92	As Amended	2526	2-7-92
704 KAR 7:090			707 KAR 1:054		
Amended	482		Amended	486	
As Amended	1011	10-6-91	Amended	1140	11-8-91
704 KAR 15:010			707 KAR 1:150	228	
Recodified to 704 KAR 20:001		3-9-92	Amended	718	
704 KAR 15:015			As Amended	1014	10-6-91
Recodified to 704 KAR 20:128		3-9-92	725 KAR 2:060	3277	
704 KAR 15:020			725 KAR 2:070	3278	
Recodified to 704 KAR 20:002		3-9-92	740 KAR 1:010		
			Amended	2380	3-4-92



# ADMINISTRATIVE REGISTER - K11

Regulation	18 Ky.R Page No.	Effective Date	Regulation	18 Ky.R Page No.	Effective Date
740 KAR 1:020			804 KAR 1:100		
Amended	2381	3-4-92	Amended	186	8-30-91
740 KAR 1:030			804 KAR 5:040		
Amended	2382	3-4-92	Expired**		4-14-92
740 KAR 1:040			805 KAR 1:020		
Amended	2384	3-4-92	Amended	187	
740 KAR 1:050			As Amended	1020	9-25-91
Amended	2385	3-4-92	805 KAR 1:050		
740 KAR 1:060			Amended	189	9-25-91
Amended	2386	3-4-92	805 KAR 1:120	233	
740 KAR 1:080			As Amended	1021	9-25-91
Amended	2387	3-4-92	805 KAR 1:130	234	
740 KAR 1:090			As Amended	1022	9-25-91
Amended	2388	3-4-92	805 KAR 1:140	236	
740 KAR 1:100			As Amended	1023	9-25-91
Amended	2389	3-4-92	805 KAR 4:010		
770 KAR 1:010	2072	2-7-92	Amended	77	7-31-91
770 KAR 1:020	2073	2-7-92	805 KAR 4:085		
770 KAR 1:030	2074	2-7-92	As Amended	49	
770 KAR 1:040	2075	2-7-92	805 KAR 4:100		
770 KAR 1:050	2076	2-7-92	As Amended	49	
770 KAR 1:060	2076	2-7-92	805 KAR 4:110		
780 KAR 2:070			As Amended	50	
Amended	3028		806 KAR 3:150	239	
780 KAR 2:100			As Amended	700	9-6-91
Amended	3230		806 KAR 3:160	958	11-8-91
780 KAR 2:110			806 KAR 3:170	959	11-8-91
Amended	3232		806 KAR 4:010		
780 KAR 2:120			Amended	801	11-8-91
Amended	3233		806 KAR 7:100	964	
780 KAR 2:130			Withdrawn		9-23-91
As Amended	47	7-5-91	806 KAR 9:220		
780 KAR 2:150	3118		Amended	803	11-8-91
780 KAR 3:020			806 KAR 12:094		
Amended	1407		Expired**		4-14-92
Withdrawn		12-3-91	806 KAR 17:066		
780 KAR 3:070			Amended	2390	
Amended	3234		As Amended	2787	3-7-92
780 KAR 9:010			806 KAR 18:040		
Amended	2894		Expired**		4-14-92
783 KAR 1:030	232		806 KAR 19:030		
Amended	721	10-6-91	Amended	1208	12-8-91
784 KAR 1:010	576		Expired**		4-14-92
As Amended	1017	10-6-91	807 KAR 5:001		
784 KAR 1:020	578		Amended	191	
As Amended	1019	10-6-91	As Amended	1025	9-24-91
801 KAR 2:010			807 KAR 5:005	241	
Amended	1940		Withdrawn		8-12-91
As Amended	2527	2-6-92	807 KAR 5:006		
803 KAR 1:063			Amended	1953	
Amended	3029		Amended	2554	2-26-92
803 KAR 1:070			807 KAR 5:008		
Amended	1204	12-8-91	Repealed	2554	2-26-92
803 KAR 2:015			807 KAR 5:023	1259	
Amended	165		Amended	1897	1-10-92
As Amended	691	9-6-91	807 KAR 5:066		
803 KAR 2:307			Amended	1968	
Amended	1944	2-7-92	808 KAR 10:010		
803 KAR 2:318			Amended	199	
Amended	183	9-6-91	As Amended	701	9-6-91
803 KAR 2:320			Amended	3238	
Amended	1946	2-7-92	808 KAR 10:220		
803 KAR 2:403			Amended	200	
Amended	184	9-6-91	Withdrawn		8-20-91
Amended	1950	2-7-92	808 KAR 10:260	244	
803 KAR 2:423			As Amended	702	9-6-91
Amended	1952	2-7-92	808 KAR 10:270	245	
803 KAR 25:011			As Amended	702	9-6-91
Amended	2708		810 KAR 1:001		
Amended	2963		Amended	1977	2-19-92
As Amended	3199		810 KAR 1:002		
803 KAR 25:061	2758		Amended	1980	2-19-92
			Expired**		4-14-92



# ADMINISTRATIVE REGISTER - K12

Regulation	18 Ky.R Page No.	Effective Date	Regulation	18 Ky.R Page No.	Effective Date
810 KAR 1:003			815 KAR 10:045	2758	4-3-92
Amended	1408		815 KAR 15:020		
Withdrawn		11-19-91	Amended	488	
Amended	1982	2-19-92	As Amended	1033	9-24-91
Expired**		4-14-92	815 KAR 20:020		
810 KAR 1:004			Amended	1228	
Amended	1986	2-19-92	As Amended	1884	12-8-91
810 KAR 1:005			Amended	2717	4-3-92
Amended	1989	2-19-92	815 KAR 20:030		
810 KAR 1:006			As Amended	283	7-30-91
Amended	1991	2-19-92	Amended	3037	
Expired**		4-14-92	815 KAR 20:050		
810 KAR 1:007			Amended	1231	
Amended	1995	2-19-92	As Amended	1887	12-8-91
810 KAR 1:008			Amended	3039	
Amended	1997	2-19-92	815 KAR 20:060		
810 KAR 1:009			Amended	2720	4-3-92
Amended	1999	2-19-92	815 KAR 20:090		
810 KAR 1:010			Amended	2722	4-3-92
Amended	2001	2-19-92	815 KAR 20:120		
810 KAR 1:011			Amended	2894	
Amended	2003	3-3-92	815 KAR 20:130		
810 KAR 1:012			Amended	2725	4-3-92
Amended	1413		815 KAR 25:010		
Withdrawn		11-19-91	As Amended	284	7-30-91
Amended	2005	2-19-92	Amended	1418	
810 KAR 1:013			Amended	2337	
Amended	2007	2-19-92	As Amended	2529	2-7-92
Expired**		4-14-92	815 KAR 25:020		
810 KAR 1:014			As Amended	290	7-30-91
Amended	2010	2-19-92	815 KAR 30:060		
810 KAR 1:015			Amended	493	
Amended	2012	2-19-92	As Amended	1038	
810 KAR 1:016			As Amended	1342	10-8-91
Amended	2013	2-19-92	815 KAR 46:010		
810 KAR 1:017			Amended	497	
Amended	2015	2-19-92	As Amended	1041	9-24-91
810 KAR 1:018			900 KAR 1:006		
Amended	2017	2-19-92	Repealed	1263	11-25-91
810 KAR 1:019			900 KAR 1:007	1263	11-25-91
Amended	2019	2-19-92	900 KAR 1:011		
Expired**		4-14-92	Recodified to 906 KAR 1:090		8-30-91
810 KAR 1:020			900 KAR 1:040		
Amended	2020	2-19-92	Amended	1425	1-10-92
Expired**		4-14-92	900 KAR 1:060		
810 KAR 1:021			Amended	1426	
Amended	2024	2-19-92	As Amended	2260	1-10-92
810 KAR 1:023	2500		900 KAR 2:050	1729	
Withdrawn		1-28-92	Amended	2343	
810 KAR 1:024	3280		As Amended	2823	3-7-92
810 KAR 1:025	3282		900 KAR 2:060	1731	
810 KAR 1:026	3285		Amended	2345	
810 KAR 1:027	3288		As Amended	2824	3-7-92
810 KAR 1:028	3290		900 KAR 4:010		
810 KAR 1:029	3291		Amended	78	
810 KAR 1:050			As Amended	1043	10-6-91
Amended	2024	2-19-92	Expired**		4-14-92
815 KAR 4:010			902 KAR 4:010		
Amended	2432	3-7-92	Amended	1428	3-7-92
815 KAR 7:010			902 KAR 4:070		
Amended	1209	12-8-91	Amended	2025	3-7-92
815 KAR 7:025			902 KAR 4:080		
Amended	1218	12-8-91	Amended	2026	2-7-92
Amended	2433	3-7-92	902 KAR 4:090		
Amended	3030		Amended	1430	
815 KAR 7:070			As Amended	2263	1-10-92
Amended	1415		902 KAR 8:030		
As Amended	2258	1-10-92	Amended	2728	3-26-92
815 KAR 7:080			Expired**		4-14-92
Amended	1226		902 KAR 10:010		
As Amended	1883	12-8-91	Amended	1431	
815 KAR 10:020			As Amended	2264	1-10-92
Repealed		8-22-90			



# ADMINISTRATIVE REGISTER - K13

Regulation	18 Ky.R Page No.	Effective Date	Regulation	18 Ky.R Page No.	Effective Date
902 KAR 10:030			902 KAR 20:240		
As Amended	52		Amended	852	10-16-91
902 KAR 10:085			902 KAR 20:250		
Amended	3239		Amended	862	10-16-91
902 KAR 10:110			902 KAR 20:260		
Amended	1433		Amended	866	10-16-91
As Amended	2265	1-10-92	902 KAR 20:270		
902 KAR 10:140	579		Amended	1238	11-25-91
As Amended	1888	1-10-92	902 KAR 20:290		
902 KAR 13:010			Expired**		4-14-92
Amended	1435		902 KAR 20:340	1733	
As Amended	2266	1-10-92	Died*		12-6-91
902 KAR 13:020			902 KAR 22:010	2501	
Amended	1436		Amended	2856	3-26-92
As Amended	2825	3-7-92	902 KAR 22:030	2502	
902 KAR 13:040			Amended	2857	
Amended	1437	1-10-92	As Amended	2921	3-26-92
902 KAR 13:050			902 KAR 45:005		
Amended	3040		Amended	3045	
902 KAR 13:070			902 KAR 45:006	587	10-6-91
Amended	1438		902 KAR 45:080		
As Amended	2267	1-10-92	Amended	869	10-16-91
902 KAR 13:080			902 KAR 45:100		
Amended	499	10-16-91	Amended	875	10-16-91
As Amended	1345		902 KAR 45:130		
902 KAR 13:090			Amended	881	10-16-91
Amended	1439		902 KAR 45:140		
As Amended	2268	1-10-92	Amended	1445	1-10-92
902 KAR 13:100			902 KAR 47:050		
Repealed	1732	1-10-92	Amended	1446	1-10-92
902 KAR 13:101	1732	1-10-92	902 KAR 47:060		
902 KAR 13:110			Amended	1449	1-10-92
Amended	1440		902 KAR 47:070		
As Amended	2268	1-10-92	Amended	1451	1-10-92
902 KAR 13:130	583	10-16-91	902 KAR 50:010		
902 KAR 17:010			Amended	1453	1-10-92
Expired**		4-14-92	902 KAR 50:030		
902 KAR 20:006			Amended	1456	1-10-92
Amended	806		902 KAR 50:050		
Amended	1347	1-10-92	Amended	1463	1-10-92
Expired**		4-14-92	902 KAR 50:070		
902 KAR 20:016			Amended	1465	1-10-92
Amended	2027		902 KAR 50:090		
Amended	2565	3-7-92	Amended	1466	1-10-92
902 KAR 20:018			902 KAR 50:100		
Amended	811	10-16-91	Amended	1468	1-10-92
902 KAR 20:036			902 KAR 50:110		
Amended	815	10-16-91	Amended	1469	1-10-92
902 KAR 20:041			902 KAR 55:040		
Amended	820	10-16-91	Amended	1471	2-7-92
902 KAR 20:066			902 KAR 55:045		
Amended	1233	11-25-91	Amended	1472	2-7-92
902 KAR 20:072			902 KAR 55:060		
Amended	1236	11-25-91	Amended	1244	
Expired**		4-14-92	As Amended	1890	11-25-91
902 KAR 20:106			902 KAR 55:075		
Amended	824	10-16-91	As Amended	703	8-21-91
902 KAR 20:111			902 KAR 100:005		
Amended	827	10-16-91	Amended	1473	1-10-92
902 KAR 20:115			902 KAR 100:010		
Repealed	2535	2-7-92	Amended	1474	1-10-92
902 KAR 20:117	1264		902 KAR 100:012		
Amended	1900		Amended	1484	1-10-92
As Amended	2535	2-7-92	902 KAR 100:015		
902 KAR 20:160			Amended	1485	1-10-92
Amended	828	10-16-91	902 KAR 100:022		
902 KAR 20:200			Amended	1487	1-10-92
Amended	1443	1-10-92	902 KAR 100:025		
902 KAR 20:220			Amended	1496	1-10-92
Amended	833	10-16-91	902 KAR 100:030		
902 KAR 20:230			Amended	1506	1-10-92
Amended	839	10-16-91	902 KAR 100:035		
			Amended	1508	1-10-92



# ADMINISTRATIVE REGISTER - K14

Regulation	18 Ky.R Page No.	Effective Date	Regulation	18 Ky.R Page No.	Effective Date
902 KAR 100:045			904 KAR 2:016		
Amended	1510	1-10-92	As Amended	297	7-17-91
902 KAR 100:052			Amended	1245	11-25-91
Amended	1513	1-10-92	Amended	3255	
902 KAR 100:058			904 KAR 2:040		
Amended	1515	1-10-92	Amended	3262	
902 KAR 100:060			904 KAR 2:110		
Amended	1522	1-10-92	Amended	1595	1-10-92
902 KAR 100:065			904 KAR 2:116		
Amended	1523	1-10-92	Amended	2039	
902 KAR 100:070			As Amended	2826	2-26-92
Amended	1525	1-10-92	904 KAR 2:360	1272	
902 KAR 100:080			As Amended	1891	11-25-91
Amended	1536	1-10-92	904 KAR 3:010		
902 KAR 100:085			Amended	886	10-16-91
Amended	1537	1-10-92	Amended	2043	2-7-92
902 KAR 100:090			904 KAR 3:020		
Amended	1539	1-10-92	Amended	202	8-21-91
902 KAR 100:105			904 KAR 3:025	246	8-21-91
Amended	1542	1-10-92	Amended	2446	3-7-92
902 KAR 100:110			904 KAR 3:030		
Amended	1544	1-10-92	Amended	891	10-16-91
902 KAR 100:115			904 KAR 3:035		
Amended	1546	1-10-92	Amended	893	10-16-91
902 KAR 100:120			Amended	2047	2-7-92
Amended	1550	1-10-92	904 KAR 3:045		
902 KAR 100:125			Amended	897	10-16-91
Amended	1554	1-10-92	904 KAR 3:050		
902 KAR 100:130			Amended	900	10-16-91
Amended	1557	1-10-92	904 KAR 3:060		
902 KAR 100:136			Amended	902	10-16-91
Amended	1559	1-10-92	904 KAR 3:070		
902 KAR 100:137			Amended	906	10-16-91
Amended	1563	1-10-92	905 KAR 1:010		
902 KAR 100:140			Amended	1598	1-10-92
Amended	1569	1-10-92	905 KAR 1:150		
902 KAR 100:145			Amended	1601	1-10-92
Amended	1570	1-10-92	905 KAR 1:170		
902 KAR 100:150			Amended	1602	1-10-92
Amended	1572	1-10-92	905 KAR 1:210		
902 KAR 100:155			Amended	1603	1-10-92
Amended	1574	1-10-92	905 KAR 1:320		
902 KAR 100:160			Amended	316	8-21-91
Amended	1577	1-10-92	905 KAR 2:080	1734	1-10-92
902 KAR 100:165			Amended	3264	
Amended	1578	1-10-92	905 KAR 3:030		
902 KAR 100:170			Amended	1609	1-10-92
Amended	1581	1-10-92	905 KAR 5:060		
902 KAR 105:010			As Amended	52	
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902 KAR 105:020			Amended	3062	
Amended	1588	1-10-92	905 KAR 6:070		
902 KAR 105:030			Amended	3063	
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902 KAR 105:040			Amended	1611	1-10-92
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902 KAR 105:060			Repealed	1740	1-10-92
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Amended	3056		Repealed	2291	1-10-92
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905 KAR 8:080 Repealed	2291	1-10-92	907 KAR 1:037 Amended	1624	
905 KAR 8:090 Amended	2051		Amended	2346	2-7-92
Amended	2574		907 KAR 1:038 Amended	1625	1-10-92
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905 KAR 8:110 Repealed	2278	1-10-92	Amended	2729	
905 KAR 8:120 Repealed	2278	1-10-92	907 KAR 1:044 Amended	915	10-16-91
905 KAR 8:130 Repealed	2278	1-10-92	907 KAR 1:045 Amended	207	
905 KAR 8:150	593	10-6-91	Withdrawn		7-29-91
905 KAR 8:160	1740		Amended	916	10-16-91
As Amended	2271	1-10-92	907 KAR 1:048 Amended	1626	1-10-92
905 KAR 8:170	1745		907 KAR 1:049 Amended	1627	1-10-92
As Amended	2275	1-10-92	907 KAR 1:055 Amended	543	10-6-91
905 KAR 8:180	1748		907 KAR 1:061 Amended	544	
As Amended	2278	1-10-92	Amended	1148	10-16-91
905 KAR 8:190	1752		907 KAR 1:074 Amended	1628	1-10-92
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905 KAR 8:200	1758		907 KAR 1:084 Amended	1632	1-10-92
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905 KAR 8:210	2077		907 KAR 1:110 Amended	1634	1-10-92
Amended	2577	3-7-92	907 KAR 1:120 Amended	1635	1-10-92
905 KAR 8:220	1763		907 KAR 1:130 Amended	1637	1-10-92
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906 KAR 1:010 Amended	1613	1-10-92	Amended	2583	3-7-92
906 KAR 1:020 Repealed	1782	1-10-92	907 KAR 1:150 Amended	2058	
906 KAR 1:021	1782	1-10-92	Amended	2584	3-7-92
906 KAR 1:030 Amended	1615	1-10-92	907 KAR 1:160 Amended	1640	2-7-92
906 KAR 1:090 Recodified from 900 KAR 1:011		8-30-91	907 KAR 1:180 Amended	1642	1-10-92
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906 KAR 1:100	2083		Amended	2346	2-7-92
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907 KAR 1:002 Amended	1618	1-10-92	907 KAR 1:220 Amended	1644	1-10-92
907 KAR 1:004 Amended	507	10-6-91	907 KAR 1:260 Amended	1646	1-10-92
907 KAR 1:007 Amended	1620	1-10-92	907 KAR 1:270 Amended	1647	1-10-92
907 KAR 1:010 Amended	519	10-6-91	907 KAR 1:300 Amended	1649	1-10-92
907 KAR 1:011 Amended	520	10-6-91	907 KAR 1:320 Amended	1650	1-10-92
907 KAR 1:012 Amended	525	10-6-91	907 KAR 1:340 Amended	547	10-6-91
907 KAR 1:013 Amended	911	10-16-91	907 KAR 1:376 Amended	2730	3-26-92
907 KAR 1:017 As Amended	306	7-17-91	907 KAR 1:410 Amended	208	8-21-91
907 KAR 1:020 Repealed	267	7-1-91	Amended	2731	3-26-92
907 KAR 1:021	594	10-6-91	907 KAR 1:432 Amended	2732	3-26-92
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907 KAR 1:025 Amended	531				
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907 KAR 1:027 Amended	538	10-6-91			
907 KAR 1:031 Amended	539	10-6-91			
907 KAR 1:032 Amended	1621	1-10-92			
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907 KAR 1:485	596	10-6-91	Amended	1689	1-10-92
907 KAR 1:490	598	10-6-91	908 KAR 3:050		
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907 KAR 1:510	601	10-6-91	Amended	1690	1-10-92
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907 KAR 1:525	604		Amended	549	10-6-91
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907 KAR 1:530	606	10-6-91	Amended	2064	2-7-92
907 KAR 1:535	966	10-16-91	908 KAR 3:110		
907 KAR 1:540	1275		Amended	551	10-6-91
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907 KAR 1:545	2085	2-7-92	908 KAR 3:120		
908 KAR 1:010			Amended	552	10-6-91
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Amended	1654	1-10-92	Amended	554	10-6-91
908 KAR 1:040			Amended	2067	2-7-92
Amended	1655	1-10-92			
908 KAR 1:050			*Statement of Consideration not Filed within 15 Days Following Hearing, Regulation Dies (KRS 13A.280(2))		
Amended	1656	1-10-92			
908 KAR 1:060			**Regulation found deficient by a legislative subcommittee during 1990-91 interim or 1992 General Assembly; regulation expires on sine die adjournment of the 1992 General Assembly (KRS 13A.333)		
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908 KAR 1:090					
Amended	1661	1-10-92			
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Amended	1663	1-10-92			
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908 KAR 1:220					
Amended	1678	1-10-92			
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Amended	1679	1-10-92			
908 KAR 1:240					
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