ADMINISTRATIVE REGISTER OF KENTUCKY

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

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FRIDAY, APRIL 1, 1994

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MEETING NOTICE: The Administrative Regulation Review Subcommittee is **tentatively** scheduled to meet on April 12, 1994 upon adjournment of the session.. See **tentative** agenda on pages 2771-2772 in this Administrative Register.

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

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

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
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Room 149, State Capitol Annex

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ADMINISTRATIVE REGULATION REVIEW PROCEDURE

Filing and Publication

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

Public Hearing

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

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

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

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

Review Procedure

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

EMERGENCY ADMINISTRATIVE REGULATIONS NOW IN EFFECT

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

STATEMENT OF EMERGENCY
501 KAR 6:130E

In order to continue to operate the Department of Corrections in accordance with KRS Chapter 196, the department needs to implement this emergency administrative regulation. An ordinary administrative regulation will not suffice because the effected institutional policies must be revised immediately to allow the Western Kentucky Correctional Complex to come into compliance with national accreditation standards prior to an April audit by the American Correctional Association. This emergency regulation shall be replaced by the ordinary administrative regulation filed with LRC on March 15, 1994 in accordance with KRS Chapter 13A.

BRERETON C. JONES, Governor
JACK C. LEWIS, Secretary

DEPARTMENT OF CORRECTIONS

501 KAR 6:130E. Western 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 14, 1994
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590 and 439.640 authorizes the commissioner to adopt, amend or rescind administrative regulations necessary and suitable for the proper administration of the department 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. This administrative regulation is in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Department of Corrections the following policies and procedures, revised March 15, 1994 [~~October 15, 1993~~], are incorporated by reference and shall be referred to as Western Kentucky Correctional Complex Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Department of Corrections, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

WKCC 02-01-01	Inmate Funds
WKCC 02-01-02	Inmate Canteen
WKCC 02-00-03	Invoice and Voucher Processing
WKCC 02-00-04	Monetary Receipts During Nonbusiness Hours
WKCC 02-00-06	Purchasing Procedures (Amended 3/15/94)
WKCC 02-01-01	Inmate Funds
WKCC 02-02-01	Agency Funds and Accounting Procedures
WKCC 02-08-01	Property Receipt and Inventory Procedures (Amended 3/15/94)
WKCC 04-01-01	Travel Reimbursement for Official Business in Attendance at Professional Meetings
WKCC 04-02-01	Employee Training and Development
WKCC 04-04-01	Educational Assistance Program
WKCC 05-01-01	Research, Consultants, and Student Interns
WKCC 06-00-01	Offender Records and Information Access
WKCC 06-00-02	Court Orders, Orders of Appearance, Warrants, Detainers, Etc.
WKCC 09-00-01	Drug Abuse and Alcohol Testing
WKCC 10-02-01	Special Management Inmates (Amended 3/15/94)
WKCC 11-00-02	Food Service Inmate Work Responsibilities, Evaluations, and Health Requirements
WKCC 11-00-03	Food Service Inspections, Sanitation, Purchasing, and Storage of Food (Amended 3/15/94)
WKCC 11-00-04	Food Service Security
WKCC 11-00-05	Food Service General Guidelines
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WKCC 12-01-01	Inmate Clothing
WKCC 13-00-01	Special Health Programs
WKCC 13-01-01	Use of Pharmaceutical Products [~~(Amended 10/15/93)~~]
WKCC 13-02-01	Health Care Services
WKCC 14-04-01	Legal Services Program
WKCC 14-06-01	Inmate Grievance Procedure
WKCC 15-01-01	Hair and Grooming Standards (Amended 3/15/94)
WKCC 15-03-01	Meritorious Good Time
WKCC 15-05-01	Restoration of Forfeited Good Time
WKCC 16-01-01	Visiting Policy and Procedures (Amended 3/15/94)
WKCC 16-02-01	Inmate Correspondence
WKCC 16-03-01	Inmate Access to Telephones
WKCC 16-04-01	Inmate Packages
WKCC 17-01-01	Inmate Personal Property
WKCC 17-02-01	Inmate Reception and Orientation
WKCC 18-01-01	Structure, Guidelines, and Functions of the Classification Committee
WKCC 20-01-01	Education Program (Amended 3/15/94)
WKCC 22-00-01	Inmate Recreation and Leisure Time Activities
WKCC 22-00-02	Inmate Clubs and Organizations
WKCC 23-00-01	Religious Services (Amended 3/15/94)
WKCC 25-02-01	Inmate Release Process
WKCC 25-03-01	Prerelease Programs

JACK C. LEWIS, Commissioner
APPROVED BY AGENCY: March 10, 1994
FILED WITH LRC: March 14, 1994 at 4 p.m.

ADMINISTRATIVE REGULATIONS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

COMPILER'S NOTE: The following administrative regulations were amended by the promulgating agency and the Administrative Regulation Review Subcommittee on March 7, 1994, unless otherwise noted.

COMPILER'S NOTE: The following administrative regulation, 201 KAR 1:140, was amended by the promulgating agency and the Senate Business Organizations and Professions Committee on February 23, 1994, and the House Business Organizations and Professions Committee on March 8, 1994. This administrative regulation became effective on March 8, 1994.

GENERAL GOVERNMENT CABINET
State Board of Accountancy
(As Amended)

201 KAR 1:140. Procedures for the reinstatement of a certificate and permit to practice public accounting.

RELATES TO: KRS 325.330(6)
STATUTORY AUTHORITY: KRS 325.240
NECESSITY AND FUNCTION: Procedures for reinstating certificate and permit to practice.

Section 1. A certificate holder who has allowed his permit to practice to expire shall be allowed to reinstate the permit within one (1) month of his [~~the~~] permit renewal deadline by submitting all renewal documents and renewal fees contained in 201 KAR 1:065 and paying a late fee of twenty-five (25) dollars. When the board has notified the licensee in writing of his failure to renew, the late fee shall increase to $100. [~~If the certificate holder fails to renew the permit to practice within one (1) year of the renewal date, he shall comply with the requirements of Section 2 of this administrative regulation.~~]

Section 2. If a certificate was [~~and permit to practice have been~~] revoked[~~, or were voluntarily surrendered,~~] for failure to satisfy the continuing professional education requirements, or voluntarily surrendered for any reason except when a complaint is pending before the board for any matter other than failure to obtain continuing professional education, the certificate and permit to practice [~~they~~] may be reinstated if the applicant for reinstatement submits:

(1)(a) Documentation of successful completion of[~~:~~

~~(a) Forty (40) hours of the continuing professional education requirements for the first year after revocation or voluntary surrender, of which one-half (1/2) are accounting and auditing courses; or~~

~~(b) Documentation of successful completion of~~] Eighty (80) hours of [~~the~~] continuing professional education [~~for a revocation period longer than one (1) year~~], of which one-half (1/2) are accounting and auditing [~~courses~~]; [~~and~~]

(b) The hours shall:

1. Have been completed within two (2) years of the reinstatement request; and

2. Not have been previously used to satisfy Kentucky permit renewal requirements.

(2) A money order or check for a total of:

(a) A new certificate fee of fifty (50) dollars;

(b) A permit to practice fee in accordance with 201 KAR 1:065, Section 1; and

(c) A reinstatement fee of $100.

Section 3. (1) If a certificate and permit to practice have been revoked for reasons other than failure to satisfy the continuing professional education requirements, they may be reinstated if the applicant for reinstatement submits to the board fifteen (15) days prior to the next scheduled meeting:

(a) A letter:

1. Requesting reinstatement;

2. Specifying the manner in which the applicant for reinstatement has complied with the terms of a disciplinary order of board; and

3. A statement of the reasons the board should reinstate him.

(2)(a) Except as provided in paragraph (b) of this subsection, the board:

1. Shall review the request for reinstatement; the findings of fact, conclusions of law, and board order; and

2. May affirm or deny the request; or

3. State in writing the corrective or remedial education, training or review required before reinstatement shall be granted.

(b) The board may decline to consider a request for reinstatement submitted to the board prior to the date for resubmission that is specified in the disciplinary order of the board.

(3)(a) If an applicant for reinstatement disagrees with the board's determination under this section, he may file a written request for a hearing before the board.

(b) A hearing held pursuant to the provisions of this subsection shall be conducted in accordance with KRS 325.360 and 201 KAR 1:150.

JOHN N. CRAFT, President
APPROVED BY AGENCY: December 13, 1993
FILED WITH LRC: December 15, 1993 at 10 a.m.

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

601 KAR 11:030. Restrictions and endorsements on commercial driver's licenses.

RELATES TO: KRS Chapter 281A
STATUTORY AUTHORITY: KRS 281A.040
NECESSITY AND FUNCTION: KRS 281A.170 sets forth some of the restrictions which may be placed on a commercial driver's license. It further allows the Transportation Cabinet to impose other restrictions as necessary. The standard additional restrictions which may be imposed are set forth in this administrative regulation. While KRS 281A.170(2)(c)4 indicates that the restrictions not listed in statute shall be identified as 1 - 13, the numeric restriction identifiers will relate only to physical restrictions as is currently done on an operator's license. Alpha identifiers were used in KRS 281A.170 for restrictions relating to commercial vehicle equipment. The National Driver Register has requested that additional commercial vehicle restrictions be identified. For consistency, alpha restrictions will be used. Therefore, both alpha and numeric restrictions in addition to the "K" = no airbrakes; "I" = intrastate driving only and "S" = school buses only restrictions listed in KRS 281A.170 are identified in this administrative regulation. [~~KRS 281A.150(8) refers to a "P" restriction which is not established by KRS 281A.170. To ensure that a person is able to use a twenty (20) dollar commercial driver license authorized by KRS 281A.150(8) only to operate the buses identified there, the "S"~~

~~restriction is expanded in this administrative regulation to include all three (3) types of buses identified in KRS 281A.150(8).]~~

Section 1. Numeric Restrictions. The numeric restrictions regularly used on a commercial driver's license shall relate to the physical restrictions of the commercial driver. The numeric restrictions shall be the following:

"1" - corrective lenses required to be worn.

"2" - restricts the driver to a vehicle equipped with power brakes.

"3" - restricts the driver to a vehicle equipped with an automatic transmission.

"4" - restricts the driver to daylight driving only.

"5" - restricts the driver to a vehicle equipped with power steering.

"6" - restricts the driver to a vehicle equipped with a hand accelerator.

"7" - restricts the driver to a vehicle equipped with a hand brake.

"8" - other restrictions imposed.

Section 2. Alpha Restrictions. The alpha restrictions regularly used on a commercial driver's license shall relate to the restrictions on the types of commercial vehicle the driver is allowed to operate with the exception of the "K", "I", and "S" restrictions set forth in KRS 281A.170(2)(c)4[~~, the alpha restrictions shall be the following:~~

~~"L" - does not include a class "A" bus.~~

~~"J" - does not include a class "A" or "B" bus.~~

~~"Q" - does not include tractor-semitrailer style vehicles~~].

[~~Section 3. "S" Restriction. The "S" restriction shall be used to designate a commercial driver who is restricted to operating a school bus, a church bus, a bus operated by a mass transit authority created under the provisions of KRS Chapter 96A or bus operated under a nonprofit bus certificate established pursuant to KRS 281.619.~~]

Section 3. ~~[4.]~~ "F" Restriction. The "F" restriction shall appear only on the commercial driver's license issued on a limited basis to an employee of a farm-related service industry as set forth in 601 KAR 11:080.

NORRIS BECKLY, Commissioner
DON C. KELLY, P.E., Secretary
APPROVED BY AGENCY: November 16, 1993
FILED WITH LRC: November 23, 1993 at 1 p.m.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Special Instructional Services
(As Amended)

707 KAR 1:170. Identification of children and youth with disabilities.

RELATES TO: KRS 156.160, 157.200, 157.360, 158.030, 158.100, 158.6451(e), 160.290, 167.150, 20 USC 1232e,g, 1401-1418, 1478(a)

STATUTORY AUTHORITY: KRS 156.070, 156.160, 157.220, 157.260, 167.015

NECESSITY AND FUNCTION: KRS 157.200 sets forth the state statutory framework for special education programs for children and youth with disabilities. This administrative regulation establishes requirements for the location, identification and evaluation of children and youth who may be disabled and in need of specially designed instruction and related services. This administrative regulation is necessary to assure uniformity in providing specially designed instruction and related services to children and youth with disabilities and to conform with the Individuals with Disabilities Education Act, as amended, and the Family Educational Rights and Privacy Act, as amended.

Section 1. Definitions. (1) "Educational history" means existing school information about a child or youth including schools attended, discipline records, attendance patterns, and grades.

(2) "Evaluate" means procedures used to determine if a child or youth has a disability and the nature and extent of the need for specially designed instruction and related services.

(3) [~~(2)~~] "Identify" means to collect and use all available information to decide if a child or youth has a suspected disability and possibly needs specially designed instruction and should be referred for evaluation.

(4) [~~(3)~~] "Locate" means to obtain the name and determine the physical location of any child or youth who may have a disability and need specially designed instruction and related services.

[~~(5) [(4)] "Screening" means the procedures established by each local education agency under KRS 158.6451, 703 KAR 4:020, and 704 KAR 4:020.~~]

Section 2. Policies and Procedures. Each local education agency (LEA) shall have local board approved policies and procedures in operation for identification, location, and evaluation of any child or youth residing within the jurisdiction of the LEA who may be disabled, regardless of the severity of the disability, and in need of specially designed instruction and related services. Policies and procedures shall address each requirement in this administrative regulation.

Section 3. Child Find System. (1) Each LEA shall plan and implement a child find system to locate, identify, and evaluate each child or youth:

(a) Whose age is birth through twenty-one (21);

(b) Who resides in a home, facility, or residence within the LEA's geographical boundaries;

(c) Who is either out of school or in school;

(d) Who may have a disability; and

(e) Who needs specially designed instruction and related services in order to receive a free appropriate public education.

(2) Each LEA's child find system shall:

(a) Have activities to locate, identify, and evaluate children and youth whose age is birth through twenty-one (21);

(b) Be available during the normal business day; and

(c) Include opportunities for parent and community involvement.

(3) At least once during a year, each LEA shall actively seek and locate children and youth who may have disabilities by:

(a) Conducting awareness activities with the general public and with LEA personnel to notify them of the need to find children and youth with disabilities who need specially designed instruction and related services;

(b) Contacting private and parochial schools and other programs and agencies providing services to children and youth to notify them of the availability of specially designed instruction and related services and methods of referral; and

(c) Conducting screening activities to identify any child or youth who may need further evaluation to determine if the child or youth has a disability and needs specially designed instruction and related services.

(4) Each LEA shall use the results from any screening [~~and other~~] procedures including those established under 703 KAR 4:020, **Section 2(1)(e)** and 704 KAR 4:020 [~~relating to the Kentucky Education Reform Act (KERA)~~], and school enrollment information, and educational history as sources to identify children and youth who may have a disability and need specially designed instruction and related services. This information may be used if:

(a) The LEA's screening program checks the following developmental and skill areas:

1. Physical functioning;

2. Communication functioning;

3. Cognitive functioning;
4. Social and emotional competence; and
5. Academic performance.

(b) The LEA's screening program is nondiscriminatory and:

1. Applies established criteria for passing and not passing each screening activity;
2. Includes instruments and techniques appropriate for the various modes of communication and languages in the community;
3. Uses only those persons who are qualified and appropriately trained according to the user's manual or directions to conduct screening activities;
4. Includes methods for maintaining individual information from screening results; and
5. Includes activities which occur on a regularly scheduled basis and as needed.

(5) Each LEA shall conduct identification activities to follow up on the results of location activities including:

(a) Contacting the parent of the child or youth to obtain additional information;

(b) Reviewing information available from the parent of the child or youth and any other information available through school or other agency records to determine the need for further action; and

(c) Referring the child or youth to an age-appropriate school or service agency for additional services; and

(d) Informing parents of the process for referral of a child or youth suspected of having a disability.

Section 4. Public Notice. (1) Each LEA shall provide public notice before any major identification, location, and evaluation activity.

(2) Each LEA shall use methods of announcing child find activities that distribute the notice to reach parents who are located within the geographical area of the LEA's jurisdiction.

(3) Each LEA shall use printed and oral announcements of child find activities in the native language or other modes of communication of the various populations in the geographical boundaries.

Section 5. Evaluation. Each LEA shall conduct or make arrangements for a full and individual, nondiscriminatory evaluation to determine if an identified child or youth has a disability and needs specially designed instruction and related services. A child or youth suspected of having a disability shall be evaluated in all areas related to the suspected disability at no cost to the parent.

Section 6. Child Tracking. (1) Each LEA shall have a practical method of determining (tracking):

(a) Which children and youth have a disability, have IEPs, and are receiving specified services on the IEP;

(b) Which children and youth need specially designed instruction and related services but are not currently receiving these services; and

(c) Which children and youth are in the process of identification, location, evaluation and possible placement.

(2) The tracking system shall follow each child or youth through the process of identification, evaluation, educational placement and provision of a free appropriate public education and shall include:

(a) The current status of each child or youth in the identification, location, referral, evaluation, eligibility, placement, review, and reevaluation process at any given time;

(b) The name, current address, sex, date of birth, disability, current or known service providers, representative for educational decision making, and relationship of the representative to the child or youth;

(c) Information needed for required state and federal data reports and requests; and

(d) Confidentiality of data collected, maintained and used.

(3) Each LEA shall monitor the tracking system to determine accuracy of information.

Section 7. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the State Board for Elementary and Secondary Education, as required by KRS 156.070(4).

Thomas C. Boysen
Commissioner of Education

JOSEPH W. KELLY, Chairman
APPROVED BY AGENCY: December 13, 1993
FILED WITH LRC: December 15, 1993 at 10 a.m.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Special Instructional Services
(As Amended)

707 KAR 1:190. Evaluation.

RELATES TO: KRS 157.200, 157.360, 158.6451, 160.290, 167.150, 167.170, 34 CFR Part 300, Appendix C, 20 USC 1400-1427

STATUTORY AUTHORITY: KRS 156.070, 156.160, 157.220, 167.015

NECESSITY AND FUNCTION: KRS 156.160, 157.220, and 167.015 authorize the State Board for Elementary and Secondary Education to adopt administrative regulations establishing standards which local education agencies and state operated schools shall meet in student, program, services, and operational performance and related to special education programs; KRS 157.200, 167.150, and 167.170 establish the statutory framework for special education programs. This administrative regulation establishes requirements related to evaluation of children and youth with disabilities to determine eligibility for specially designed instruction and related services and is necessary to assure uniformity in providing specially designed instruction and related services and to conform with 20 USC 1401 through 1420.

Section 1. Definitions. (1) **"Completed" in Section 3(1) of this administrative regulation means completion of a referral document containing the information in Section 3(2)(a)1 through 4 of this administrative regulation.**

(2) "Current" means less than one (1) calendar year old.

(3) [~~(2)~~] "Full and individual evaluation" means the collection, analysis, interpretation, and documentation of a variety of evaluation data sources related to the suspected disability, administered selectively with the individual child or youth.

(4) [~~(3)~~] "Native language" means the language normally used by an individual.

(5) [~~(4)~~] "Qualified personnel" means that an individual has met state approved or recognized certification, licensing, registration, or other comparable requirements such as training that apply to the area in which specially designed instruction or related services are provided.

(6) [~~(5)~~] "Referral" means written information about a child or youth, suspected of having a disability, that includes:

(a) Personally identifiable data;

(b) A description of current status including all areas of concern; and

(c) Appropriate instruction, support services and intervention provided for any area of concern that adversely affects educational performance.

(7) [~~(6)~~] "Written behavioral observations" mean written documentation of a current pattern of behavior over time, and across settings, including targeted behaviors, as identified by the admissions and

release committee (ARC) as described in 707 KAR 1:180 in the referral, conducted in the environment in which the targeted behaviors occur, and by personnel, other than a child's teacher, specifically trained in observation techniques and methods.

Section 2. Policies and Procedures. Each local education agency (LEA) shall have local board approved policies and procedures in operation for referral and evaluation. Policies and procedures shall address each requirement in this administrative regulation.

Section 3. Referral. (1) If a child or youth is identified as having a suspected disability, the referral source, including but not limited to teachers, parents, and professionals shall submit a written referral to a designated LEA representative. If a parent or individual not employed by the LEA refers a child or youth, the LEA shall, through providing assistance, make sure the written referral document is completed and submitted to the ARC Chairperson within **ten (10)** [~~five (5)~~] school days.

(2) After receipt [~~and review~~] of the referral document, the Admissions and Release Committee (ARC) shall convene, review and analyze the referral, and determine if sufficient information is available for initiating a full and individual evaluation. The ARC shall propose or refuse action to evaluate and provide notice consistent with 707 KAR 1:180.

(a) Each written referral shall include:

1. Personally identifiable data including name, parent, address, and date of birth;

2. Current status, including all areas of concern with regard to the child or youth in relation to his similar age peers;

3. **Existing screening data including educational history** [~~Current screening data~~] collected according to the LEA's board policies and procedures as required under [~~KRS 158.6451,~~] 703 KAR 4:020, **Section 2(1)(e),** and 704 KAR 4:020 [~~3:006~~];

4. A summary of appropriate instruction, support services and interventions that have been provided and proven ineffective for any area of concern that adversely affects educational performance.

(b) [~~If referral information is incomplete, additional information shall be collected.~~

~~(c)~~] If referral information is complete, the ARC shall determine the need to initiate a full and individual evaluation.

(c) [~~(d)~~] If the referral information is insufficient to ascertain or does not support a suspected disability and the need for a full and individual evaluation, the ARC shall document the basis for the decision.

Section 4. Evaluation. (1) The ARC shall ensure that:

(a) The child or youth is assessed in all areas of concern related to a suspected disability at no cost to parents;

(b) All validity issues identified by failed screenings are addressed prior to evaluation;

(c) Evaluations are selected and administered so as not to be racially or culturally discriminatory;

(d) Specially designed instruction and related services shall not be provided to any child or youth before a full and individual evaluation is completed and eligibility determined;

(e) The full and individual evaluation is conducted by a multidisciplinary team;

(f) The multidisciplinary team includes at least one (1) teacher with teacher certification in the area of the suspected disability or disabilities or qualified personnel with knowledge in the area of the suspected disability or disabilities;

(g) Full and individual evaluations are conducted by qualified personnel who shall properly administer the evaluation and interpret the results;

(h) Tests and procedures are:

1. Validated for the specified purpose for which they are used;

2. Tailored to assess specific areas of educational need;

3. Designed to provide more than a single general intelligence quotient;

4. Administered in conformance with the instructions provided by the publisher; and

5. Administered in the native language or other mode of communication of the child or youth unless not clearly feasible to do so.

(i) The sole criterion for determining an appropriate educational program is not based on a single procedure;

(j) Each ARC member has access to the evaluation information to be used for making educational decisions prior to any ARC meeting;

(k) If computer-assisted reports are used, the program allows input of individually relevant data beyond personally identifiable data;

(l) Parents of a child or youth have the right to obtain an independent educational evaluation;

(m) Results from group administered tests or procedures are not used to determine eligibility;

(n) Any current evaluation information may be a legitimate substitute for another evaluation of the same type if the information obtained meets the criteria for a full and individual evaluation;

(o) Information about environmental, family, and cultural factors is utilized in the decisionmaking process;

(p) Evaluation documentation includes a comparison and interpretation of the results of all assessments to be written in language understandable to the ARC members; and

(q) When a test is administered to a child or youth with impaired sensory, manual, or speaking skills, the test results accurately reflect the aptitude or achievement level of the child or youth or whatever other factors the test purports to measure, rather than reflecting impaired sensory, manual, or speaking skills (except where those skills are the factors which the test purports to measure).

(2) Using the referral information, the ARC shall examine the child's current status in the following areas to determine additional information needed for a full and individual evaluation in all areas related to the suspected disability including:

(a) Physical functioning which includes vision, hearing, health, motor abilities and speech mechanism;

(b) Communication functioning which includes speech sound production and use, receptive and expressive language, fluency, voice, and, as appropriate, augmentative or alternative communication;

(c) Cognitive functioning which includes an appraisal of aptitude and the mental processes by which an individual applies knowledge, thinks and solves problems;

(d) Social competence which includes adaptive behaviors and social skills which enable a child or youth to meet environmental demands and to assume responsibility for his own and other's welfare;

(e) Academic performance over time which includes an educational history of the level of development, mastery or achievement and application of skills and knowledge within the following academic areas as selected by the ARC:

1. Basic and content reading;
2. Reading comprehension;
3. Mathematics calculation, reasoning and application;
4. Written expression;
5. Oral expression;
6. Listening comprehension;
7. Learning preference issues such as learning style, strategies;
8. Effect of the disability on acquisition, development, mastery and application of academic skills;

(f) Vocational functioning which consists of a combination of formal and informal assessment activities and includes consideration of, as appropriate:

1. General work behaviors;
2. Following directions;
3. Working independently or with job supports;

4. Job preferences or interests;
5. Dexterity;
6. Abilities;
7. Interpersonal relationships and socialization; and
8. Related work skills;

(g) Recreation and leisure functioning includes use of free time, maintenance of physical fitness, use of generic community recreation facilities and resources and degree of social involvement, as appropriate; and

(h) Environmental, family and cultural factors which include:
1. Relationship with family;
2. Relationship with peers;
3. Family's dominant language;
4. Cultural influences;
5. Expectations of the parents for the child or youth in the home, school, and community environments;
6. Services received in the community; and
7. Economic influences.

(3) The LEA shall conduct a full and individual evaluation or reevaluation using systematic data collection procedures including:
(a) Norm-referenced and performance based testing;
(b) Behavior observations;
(c) Interviews; and
(d) Rating scales.

Section 5. Reevaluation. (1) The LEA shall conduct a reevaluation of a child or youth with a disability on or before the third anniversary of the meeting when the ARC determined eligibility, or more frequently if conditions warrant, or at the request of the parent or teacher.

(2) The reevaluation shall be conducted consistent with Section 4 of this administrative regulation and for all areas related to the disability, as determined by the ARC.

(3) The reevaluation shall include:
(a) A review and update of the current status of the child or youth;
(b) A review of progress data related to individual education program (IEP) as defined in 707 KAR 1:210; and
(c) Other assessments as needed.

(4) Readministration of an individual intelligence test may not be required if previous results have been consistent over time (two (2) previous measures within a standard error of measurement of each other). If an individual intelligence test is not administered, then:
(a) Documentation of the reason the test was not given shall be provided by the ARC;
(b) The ARC shall determine if the information presented on the cognitive ability of the child or youth is sufficient for determining a disability; and
(c) Alternate measures of cognitive functioning shall be utilized to insure that the child or youth receives a full and individual evaluation in all areas related to the suspected disability.

Section 6. Use of Evaluation Information. (1) The ARC shall use the full and individual evaluation results to:
(a) Determine if the child or youth has a disability; and
(b) Determine if the disability adversely affects the educational performance of the child or youth to the extent the child or youth needs specially designed instruction and related services ~~[in order to attain the capacities and goals required by KRS 158.645 and 158.6451]~~.

(2) If the ARC determines that the child or youth is eligible for specially designed instruction and related services, it shall use the information from the referral and evaluation or reevaluation to develop the IEP and plan for transition.

(3) The ARC shall use results from reevaluation to determine:
(a) If the child or youth still has a disability; and
(b) If the disability continues to adversely affect the educational performance of the child or youth to the extent that the child or youth needs specially designed instruction and related services.

(4) If the ARC determines that the child or youth continues to be eligible for specially designed instruction and related services it shall use the information from the re-evaluation to revise the IEP and plan for transition.

Section 7. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the State Board for Elementary and Secondary Education, as required by KRS 156.070(4).

Thomas C. Boysen
Commissioner of Education

JOSEPH W. KELLY, Chairman
APPROVED BY AGENCY: December 13, 1993
FILED WITH LRC: December 15, 1993 at 10 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(As Amended)

806 KAR 14:005. Rate and form filing.

RELATES TO: KRS 304.4-010, 304.13-031, 304.13-051, 304.13-061, 304.13-081, 304.14-120, 304.14-190
STATUTORY AUTHORITY: KRS 304.2-110
NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable administrative rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation provides rate and form filing procedures.

Section 1. (1) Every insurer, other than life or health insurers, required by law or licensed advisory organization permitted by law to file rates, rating plans, policy forms or endorsements, underwriting rules, statistical plans, advertising and sales materials, or other documents shall file with these ~~[such]~~ documents a fully completed and signed "face sheet and verification form" (Form F-1P&C). In addition, rate filings shall be accompanied by a filing synopsis for rates (Form S-1), form filings shall be accompanied by a filing synopsis for forms (Form S-2), and rule filings shall be accompanied by a filing synopsis for rules (Form S-3). Any rate filing referencing loss costs formulated by any advisory organization shall be accompanied by a calculation of loss cost multiplier (Form LC-1). ~~[property and casualty insurers must file a "synopsis form."]~~

(2) Life and health insurance rate and form filings shall be accompanied by a face sheet and verification form (Form F-1 LH). Policy forms filed under policy form certification shall be accompanied by a certification form (Form LH-2). Life and annuity form filings shall be accompanied by actuarial certification (Form LH-3). Individual health insurance form filings shall be accompanied by actuarial certification (Form LH-4).

Section 2. The forms specified in Section 1 of this administrative regulation ~~["face sheet and verification form"]~~ shall be copies of the forms prepared by the Department of Insurance and incorporated by reference to this administrative regulation. The commissioner may amend or change the forms to meet the requirements of the Department of Insurance and other regulatory authorities. ~~[labeled as such and be in such form as the commissioner may from time to time determine and prescribe.]~~

Section 3. (1) An entity ~~[A filer]~~ may include in a filing for a particular insurance company any number of forms or documents,

filed together on a particular date, pertaining to a single line [~~subject or coverage~~] of insurance[~~, and each filing must be accompanied by a fee of five (5) dollars, which shall in no event be refundable~~].

(2) However, as to insurance other than life or health, forms shall be filed separately from rates and rules, but rates and rules may be filed together or separately. [~~Notwithstanding subsection (1) of this section, the fee for a rate level revision filing in a noncompetitive market pursuant to KRS Chapter 304.13 shall be $100.~~]

Section 4. Since by the provisions of KRS 304.4-010 all fees and charges payable under the insurance code are required to be collected in advance, the period of time in which the commissioner may affirmatively approve or disapprove the filing shall not begin to run until both the filing and appropriate fee are received by the department.

Section 5. A [~~No~~] policy or contract form shall not be used in Kentucky until it has been approved, and, if rates for the [~~such~~] form are required by law to be approved, the appropriate rate schedule therefor has been approved.

Section 6. If [~~Whenever~~] a filing includes a form which amends, replaces, or supplements a form which has been previously filed and not disapproved, it shall be accompanied by a letter of explanation from the filer setting forth all changes contained in the newly filed form, the effect, if any, the [~~such~~] changes have upon the hazards purported to be assumed by the policy, and the rates applicable thereto.

Section 7. (1) Facsimile signatures of company officers, attorneys-in-fact, employees and representatives **shall not be** [~~are not~~] required and shall not be submitted with any filing.

(2) A change of signature of the executing officer on a policy form shall not, because of this [~~such~~] change alone, require a new filing.

Section 8. Forms numbered "F-1P&C", "S-1", "S-2", "S-3", "LC-1", "F-1 LH", "LH-2", "LH-3", and "LH-4", revised in January 1992, [~~entitled "Face Sheet and Verification Form" and "Kentucky Filing Synopsis"~~] are prescribed by the department and herein **incorporated** [~~filed~~] by reference. Copies may be obtained from the Department of Insurance, P.O. Box 517, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.

DON W. STEPHENS, Commissioner
EDWARD J. HOLMES, Secretary
APPROVED BY AGENCY: November 15, 1993
FILED WITH LRC: January 13, 1994 at 11 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(As Amended)

806 KAR 26:010. Proxies, consents and authorizations.

RELATES TO: KRS 304.26-050
STATUTORY AUTHORITY: KRS 304.2-110, 304.26-050
NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.26-050 gives the commissioner the authority to regulate any form of proxies, consents and authorizations. This administrative regulation sets out the requirements for proxies and their solicitation, consents, and authorizations.

Section 1. Definitions. (1) The definitions set out in Schedule SIS, as promulgated by the National Association of Insurance Commissioners, shall be applicable for purposes of this administrative regulation.

(2) The terms "solicit" and "solicitation" for purposes of this administrative regulation shall include:

(a) Any request for proxy, whether or not accompanied by or included in a form of proxy; or

(b) Any request to execute or not to execute, or to revoke a proxy; or

(c) The furnishing of a proxy or other communications to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

(3) The terms "solicit" and "solicitation" shall not include:

(a) Any solicitation by a person in respect to equity security of which he is the beneficial owner;

(b) Action by a broker or other person in respect to equity security carried in his name or in the name of his nominee in forwarding to the beneficial owner of such equity security soliciting material received from the company, or impartially instructing the beneficial owner to forward a proxy to the person, if any, to whom the beneficial owner with respect to the authority to be conferred by the proxy and stating that a proxy will be given if the instructions are received by a certain date;

(c) The furnishing of a form of proxy to a security holder upon the unsoliciated request of such security holder, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

Section **2.** [~~1.~~] Application of Administrative Regulation. This administrative regulation **shall be** [~~is~~] applicable to each domestic stock insurer which has any class of equity security held of record by 100 or more persons; provided, however, that this administrative regulation shall not apply to any insurer if ninety-five (95) percent or more of its equity securities are owned or controlled by a parent or an affiliated insurer and the remaining securities are held of record by less than 500 persons. A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities Exchange Act of 1934, as amended, and the applicable administrative regulations promulgated thereunder, shall be exempt from the provisions of this administrative regulation with respect to any class of securities subject to SEC jurisdiction.

Section **3.** [~~2.~~] Proxies, Consents and Authorizations. A [~~No~~] domestic stock insurer, or any director, officer or employee of **an** [~~such~~] insurer subject to Section 1 of this administrative regulation, or any other person shall **not** solicit, or permit the use of his name to solicit, by mail or otherwise, any proxy, consent or authorization in respect of any class of equity security of **an** [~~such~~] insurer held of record by 100 or more persons in contravention of this administrative regulation and especially Sections 13 and 14 [~~11 and 12~~] of this administrative regulation.

Section **4.** [~~3.~~] Disclosure of Equivalent Information. Unless proxies, consents or authorizations in respect of any class of equity security of a domestic insurer subject to Section 1 of this administrative regulation are solicited by or on behalf of the management of such insurer from the holders of record of such security in accordance with this administrative regulation prior to any annual or other meeting of such security holders, such insurer shall, in accordance with this administrative regulation [~~and such further administrative regulations as the commissioner may adopt,~~] file with the commissioner and transmit to all security holders of record information substantially equivalent to the information which would be required to be transmitted if a solicitation were made. **The** [~~Such~~] insurer shall transmit a written statement containing the information specified in Section 5(4) of this administrative regulation to every security holder who is

entitled to vote in regard to any matter to be acted upon at the meeting and from whom a proxy is not solicited on behalf of the management of the insurer; provided, that in the case of a class of securities in unregistered or bearer form such statement need be transmitted only to those security holders whose names and addresses are known to the insurer.

Section 5. [4. Definitions.] (1) The [definitions and] instructions set out in Schedule SIS, as promulgated by the National Association of Insurance Commissioners, shall be applicable for purposes of this administrative regulation.

(2) Schedule SIS, revised in 1992, is incorporated by reference. Copies may be obtained from or inspected at the Department of Insurance, P.O. Box 517, 205 West Main Street, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.

[(2) The terms "solicit" and "solicitation" for purposes of this administrative regulation shall include:

(a) Any request for proxy, whether or not accompanied by or included in a form of proxy; or

(b) Any request to execute or not to execute, or to revoke a proxy; or

(c) The furnishing of a proxy or other communications to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

(3) The terms "solicit" and "solicitation" shall not include:

(a) Any solicitation by a person in respect to equity security of which he is the beneficial owner;

(b) Action by a broker or other person in respect to equity security carried in his name or in the name of his nominee in forwarding to the beneficial owner of such equity security soliciting material received from the company, or impartially instructing such beneficial owner to forward a proxy to the person, if any, to whom the beneficial owner with respect to the authority to be conferred by the proxy and stating that a proxy will be given if the instructions are received by a certain date;

(c) The furnishing of a form of proxy to a security holder upon the unsolicited request of such security holder, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.]

Section 6. [5.] Information to be Furnished to Security Holders. (1) A [No] solicitation subject to this administrative regulation shall **not** be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in Section 13 [11] of this administrative regulation.

(2) If the solicitation is made on behalf of the management of the insurer and relates to an annual meeting of security holders at which directors are to be elected, each proxy statement furnished pursuant to subsection (1) of this section shall be accompanied or preceded by an annual report (in preliminary or final form) to **the** [such] security holders containing **the** [such] financial statements for the last fiscal year as are referred to in Schedule SIS under the heading "Financial Reporting to Security Holders." Subject to the foregoing requirements with respect to financial statement, the annual report to security holders may be in any form deemed suitable by the management.

(3) Two (2) copies of each report sent to the security holders pursuant to this section shall be mailed to the commissioner, not later than the date on which **the** [such] report is first sent or given to security holders or the date on which preliminary copies of solicitation material are filed with the commissioner pursuant to Section 7(1) of this administrative regulation [of this regulation], whichever date is later.

(4) If no solicitation is being made by management of the insurer with respect to any annual or other meeting, such insurer shall mail to every security holder of record at least twenty (20) days prior to the meeting date, an information statement as required by Section 3 of this administrative regulation, containing the information called for by Section 13 [11] of this administrative regulation, other than subsections (1), (3) and (4) of that Section, which would be applicable to any matter to be acted upon at the meeting if proxies were to be solicited in connection with the meeting. If **the** [such] information statement relates to an annual meeting at which directors are to be elected, it shall be accompanied by an annual report to such security holders in the form provided in subsection (2) of this section.

Section 7. [6.] Requirements as to Proxy. (1) The form of proxy:

(a) Shall indicate in boldface type whether or not the proxy is solicited on behalf of the management;

(b) Shall provide a specifically designated blank space for dating the proxy; and

(c) Shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the management, or security holders. No reference need be made to proposals as to which discretionary authority is conferred pursuant to subsection (3) of this section.

(2)(a) Means shall be provided in the proxy for the person solicited to specify by ballot a choice between approval or disapproval of each matter or group of related matters referred to therein, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified if the form of proxy states in boldface type how it is intended to vote the shares or authorization presented by the proxy in each [such] case.

(b) A form of proxy which provides both for elections to office and for action on other specified matters shall be prepared so as to clearly provide, by a box or otherwise, means by which the security holder may withhold authority to vote for elections to office. Any such form of proxy which is executed by the security holder in **this** [such] manner as not to withhold authority to vote for elections to office shall be deemed to grant **this** [such] authority, provided the form of proxy so states in boldface type.

(3) A proxy may confer discretionary authority with respect to other matters which may come before the meeting, provided the persons on whose behalf the solicitation is made are not aware, a reasonable time prior to the time the solicitation is made that any other matters are to be presented for action at the meeting and provided further that a specific statement to that effect is made in the proxy statement or in the form of proxy.

(4) A [No] proxy shall **not** confer authority **to vote**:

(a) [To vote] For the election of any person to any office for which a bona fide nominee is not named in the proxy statement; or

(b) [To vote] At any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders. The limitation in paragraph (a) of this subsection shall not prevent the authority conferred from applying to a person substituted for a nominee who, prior to the election, has clearly manifested his unwillingness to serve or whose service would be a physical impossibility.

(5) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions, that the proxy will be voted and that where the person solicited specifies by means of ballot provided pursuant to subsection (2) of this section a choice with respect to any matter to be acted upon, the vote will be in accordance with the specifications so made.

(6) The information included in the proxy statement or information statement shall be clearly presented and the statements made shall be divided into groups according to subject matter, with appropriate headings. All printed proxy statements or information statements shall be clearly and legibly presented.

(7) All proxy statements shall disclose, under an appropriate caption, the date by which proposals of security holders intended to be presented at the next annual meeting must be received by the insurer for inclusion in the insurer's proxy statement and form of proxy relating to that meeting, **the** [such] date to be calculated in accor-

dance with the provisions of Section 9(1) of this administrative regulation. If the date of the next annual meeting is subsequently advanced by more than thirty (30) calendar days or delayed by more than ninety (90) calendar days from the date of the annual meeting to which the proxy statement relates, the insurer shall, in a timely manner, inform security holders of such change, and the date by which proposals of security holders must be received, by any means reasonably calculated to so inform them.

Section 8. [7.] Material Required to be Filed. (1) Two (2) preliminary copies of the information statement or the proxy statement and form of proxy and any other soliciting material to be furnished to security holders concurrently therewith shall be filed with the commissioner at least thirty (30) days prior to the date definitive copies of the [such] material are first sent or given to security holders, or such shorter period prior to that date as the commissioner may authorize upon a showing of good cause therefor.

(2) Two (2) preliminary copies of any additional soliciting material relating to the same meeting or subject matter to be furnished to security holders subsequent to the proxy statements shall be filed with the commissioner at least ten (10) days (exclusive of Saturdays, Sundays, or holidays) prior to the date copies of this material are first sent or given to security holders or a shorter period prior to the [such] date as the commissioner may authorize upon a showing of good cause therefor.

(3) Two (2) definitive copies of the information statement or the proxy statement, form of proxy and all other soliciting material, in the form in which this material is furnished to security holders, shall be filed with, or mailed for filing to, the commissioner not later than the date the [such] material is first sent or given to the stockholders.

(4) Where any information statement or proxy statement, form of proxy or other material filed pursuant to these rules is amended or revised, two (2) of the copies shall be marked to clearly show such changes.

(5) Copies or replies to inquiries from security holders requesting further information and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to this section.

(6) Notwithstanding the provisions of subsections (1) and (2) of this section and of Section 12 [10](5) of this administrative regulation, copies of soliciting material in the form of speeches, press releases and radio or television scripts may, but need not, be filed with the commissioner prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the commissioner as required by subsection (3) of this section not later than the date the [such] material is used or published. The provisions of subsections (1) and (2) of this section and Section 12 [10](5) of this administrative regulation shall apply, however, to any reprints or reproductions of all or any part of such material.

Section 9. [8.] Mailing Communications for Security Holders. (1) If the management of the insurer has made or intends to make any solicitation subject to this administrative regulation, the insurer shall perform any of the following acts as may be duly requested in writing with respect to the same subject matter or meeting by any security holder who is, or security holders who are, entitled to vote at least one (1) percent of the votes entitled to be voted on this [such] matter and who shall defray the reasonable expenses to be incurred by the insurer in the performance of the act or acts requested:

(a) The insurer shall mail or otherwise furnish to the [such] security holder, as promptly as practicable after the receipt of the [such] request:

1. A statement of the approximate number of record owners and, to the extent known to the insurer, the approximate number of beneficial owners of any class of securities, any of whom have been or are to be solicited on behalf of the management, or any group of whom the security holder shall designate; and

2. An estimate of the cost of mailing a specified proxy statement, form of proxy or other communication to the [such] owners.

(b) Copies of any proxy statement, form of proxy or other communication furnished by the security holder shall be mailed by the insurer to the security owners specified in paragraph (a)1 of this subsection as the security holder shall designate;

(c) Material furnished by the security holder shall be mailed with reasonable promptness after receipt of the material to be mailed, envelopes or other containers therefor, and postage or payment for postage. The insurer need not, however, mail any such material prior to the first day on which solicitation is made on behalf of the insurer;

(d) The insurer shall not be responsible for the [such] proxy statement, form of proxy or other communication.

(2) In lieu of performing the acts specified above, the insurer may, at its option, furnish promptly to the [such] security holder a reasonably current list of the names and addresses [of such] of the record owners and, to the extent known to the insurer, the beneficial owners as the security holder shall designate and a schedule of the handling and mailing costs if the [such] schedule has been supplied to the insurer.

Section 10. [9.] Proposals of Security Holders. (1) If any holder or holders of the securities of an insurer (hereafter referred to as the "proponent") notifies the insurer in writing not less than ninety (90) days before the insurer's annual meeting of his intention to present a lawful proposal for action at a forthcoming meeting of the insurer's security holders and at the time of the [such] notice the proponent is entitled to vote at least one (1) percent of the votes entitled to be voted on the [such] proposal, the insurer shall set forth the proposal in its proxy statement and identify it in its form of proxy and provide for the specification of approval or disapproval of such proposal. The proxy statement shall also include the name and address of the proponent.

(2) If the insurer opposes any proposal received from a proponent, it shall also, at the request of the proponent, include in its proxy statement a statement of the proponent of not more than 200 words in support of the proposal.

(3) The insurer may omit a proposal and any statement in support thereof from its proxy statement and form of proxy under any of the following circumstances:

(a) The proponent has submitted more than one (1) proposal in connection with a particular meeting;

(b) The proposal is more than 300 words in length;

(c) The proposal or the supporting statement is contrary to any section of this administrative regulation, including Section 10 of this administrative regulation which prohibits false or misleading statements in proxy soliciting materials;

(d) The proposal relates to the enforcement of a personal claim or the redress of a personal grievance against the insurer, its management, or any other person;

(e) The proposal deals with a matter not significantly related to the insurer's business; a matter beyond the insurer's power to effectuate; a matter relating to the conduct of the ordinary business operations of the insurer; or an election to office;

(f) The proposal is counter to a proposal to be submitted by the insurer at the meeting; the proposal has been rendered moot; or the proposal relates to specific amounts of cash or stock dividends;

(g) The proposal is substantially duplicative of a proposal previously submitted to the insurer by another proponent, which proposal will be included in the management's proxy material for the meeting; or

(h) The substantially same proposal has previously been submitted to security holders in the insurer's proxy statement and form of proxy relating to any annual or special meeting of security holders held within the preceding five (5) calendar years, and received less than five (5) percent of the total number of votes cast in respect thereof at the time of its most recent submission.

(4) If the insurer intends to omit any proposal from its proxy statement or forms of proxy, it shall notify the proponent in writing of its intention at least ten (10) days before the insurer's preliminary proxy material is filed pursuant to Section 7 of this administrative regulation.

Section **11.** [~~10.~~] False or Misleading Statements. **A** [~~No~~] proxy statement, form of proxy, notice of meeting, information statement, or other communication, written or oral, subject to this administrative regulation, shall **not** contain any statement which at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the same meeting or subject matter which has become false or misleading.

Section **12.** [~~11.~~] [~~9.~~] Prohibition of Certain Solicitations. **A** [~~No~~] person making a solicitation which is subject to this administrative regulation shall **not** solicit any undated or postdated proxy or any proxy which provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the security holder.

Section **13.** [~~12.~~] [~~10.~~] Special Provisions Applicable to Election Contests. (1) Applicability. This section shall apply to any solicitation subject to this administrative regulation by any person or group for the purpose of opposing a solicitation subject to this administrative regulation by any other person or group with respect to the election or removal of directors at any annual or special meeting of stockholders.

(2) Participant or participant in a solicitation. For purposes of this section the terms "participant" and "participant in a solicitation" include:

(a) The insurer;

(b) Any person or organization retained or employed by a participant to solicit security holders or any person who merely transmits proxy soliciting material or performs ministerial or clerical duties;

(c) Any person employed in the capacity of attorney, accountant, or advertising, public relations or financial adviser, and whose activities are limited to the performance of his duties in the course of **this** [~~such~~] employment;

(d) Any person regularly employed as an officer or employee of the insurer or any of its subsidiaries or affiliates who is not otherwise a participant; or

(e) Any officer or director of, or any person regularly employed by any other participant, if such officer, director, or employee is not otherwise a participant.

(3) Filing of information required by Section 14 [~~12~~] of this administrative regulation.

(a) [~~No~~] Solicitations subject to this section shall **not** be made by any person other than the management of an insurer unless at least five (5) business days prior thereto, or **a** [~~such~~] shorter period as the commissioner may authorize upon a showing of good cause therefor, there has been filed, with the commissioner, by or on behalf of each participant in **this** [~~such~~] solicitation, a statement in duplicate containing the information specified by Section 14 [~~12~~] of this administrative regulation and a copy of any material proposed to be distributed to security holders in furtherance of **this** [~~such~~] solicitation. Where preliminary copies of any materials are filed, distribution to security holders should be deferred until the commissioner's comments have been received and complied with.

(b) Within five (5) days after a solicitation subject to this section is made by the management of an insurer, or **a** [~~such~~] longer period as the commissioner may authorize upon a showing of good cause therefor, there shall be filed with the commissioner by or on behalf of each participant in **the** [~~such~~] solicitation, other than the insurer, and by or on behalf of each management nominee for director, a statement in duplicate containing the information specified by Section 14 [~~12~~] of this administrative regulation.

(c) If any solicitation on behalf of management or any other person has been made, or if proxy material is ready for distribution, prior to a solicitation subject to this section in opposition thereto, a statement in duplicate containing the information specified in Section 14 [~~12~~] of this administrative regulation shall be filed with the commissioner, by or on behalf of each participant in **the** [~~such~~] prior solicitation, other than the insurer, as soon as reasonably practicable after the commencement of the solicitation in opposition thereto.

(d) If, subsequent to the filing of the statement required by paragraphs (a), (b) and (c) of this subsection, additional persons become participants in a solicitation subject to this rule, there shall be filed with the commissioner, by or on behalf of **a** [~~such~~] person, a statement in duplicate containing the information specified by Section 14 [~~12~~] of this administrative regulation within three (3) business days after **a** [~~such~~] person becomes a participant, or such longer period as the commissioner may authorize upon a showing of good cause therefor.

(e) If any material change occurs in the facts reported in any statement filed by or on behalf of any participant, an appropriate amendment to **the** [~~such~~] statement shall be filed promptly with the commissioner.

(f) Each statement and amendment thereto filed pursuant to this subsection shall be part of the public files of the commissioner.

(4) Solicitations prior to furnishing required written proxy statement. Notwithstanding the provisions of Section 5(1) of this administrative regulation, a solicitation subject to this section may be made prior to furnishing security holders a written proxy statement containing the information specified in Section 13 [~~11~~] of this administrative regulation with respect to **the** [~~such~~] solicitation, provided that:

(a) The statements required by subsection (3) of this section are filed by or on behalf of each participant in **the** [~~such~~] solicitation.

(b) No form of proxy is furnished to shareholders prior to the time the written proxy statement required by Section 5(1) of this administrative regulation is furnished to **these** [~~such~~] persons: provided, however, that this paragraph shall not apply where a proxy statement then meeting the requirements of Section 13 [~~11~~] of this administrative regulation has been furnished to security holders.

(c) At least the information specified in this paragraph and paragraph (b) of this subsection of the statements required by subsection (3) of this section to be filed by each participant, or an appropriate summary thereof, are included in each communication sent or given to security holders in connection with the solicitation.

(d) A written proxy statement containing the information specified in Section 13 [~~11~~] of this administrative regulation with respect to a solicitation is sent or given security holders at the earliest practicable date.

(5) Solicitations prior to furnishing required written proxy statement; filing requirements. Two (2) copies of any soliciting material proposed to be sent or given to security holders prior to the furnishing of the written proxy statement required by Section 5(1) of this administrative regulation shall be filed with the commissioner in preliminary form at least five (5) business days prior to the date definitive copies of **the** [~~such~~] material are first sent or given to such persons, or shorter period as the commissioner may authorize upon a showing of good cause therefor.

(6) Application of this section to report. Notwithstanding the provisions of Section 5(2) and (3) of this administrative regulation, two (2) copies of any portion of the report referred to in Section 5(2) of this administrative regulation which comments upon or refers to any solicitation subject to this section, or to any participant in any such solicitation, other than the solicitation by the management, shall be filed with the commissioner as proxy material subject to this administrative regulation. **That** [~~Such~~] portion of the report shall be filed with

the commissioner in preliminary form at least five (5) business days prior to the date copies of the report are first sent or given to security holders.

Section 14. [~~13.~~] [~~11.~~] Information Required in Proxy Statement. (1) Revocability of proxy. Make a positive statement similar to, "This proxy may be revoked at will, prior to the voting for which it is given; upon notice to the Secretary of the Company." KRS 271A.165 requires proxies be revocable at will.

(2) Dissenters' rights of appraisal. Outline briefly the rights of appraisal or similar rights of dissenting security holders with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by such security holders in order to perfect their rights. Where **these** [~~such~~] rights may be exercised only within a limited time after the date of the adoption of a proposal, the filing of a charter amendment, or other similar act, state whether the person solicited will be notified of **the** [~~such~~] date.

(3) Persons making solicitations not subject to Section 12 [~~10~~] of this administrative regulation:

(a) If the solicitation is made by the management of the insurer, so state. Give the name of any director of the insurer who has informed the management in writing that he intends to oppose any action intended to be taken by the management and indicate the action which he intends to oppose.

(b) If the solicitation is made otherwise than by the management of the insurer, state the names and addresses of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly.

(4) Interest of certain persons in matters to be acted upon. Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of any director, nominee for election for director, officer and, if the solicitation is made otherwise than on behalf of management, each person on whose behalf the solicitation is made, in any matter to be acted upon other than elections to office.

(5) Voting securities.

(a) State, as to each class of voting securities of the insurer entitled to be voted at the meeting, the number of shares outstanding and the number of votes to which each class is entitled.

(b) Give the date as of which the record list of security holders entitled to vote at the meeting will be determined. If the right to vote is not limited to security holders of record on that date, indicate the conditions under which other security holders may be entitled to vote.

(c) If action is to be taken with respect to the election of directors, under KRS 271A.180 the persons solicited **shall** [~~must~~] have cumulative voting rights. Make a statement that they have such rights and state briefly the technique of cumulative voting.

(6) Nominees and directors. If action is to be taken with respect to the election of directors furnish the following information, in tabular form to the extent practicable, with respect to each person nominated for election as a director and each other person whose term of office as a director will continue after the meeting:

(a) Name each such person, state when his term of office or the term of office for which he is a nominee will expire, and all other positions and offices with the insurer presently held by him, and indicate which persons are nominees for election as directors at the meeting.

(b) State his present principal occupation or employment and give the name and principal business of any corporation or other organization in which **the** [~~such~~] employment is carried on. Furnish similar information as to all of his principal occupations or employments during the last five (5) years, unless he is now a director and was elected to his present term of office by a vote of security holders at a meeting for which proxies were solicited under this administrative regulation.

(c) If he is or has previously been a director of the insurer, state the period or periods during which he has served as such.

(d) State, as of the most recent practicable date, the approximate amount of each class of equity security of the insurer or any of its parents, subsidiaries or affiliates other than directors' qualifying shares, beneficially owned directly or indirectly by him. If he is not the beneficial owner of any such equity securities make a statement to that effect.

(7) Remuneration and other transactions with management and others:

(a) This subsection shall apply only to each director whose aggregate remuneration exceeds $40,000 and to each of the three (3) highest paid officers whose aggregate annual remuneration exceeds $40,000.

(b) Furnish the information reported or required in Item 1 of Schedule SIS under the heading "Information Regarding Management and Directors" if action is to be taken with respect to:

1. The election of directors;

2. Any remuneration plan, contract or arrangement in which any director, nominee for election as a director, or officer of the insurer will participate;

3. Any pension or retirement plan in which any such person will participate; or

4. The granting or extension to any such person of any options, warrants or rights to purchase any equity securities other than warrants or rights issued to security holders, as such, on a pro rata basis. If the solicitation is made on behalf of persons other than management, information shall be furnished only as to Item 1-A of the aforesaid heading of Schedule SIS.

(8) Bonus, profit sharing and other remuneration plans. If action is to be taken with respect to any bonus, profit sharing, or other remuneration plan of the insurer, furnish the following information:

(a) A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each [~~such~~] class, and the basis of each participation.

(b) The amounts which would have been distributed under the plan during the last calendar year to:

1. Each person named in subsection (7) of this section;

2. Directors and officers as a group; and

3. All other employees as a group, if the plan had been in effect.

(c) If the plan to be acted upon may be amended (other than by a vote of security holders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in paragraph (b) of this subsection, the nature of **the** [~~such~~] amendments should be specified.

(9) Pension and retirement plan. If action is to be taken with respect to any pension or retirement plan of the insurer, furnish the following information:

(a) A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of **the** [~~such~~] participation.

(b) State:

1. The approximate total amount necessary to fund the plan with respect to past services, the period over which **the** [~~such~~] amount is to be paid, and the estimated annual payments necessary to pay the total amount over **that** [~~such~~] period;

2. The estimated annual payment to be made with respect to current services; and

3. The amount of such annual payments to be made for the benefit of:

a. Each person named in subsection (7) of this section;

b. Directors and officers as a group; and

c. Employees as a group.

(c) If the plan to be acted upon may be amended (other than by a vote of security holders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in paragraph (b)3 of this subsection, the nature of **the** [~~such~~] amendments

should be specified.

(10) Options, warrants, or rights. If action is to be taken with respect to the granting or extension of any options, warrants or rights (all referred to herein as "warrants") to purchase equity securities of the insurer or any subsidiary or affiliate, other than warrants issued to all security holders on a pro rata basis, furnish the following information:

(a) The title and amount of equity security called for or to be called for, the prices, expiration dates and other material conditions upon which the warrants may be exercised, the consideration received or to be received by the insurer, subsidiary or affiliate for the granting or extension of the warrants and the market value of the equity security called for or to be called for by the warrants, as of the latest practicable date.

(b) If known, state separately the amount of equity security called for or to be called for by warrants received or to be received by the following persons, naming each such person:

1. Each person named in subsection (7) of this section; and

2. Each other person who will be entitled to acquire five (5) percent or more of the equity security called for or to be called for by such warrants.

(c) If known, state also the total amount of equity security called for or to be called for by such warrants, received or to be received by all directors and officers of the company as a group and all employees, without naming them.

(11) Authorization or issuance of equity securities.

(a) If action is to be taken with respect to the authorization or issuance of any equity security of the insurer, furnish the title, amount and description of the equity security to be authorized or issued.

(b) If the equity securities are other than additional shares of common stock of a class outstanding, furnish a brief summary of the following, if applicable: dividend, voting, liquidation, preemptive, and conversion rights, redemption and sinking fund provisions, interest rate and date of maturity.

(c) If the equity securities to be authorized or issued are other than additional shares of common stock of a class outstanding, the commissioner may require financial statements comparable to those contained in the annual report.

(12) Mergers, consolidations, acquisitions and similar matters.

(a) If action is to be taken with respect to a merger, consolidation, acquisition, or similar matter, furnish in brief outline the following information:

1. The rights of appraisal or similar rights of dissenters with respect to any matters to be acted upon. Indicate any procedure required to be followed by dissenting security holders in order to perfect **these** ~~[such]~~ rights.

2. The material features of the plan or agreement.

3. The business done by the company to be acquired or whose assets are being acquired.

4. If available, the high and low sales prices for each quarterly period within two (2) years.

5. The percentage of outstanding shares which must approve the transaction before it is consummated.

(b) For each company involved in a merger, consolidation or acquisition, the following financial statements should be furnished:

1. A comparative balance sheet as of the close of the last two (2) fiscal years.

2. A comparative statement of operating income and expenses for each of the last two (2) fiscal years and, as a continuation of each statement, a statement of earnings per share after related taxes and cash dividends paid per share.

3. A pro forma combined balance sheet, and income and expenses statement for the last fiscal year giving effect to the necessary adjustments with respect to the resulting company.

(13) Restatement of accounts. If action is to be taken with respect to the restatement of any assets, capital, or surplus of the insurer, furnish the following information:

(a) State the nature of the restatement and the date as of which it is to be effective.

(b) Outline briefly the reasons for the restatement and for the selection of the particular effective date.

(c) State the name and amount of each account affected by the restatement and the effect of the restatement thereon.

(14) Matters not required to be submitted. If action is to be taken with respect to any matter which is not required to be submitted to a vote of security holders, state the nature of **the** ~~[such]~~ matter, the reason for submitting it to a vote of security holders and what action is intended to be taken by the management in the event of a negative vote on the matter by security holders.

(15) Amendment of charter, bylaws, or other documents. If action is to be taken with respect to any amendment of the insurer's charter, bylaws or other documents as to which information is not required above, state briefly the reasons for and general effect of **the** ~~[such]~~ amendment and the vote needed for its approval.

Section **15.** ~~[14.]~~ ~~[12.]~~ Information to be included in statements filed by or on behalf of a participant (other than the insurer) in a proxy solicitation in an election contest.

(1) Insurer. State the name and address of the insurer.

(2) Identity and background.

(a) State the following:

1. Your name and business address.

2. Your present principal occupation or employment and the name, principal business and address of any corporation or other organization in which **this** ~~[such]~~ employment is carried on.

(b) State the following:

1. Your resident address.

2. Information as to all material occupations, positions, offices and employments during the last ten (10) years, giving starting and ending dates of each and the name, principal business and address of any business corporation or other business organization in which each such occupation, position, office or employment was carried on.

(c) State whether or not you are or have been a participant in any other proxy contest involving this company or other companies within the past ten (10) years. If so, identify the principals, the subject matter and your relationship to the parties and the outcome.

(d) State whether or not, during the past ten (10) years, you have been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case. A negative answer to this paragraph need not be included in the proxy statement or other proxy soliciting material.

(3) Interest in equity securities of the insurer.

(a) State the amount of each class of equity security of the insurer which you own beneficially, directly or indirectly.

(b) State the amount of each class of equity security of the insurer which you own of record but not beneficially.

(c) State with respect to the equity security specified in paragraphs (a) and (b) of this subsection the amounts acquired within the past two (2) years, the date of acquisition and the amounts acquired on each date.

(d) If any part of the purchase price or market value of any of the equity security specified in paragraph (c) of this subsection is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such equity security, so state and indicate the amount of the indebtedness as of the latest practicable date. If **the** ~~[such]~~ funds were borrowed or obtained otherwise than pursuant to a margin account or bank loan in the regular course of business of a bank, broker, or dealer, briefly describe the transaction, and state the names of the parties.

(e) State whether or not you are a party to any contracts, arrangements or understandings with any person with respect to any equity security of the insurer, including but not limited to joint ventures, loan or option arrangements, puts or calls, guarantees

against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. If so, name the persons with whom such contracts, arrangements, or understandings exist and give the details thereof.

(f) State the amount of equity security of the insurer owned beneficially, directly or indirectly, by each of your associates and the name and address of each such associate.

(g) State the amount of each class of equity security of any parent, subsidiary or affiliate of the insurer which you own beneficially, directly, or indirectly.

(4) Further matters.

(a) Describe the time and circumstance under which you became a participant in the solicitation and state the nature and extent of your activities or proposed activities as a participant.

(b) Describe briefly, and where practicable state the approximate amount of any material interest, direct or indirect, to yourself and of each of your associates in any material transactions since the beginning of the company's last fiscal year, or in any material proposed transactions, to which the company or any of its subsidiaries or affiliates was or is to be a party.

(c) State whether or not you or any of your associates have any arrangement or understanding with any person:

1. With respect to any future employment by the insurer or its subsidiaries or affiliates; or

2. With respect to any future transactions to which the insurer or any of its subsidiaries or affiliates will or may be a party. If so, describe such arrangement or understanding and state the names of the parties thereto.

(5) Signature. The statement shall be dated and signed in the following manner:

I certify that the statements made in this statement are true, complete, and correct, to the best of my knowledge and belief.

_____ _____

(Date) (Signature of participant
or authorized representative)

DON W. STEPHENS, Commissioner
EDWARD J. HOLMES, Secretary
APPROVED BY AGENCY: December 21, 1993
FILED WITH LRC: January 13, 1994 at 11 a.m..

CABINET FOR HUMAN RESOURCES
Interim Office of Health Planning & Certification
(As Amended)

902 KAR 20:004. Certificate of need process.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1), (2)
STATUTORY AUTHORITY: KRS 13A.350, 216B.040, 216B.075, Executive Orders 92-419, 92-540
NECESSITY AND FUNCTION: KRS 216B.040 and 216B.075 require the promulgation of administrative regulations relating to certificate of need applications and review procedures and requirements for batching, issuing advisory opinions, cost escalations and cost overruns and progress reports.

Section 1. Definitions. (1) "Affected persons" is defined by KRS 216B.015(2).

(2) "Capital expenditure authorized" means the amount of the capital expenditure approved by the interim office to implement a proposal.

(3) "Cost escalation" means an increase in the capital expenditure authorized on a certificate of need which has not been obligated as prescribed in KRS 216B.015(28).

(4) "Cost overrun" means an increase in the capital expenditure authorized on a certificate of need which has been obligated without hearing officers' approval.

(5) "Emergency circumstances" means an act of God, fire, vandalism, structural or mechanical failure, other situations that pose a threat to life, health, or safety if not acted upon immediately, and the unavailability of ambulance services within a thirty (30) minute response time.

(6) "Hearing officers" means those persons appointed by the Secretary of the Cabinet for Human Resources to perform the adjudicatory and decision-making functions of the Interim Office of Health Planning and Certification.

(7) "Improvement" means change or addition to the premises of an existing facility so as to enhance its capability to deliver those services which it is authorized to offer under its existing license or under an outstanding certificate of need approval.

(8) "Interim office" means the Interim Office of Health Planning and Certification created by Executive Order 92-419, dated April 27, 1992, and any successor office or agency.

(9) "Mobile health services" means those services which provide medical services in various locations and which in some instances utilize a specially equipped vehicle such as a van, trailer or mobile home. These services include mobile diagnostic imaging and examination services, mobile treatment services, and any other medical or dental services provided through the use of a mobile vehicle or performed at various locations.

(10) "New construction" means building projects other than those which constitute the repair, renovation, alteration or improvement to the physical plant of an existing health facility.

(11) "Public information channels" means the Office of Communications in the Cabinet for Human Resources.

(12) "Review commences" means the date of public notice of the appropriate batching cycle for the particular application after it is deemed complete.

(13) "Temporary basis" means on an occasional and irregular basis or until the applicant's proposal for permanent acquisition or regular use by a health care facility is reviewed under the formal or nonsubstantive review process.

Section 2. Criteria. In determining whether to issue or deny a certificate of need, an applicant shall provide and the hearing officer shall utilize the following information:

(1) Consistency with state plan. Whether the proposal is consistent with the state health plan.

(2) Need and accessibility.

(a) The need that the population that is to be served has for the services proposed to be offered or expanded;

(b) The extent to which residents of the area to be served, in particular members of medically under-served groups, are likely to have access to the services;

(c) Whether the proposed service will assist in meeting the health needs of members of medically under-served groups, by:

1. Comparing the percentage of the medically under-served in the applicant's service area that currently use the applicant's service with the percentage of the medically under-served who will use the proposed services if the application is approved; and

2. Determining the means, such as a clinic or emergency room and excluding admission by a physician, by which a person will have access to its services.

(d) The effect of the means proposed for the delivery of health services on the clinical needs of health professional training programs in the area in which the services are to be provided.

(e) If proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools in the area will have access to the services for training purposes.

(f) The special needs and circumstances of an entity, such as a medical and other health profession school, multidisciplinary clinic, or

specialty center, that provides a substantial portion of its services or resources to persons who do not reside in the:

1. Health service area in which the entity is located; or

2. Adjacent health service areas.

(g) Whether the approval of the proposal will adversely impact the public's access to needed services.

(3) Interrelationships and linkages.

(a) The relationship of the services to be provided to the existing health care system of the area in which the services are proposed to be provided.

(b) The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services.

(c) For proposed health services or facilities, the efficiency and appropriateness of the use of similar existing services and facilities.

(4) Costs, economic feasibility, and resource availability.

(a) The availability of less costly or more effective alternative methods of providing the services to be offered, expanded or relocated.

(b) The immediate and long-term financial feasibility of the proposal, including the probable impact of the proposal on the costs of and charges for providing health services by the person proposing the service.

(c) The availability of:

1. Resources, including health personnel, management personnel, and funds for capital and operating needs; and

2. Alternative uses of resources for the provision of other health services.

(d) The impact of the proposal on the financial resources of the overall health care delivery system.

(e) For of construction or renovation projects the:

1. Costs and methods of the project, including the costs and methods of energy provision; and

2. Probable impact of the project on the:

a. Costs of providing health services by the applicant; and

b. Costs and charges to the public of providing health services by other persons.

(f) The effect of competition on the supply of the health services being reviewed, and whether the approval of the application will unnecessarily increase the cost of health care to the public.

(g) Improvements or innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost effectiveness.

(5) Quality of services.

(a) The quality of care provided by the applicant in the past; or

(b) The qualifications of the principals who will provide the health service which would assure that quality care will be provided; and

(c) Any perceivable detrimental effects of the proposal on the quality of similar services in the area including:

1. Whether the approval of the applicant's proposal will have an adverse impact on the quality of care provided by any person offering the same or similar services in any portion of the applicant's proposed service area due to decreased volume or number of procedures; and

2. Whether the applicant will be able to comply with applicable licensure requirements.

Section 3. Proposed New Use. If a person acquires major medical equipment without a certificate of need and proposes at any time to use that equipment to serve inpatients of a health care facility, the proposed new use must be reviewed unless the equipment will be used to provide services to inpatients of a health care facility only on a temporary basis in the case of an emergency, a natural disaster, a major accident, or an equipment failure.

Section 4. Letter of Intent. (1) At least thirty (30) days prior to submitting an application for a certificate of need, an applicant shall file a letter of intent with the Interim Office on "Letter of Intent Form #1".

(2) A letter of intent shall be valid for one (1) year.

(3) If an application is denied, a new letter of intent shall be filed in order to resubmit an application.

(4) If an application is withdrawn prior to a final decision, a new letter of intent shall be filed.

(5) A letter of intent shall not be required for a request for nonsubstantive review under the provisions of Section 8 of this administrative regulation.

Section 5. Application For Certificate Of Need. (1) Upon receipt of a letter of intent, the interim office shall:

(a) Acknowledge receipt of the letter of intent; and

(b) Provide an applicant with, as applicable:

1. "Certificate of Need Application Form #2a"; or

2. "Certificate of Need Application for Ground Ambulance, Air Ambulance and Nonemergency Health Transportation Services Form #2b".

(2) An original, and two (2) copies of, a certificate of need application shall be filed with the interim office as provided by the schedule established by Section 6 of this administrative regulation.

(3)(a) Fifteen (15) days after receipt of an application, the interim office shall:

1. Acknowledge receipt of the application; and

2. Notify the applicant whether the application is complete.

(b) If an application is not complete, the notice shall state that the applicant shall:

1. Complete the application by submitting specific additional information; or

2. Notify the interim office that its application shall be processed as submitted.

(4) Upon receipt of an applicant's response, the interim office shall:

(a) Deem an application complete [~~except as provided in subsection (5) of this section~~]; and

(b) Notify the applicant of the beginning of the review.

(5) [~~An application to establish or relocate a psychiatric residential treatment facility (PRTF) shall not be declared complete unless the applicant provides the names and addresses of all persons owning property adjoining the proposed location of the PRTF, the county judge executive and the nearest municipal or city government.~~

~~(6)~~](a) An application shall be included in the next appropriate public notice of review, if it has been declared complete at least six (6) working days prior to the date of the public notice.

(b) After an application has been declared complete, an applicant may submit additional information to be made part of the public record only at the public hearing.

(6) [~~(7)~~] [~~(6)~~](a) The notification of the beginning of the review shall include the:

1. Schedule for the review; and

2. Period during which a public hearing may be requested by the applicant and other affected persons.

(b) Notice to members of the public, and third party payors, shall be provided through public information channels and notice mailed to local newspapers, [~~and~~] county judge executives **and mayors**.

(c) Notice to all other known affected persons shall be by mail.

[~~(d) In the case of an application to establish or relocate a psychiatric residential treatment facility (PRTF) legal notice shall be given pursuant to KRS Chapter 424. Notice shall also be given to adjoining property owners, the county judge executive, and the nearest municipal or city government by mail.~~]

Section 6. Review of Certificate of Need Application. (1) Batching review cycles shall be as follows:

TYPE OF PROPOSAL	Applications shall be filed by third Wednesday of:	Month of public notice, ninety (90) days prior to decision date	Month of decision, third Wednesday of:
(a) Acute, psychiatric, rehab, chemical dependency facilities, psychiatric residential treatment facilities and other related components in the SHP (except specialized equipment and services) such as IC/CC, neonatal, and surgical services (including free-standing ambulatory surgical center) and birthing centers.	October, January, April, July	November, February, May, August	February, May, August, November
(b) Skilled nursing, nursing home, intermediate care, personal care, or nursing facility.	November	December	March
(c) Personal care or IC MR/DD	November, February, May, August	December, March, June, September	March, June, September, December
(d) Transplantation, magnetic resonance imaging, lithotripter, radiation therapy, C.T. scanner, cardiac catheterization, open heart surgery, and new technological developments.	December, June	January, July	April, October
(e) Day health care center, ambulatory care clinic, rehab agency, hospice, home health or home health/hospice.	October, January, May, July	November, February, June, August	February, May, September, November
(f) Ambulance, NE health transportation, and air ambulance services.	November, January, April, June, August	December, February, May, July, September	March, May, August, October, December
(g) All mobile services except those covered under specialized equipment and services.	October, December, February, April, June, August	November, January, March, May, July, September	February, April, June, August, October, December
(h) Any proposals not listed above shall be placed in the most appropriate cycle as determined by the interim office.			
(i) Any proposals granted nonsubstantive review status as specified in KRS 216B.095(3)(a)(b)(c)(d)(e)(f) and (g) shall be processed in accordance with KRS 216B.095(1).			

(2) The interim office shall notify the applicant by certified mail, and any party to the proceeding by regular mail, of the hearing officers' final action on a certificate of need application.

(3) The written notification shall include:

(a) Verification that the criteria have been met;

(b) If the application is inconsistent with any criteria, the reasons for approval notwithstanding the inconsistency;

(c) Amount of capital expenditure authorized, where applicable;

(d) If the application is disapproved, the reasons for the disapproval; and

(e) Notice of appeal rights.

(4) If an application is not declared complete with a year from the date of filing it shall expire and shall not be reviewed.

(5) If an application for certificate of need is disapproved, it shall not be refiled for a period of twelve (12) months, absent a showing of a significant change in circumstances to be determined by a hearing officer.

Section 7. Certificate of Need Hearings. (1) Notice of the date, time and location of the hearing shall be:

(a) Given to third party payors and members of the public through public information channels and notice mailed to local newspapers, ~~[and]~~ county judge executives **and mayors**; and

(b) Mailed to other known affected persons at least ten (10) days before the date of the hearing.

~~[(c) In the case of an application to establish a psychiatric residential treatment facility (PRTF) legal notice shall be given pursuant to KRS Chapter 424. Notice shall also be given to adjoining property owners, the county judge executive, and the nearest municipal or city government by mail at least ten (10) days before the date of the hearing.]~~

(2)(a) A hearing request may be withdrawn by written request filed with the interim office.

(b) If a hearing has been scheduled, a written request to withdraw shall be accepted if it is received by the interim office at lest three (3) working days prior to the scheduled hearing date.

(c) A public hearing shall be canceled if all persons who requested the hearing agree in writing to its cancellation.

(d) Agreement of other affected persons shall not be required.

(3) A hearing officer may:

(a) Conduct prehearing conferences to resolve issues not in dispute or not requiring an evidentiary record; and

(b) Issue prehearing orders which shall determine the form and the manner in which the evidentiary hearing is conducted.

(4) A hearing officer may, by prehearing order, require affected persons to submit to the interim office five (5) working days prior to

the scheduled date of the hearing a list of:

(a) Witnesses on Form #3 (Witness List (1993));

(b) Exhibits they intend to introduce on Form #4 (Exhibit List (1993)); or

(c) Those persons who will enter an appearance on behalf of a party on Form #5 (Notice of Appearance (1993)).

(5) A hearing officer may:

(a) Place reasonable time limits upon the presentation of testimony, evidence, and argument; and

(b) Terminate or exclude irrelevant or redundant evidence, testimony, or argument.

(6) Except for the exchange of exhibits, prehearing discovery of an affected person by another affected person shall not be permitted.

(7) Upon completion of the hearing, the record on a certificate of need application shall be:

(a) Final for evidentiary purposes; and

(b) Reopened only upon order of the hearing officer.

(8) Upon completion of a public hearing, parties to the proceedings may submit proposed findings of fact and conclusions of law for consideration by the hearing officers, within reasonable time limits set by the hearing officers.

Section 8. Request for Reconsideration. (1) The hearing officers shall act upon request for reconsideration no later than thirty (30) days following receipt of a request.

(2) If reconsideration is granted, a reconsideration hearing shall be held within thirty (30) days of the decision to grant reconsideration, and a final decision shall be made no later than thirty (30) days following the reconsideration hearing.

Section 9. Nonsubstantive Review. (1) In addition to the projects specified in KRS 216B.095(3)(a) through (f), a proposal specified in this section that requires approval of a certificate shall be granted for nonsubstantive review status.

(a) Technical modifications to an approved certificate of need;

(b) Cost overruns of the capital expenditure authorized by an approved certificate of need;

(c) Emergency circumstances which, if not promptly acted upon, would pose a threat to the life, health and safety of any citizen of the Commonwealth. An applicant acting under this subsection may proceed to relieve any of these listed emergency circumstances provided the:

1. Office is notified in writing prior to an action; and

2. Application is submitted within thirty (30) days of the occurrence of the emergency.

(d) New construction which does not involve a substantial change in bed capacity, a substantial change in a health service, or the addition of major medical equipment;

(e) Applications proposing the use of existing mobile services and equipment to provide health care access in unserved geographic areas of the Commonwealth;

(f) Applications proposing the use of existing mobile services to provide health care access for which the Kentucky General Assembly has specifically appropriated funds; and

(g) Department of Corrections applications proposing the establishment or construction of nursing facility beds for which the Kentucky General Assembly has specifically appropriated funds.

(h) Day health care programs.

(2) Procedures for nonsubstantive review shall be as follows:

(a) The original certificate of need application and two (2) copies, with a request for nonsubstantive review shall be submitted to the interim office.

(b) Within fifteen (15) days of the receipt of the application, the interim office shall:

1. Acknowledge receipt of the application; and [~~in writing to the applicant, and shall~~]

2. Notify the applicant whether [~~or not~~] the application is complete.

(c) If the application is not complete, the notice shall state that [~~to~~] the applicant shall:

1. Complete the application by submitting specific additional information; or

2. Notify the interim office that its application shall be processed as submitted. [~~give the applicant the option of submitting the additional information or of notifying the interim office upon receipt of the request for additional information, that he elects for the application to be processed as originally submitted.~~]

(d) Upon receipt of an applicant's response, the interim office shall:

1. Deem an application complete [~~except as provided in subparagraph 3 of this paragraph~~]; and

2. Notify the applicant of the beginning of the review.

[~~3. An application to relocate a psychiatric residential treatment facility (PRTF) shall not be declared complete unless the applicant provides the names and addresses of all persons owning property adjoining the proposed location of the PRTF, the county judge executive and the nearest municipal or city government.~~] [~~the requested additional information by the interim office, or upon receipt of a letter from the applicant that he elects for the application to be processed as originally submitted, the interim office shall declare the application to be deemed complete.~~]

(e) No later than ten (10) days after an application has been deemed complete, a decision by a hearing officer on a request for nonsubstantive review shall be mailed to the applicant. A notice of a decision to conduct a nonsubstantive review shall be:

1. Given to third party payors and members of the public through public information channels, notice mailed to local newspapers, [~~and~~] county judge executives **and mayors**; and

2. Mailed to other known affected persons.

[~~3. In the case of a request for a change of location of a psychiatric residential treatment facility (PRTF) legal notice shall be given pursuant to KRS Chapter 424. Notice shall also be given to adjoining property owners, the county judge executive, and the nearest municipal or city government by mail no later than the tenth day after the application is deemed complete.~~]

(f) If nonsubstantive review status is denied, the applicant may request a public hearing by filing a request with the interim office within ten (10) days of the notice to deny nonsubstantive review. As applicable, hearings shall be conducted as provided by KRS 216B.085.

(g) If a certificate of need is denied following a nonsubstantive review and a formal review is requested, no letter of intent shall be required, but the filing of the request for nonsubstantive review shall be considered compliance with any requirement for a letter of intent.

Section 10. Conditions Relative to a Certificate of Need. (1) A person shall not transfer from one (1) legal applicant to another an approved certificate of need for the establishment of a new health facility or the replacement of an existing facility without first obtaining a certificate of need.

(2) Other certificates of need may be transferred to the new owner of the facility or service if the change of ownership occurs prior to the implementation of the project for which the certificate of need was issued.

(3) A certificate of need approved for establishment of a new health facility or the replacement of an existing facility is valid only for the location stated on the certificate.

(4) A certificate of need holder shall notify the interim office of any reduction or termination of a health service or a reduction in bed capacity for an approved project no later than the first progress report after the decision to make the change has been determined.

Section 11. Administrative Cost Escalations and Overruns. (1) A certificate of need using Form #2c (1993) shall be required for an escalation or cost overrun of the capital expenditure authorized by an

approved certificate of need in all instances where there is a substantial change in the project, or where the escalation or overrun exceeds the following limits:

(a) Twenty (20) percent of the capital expenditure authorized or $100,000, whichever is greater, in the case of projects with a capital expenditure of less than $500,000;

(b) Twenty (20) percent of the capital expenditure authorized, in the case of projects with a capital expenditure of $500,000 or greater, but less than $5,000,000;

(c) Ten (10) percent of the amount in excess of $5,000,000, plus $1,000,000, in the case of projects with a capital expenditure of $5,000,000 or greater, but less than $25,000,000;

(d) Five (5) percent of the amount in excess of $25,000,000, plus $3,000,000, in the case of projects with a capital expenditure of $25,000,000 or greater, but less than $50,000,000; or

(e) Two (2) percent of the amount in excess of $50,000,000, plus $4,250,000 in the case of projects with a capital expenditure of $50,000,000 or greater.

(2)(a) Requests for administrative cost escalations or cost overruns shall be submitted to the interim office, on the following forms:

1. Form #6 (Cost Escalation (1992)); or
2. Form #7 (Cost Overrun (1992)).

(b) The requests shall include:

1. Amount of the escalation of overrun;
2. Factors causing the escalation or overrun; and
3. Information to assure that the scope of the project as originally approved has not changed.

(c) The hearing officers shall review all requests for administrative cost escalations and overruns and the interim office shall notify the certificate of need holder within thirty (30) days of receipt whether the requested escalation or overrun meets the requirements of subsection (1) of this section.

(3) The certificate of need holder shall submit any additional certificate of need application fee required by the increased capital expenditure pursuant to the requirements of 902 KAR 20:135.

Section 12. Timetables and Standards for Implementation. (1) As a condition for the issuance of a certificate of need, a holder of a certificate of need shall submit progress reports on "Progress Report Form #8" at the six (6) month intervals specified in this section.

(2)(a) A notice specifying the date each progress report is due shall be sent to a holder of a certificate of need.

(b) The interim office shall review a progress report and shall:

1. Determine whether the items required to be completed during the six (6) month period covered by the progress report have been completed; and

2. If the items have not been completed, whether sufficient reasons for failure to complete have been provided.

(3) A certificate of need shall be deemed complete when:

(a) The project has been approved for licensure and occupancy by the Division of Licensing and Regulation; or

(b) The appropriate license has been obtained; and

(c) A final cost breakdown has been submitted; and

(d) For projects for which a certificate of need has been issued for a specific service area, documentation that services are being provided to all of the licensed service area has been submitted.

(4) Until a project has been deemed complete by the interim office, if the information submitted is deemed incomplete, or otherwise deficient, the interim office may require:

(a) The submission of additional reports; or

(b) Progress reports in addition to those required at six (6) month intervals under the provisions of this section.

(5) If the interim office determines that the items have not been completed for reasons other than those set forth in paragraph (c) of this subsection, for the failure to complete, it shall notify the holder of the certificate of need, in writing, that:

(a) It has determined to revoke the certificate of need;

(b) The revocation shall become final thirty (30) days from the date of the notice of revocation, unless the holder requests a hearing to show cause why the certificate of need shall not be revoked.

(c) A certificate of need shall not be revoked for failure to complete the items required during a six (6) month period, if the holder of the certificate of need establishes that the failure to complete the items required was due to emergency circumstances, or other causes that:

1. Could not reasonably be anticipated and avoided by the holder; or

2. Were not the result of action or inaction of the holder.

(6) The first progress report shall include the following:

(a) On all projects for purchase of equipment only, a copy of the purchase order;

(b) For all projects involving the acquisition of real property, evidence of an option to acquire the site;

(c) For all construction or renovation projects, evidence that schematic plans have been submitted to the Department of Housing, Buildings and Construction and the Division of Licensing and Regulation.

(7) For projects not deemed complete a second progress report shall include the following:

(a) Documentation that beds in all projects for conversion of beds are licensed;

(b) Documentation that all projects for addition of new services or expansion of existing services, not involving construction or renovation or the installation of equipment, are approved for licensure and occupancy by the Division of Licensing and Regulation and licensed, if applicable; and

(c) All construction or renovation projects shall include:

1. Schedule for project completion with projected dates;
2. Evidence of preliminary negotiation with financial agent; and
3. Evidence of preliminary negotiation with contractors.

(8) For projects not deemed complete, a third progress report shall include the following:

(a) For construction or renovation projects:

1. Copy of deed or lease of land;

2. Documentation of final financing. If the source of capital is to be a financing agreement, the holder must have evidence that a final enforceable agreement or note has been executed;

3. Documentation that final plans have been submitted to the Department of Housing, Buildings and Construction and the Division of Licensing and Regulation;

4. Enforceable contract with construction contractor;

(b) On all projects for purchase of equipment only, evidence of approval for licensure and occupancy by the Division of Licensing and Regulation.

(9) For projects not deemed complete, a fourth progress report shall include documentation of final plan approval by the Department of Housing, Buildings and Construction and the Division of Licensing and Regulation and that the walls and roof are up and plumbing is roughed in on all construction/renovation projects.

(10) For projects not deemed complete, a fifth progress report shall include documentation that construction/renovation is progressing according to schedule for project completion on all construction or renovation projects.

(11) For projects not deemed complete, a sixth progress report shall include documentation that the project has been approved for licensure and occupancy by the Division of Licensing and Regulation and where applicable, that the appropriate license has been obtained for the project.

(12) For projects not deemed complete after the sixth progress report, the certificate holder shall, upon request, provide the interim office with a written statement showing cause why the certificate should not be revoked. The interim office may defer revocation action upon a showing by the certificate holder that the project will be

completed on a revised schedule of completion, subject to progress reports which the interim office may require.

(13) Within six (6) months following licensure of a project for which a certificate of need has been issued for a specific service area, the certificate holder shall submit documentation that services are being provided to all of the licensed service area. Failure to provide such documentation shall constitute grounds for revocation of the certificate of need and the license for those areas where service is not being provided.

(14) If the project involves a capital expenditure, a final cost breakdown shall be included in the final progress report.

Section 13. Advisory Opinions. The process for seeking an advisory opinion from the hearing officers shall be as follows:

(1) Requests for advisory opinions shall be completed on Form #9 (Advisory Opinion (1993 [~~1992~~])).

(2) The hearing officers may require verification of information and may request additional documentation, if necessary.

(3) The hearing officers shall issue a written advisory opinion within thirty (30) days of receipt of a completed request for an opinion or of receipt of additional information.

(4) An affected person may request a public hearing regarding a written advisory opinion by requesting same from the interim office in writing within thirty (30) days of the public notice of the advisory opinion which shall be published in the monthly certificate of need newsletter and disseminated through public information channels. If a public hearing is not requested, the advisory opinion shall be the final action of the administrative agency, subject to judicial review. Failure to request a public hearing shall not constitute a failure to exhaust administrative remedies.

(5) Advisory opinion hearings shall be conducted pursuant to the provisions of Section 5 of this administrative regulation.

Section 14. Final Decisions. All final decisions regarding certificate of need related matters will be decided by the individual hearing officer to whom that particular matter is assigned.

Section 15. Incorporation by Reference. (1) "Form #1 (Letter of Intent (1992))", "Form #2a (Certificate of Need Application (1993-1))", "Form #2b (Certificate of Need Application for Ground Ambulance, Air Ambulance and Nonemergency Health Transportation Services (1993))", "Form #2c (Certificate of Need Application for Change of Location, Ownership, Replacement, Cost Escalation or Cost Overrun (1993-1))", "Form #3 (Witness List (1993))", "Form #4 (Exhibit List (1993))", "Form #5 (Notice of Appearance List (1993))", "Form #6 (Cost Escalation (1992))", "Form #7 (Cost Overrun (1992))", "Form #8 (Progress Report (1993))" and "Form #9 (Advisory Opinion (1993))", "Form #10 (Acquisition of a Health Facility Notice of Intent (1993))" are incorporated by reference.

(2) These forms may be inspected, copied or obtained at the Interim Office of Health Planning & Certification, Cabinet for Human Resources, 275 East Main, Frankfort, Kentucky 40621, 8 a.m. to 4:30 p.m., Monday through Friday.

Section 16. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

GREG LAWTHER, Acting Executive Director
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: February 3, 1994
FILED WITH LRC: February 4, 1994 at 11 a.m.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Environmental Health and Community Safety
(As Amended)

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

RELATES TO: KRS 211.842 to 211.852, 211.990(4), 10 CFR 20 [~~10~~].1001-20.1906, 20.2101-20.2204, 20.2206, Appendixes A, B to 20.1001-20.2401, 40 CFR 190, 49 CFR 100-180, 173.403(m),(w), 173.421-173.424

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

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

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

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

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

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

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

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

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

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

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

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

2. Sum of the deep-dose equivalent and the committed dose equivalent to an individual organ or tissue other than the lens of the

eye being equal to fifty (50) rems (five-tenths (0.50) Sv).

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

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

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

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

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

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

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

(b) Demonstrate compliance with the occupational dose limits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Quantities of radionuclides in the body;

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

(d) Combinations of these measurements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Informed of the purpose of the planned operation;

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

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

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

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

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

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

(4) A licensee or registrant shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Radioactive materials in effluents released to unrestricted and

controlled areas.

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

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

(b) Demonstrating that:

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

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

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

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

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

(b) Reasonable under the circumstances to evaluate:

1. The extent of radiation levels;

2. Concentrations or quantities of radioactive material; and

3. The potential radiological hazards that may be present.

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

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

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

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

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

(a) Adults likely to receive, in one (1) year from sources external to the body, a dose in excess of ten (10) percent of the limits in Section 3(1) of this administrative regulation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

access and control specified in 902 KAR 100:100, 902 KAR 100:115, and 902 KAR 100:155.

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

(2) This section shall not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Monitor the integrity of the shield; and

2. Automatically signal loss of adequate shielding;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

means:

(1) Control of access;

(2) Limitation of exposure times;

(3) Use of respiratory protection equipment; or

(4) Other controls approved by the cabinet.

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

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

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

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

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

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

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

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

4. Written procedures regarding:

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

b. Supervision and training of personnel;

c. Monitoring, including air sampling and bioassays; and

d. Recordkeeping; and

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

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

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

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

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

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

1. Equipment malfunction;

2. Physical or psychological distress;

3. Procedural or communication failure;

4. Significant deterioration of operating conditions; or

5. Other conditions that may require relief; and

(e) A licensee or registrant shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

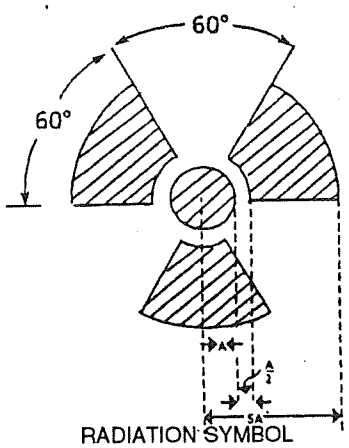
(1) Ensure that the respiratory protection program of the licensee shall be adequate to limit exposures of individuals to airborne radioactive materials; and

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

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

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

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



RADIATION SYMBOL

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

(b) The background shall be yellow.

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

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

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

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

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

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

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

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

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

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

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

(a) The patient is being treated with sealed sources, has been treated with unsealed radioactive material in quantities less than thirty (30) millicuries or **one and one-tenth (1.1) gigabecquerels (GBq)** ~~[110 megabecquerels (MBq)]~~, or the measured dose rate at one (1) meter from the patient is less than 0.005 rem (0.05 mSv) per hour; and

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

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

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

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

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

(a) The label shall provide the following information:

1. Radionuclide present;
2. An estimate of the quantity of radioactivity;
3. Date the activity is estimated;
4. Radiation levels, kinds of materials; and
5. Mass enrichment.

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

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

1. Remove or deface the radioactive material label; or
2. Clearly indicate the container no longer contains radioactive materials.

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

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

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

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

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

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

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

(2) Labeling of packages containing radioactive materials shall be required by the U.S. Department of Transportation (DOT) if the amount and type of radioactive material exceeds the limits for an

excepted quantity or article pursuant to 49 CFR 173.403(m) and (w) and 173.421-173.424.

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

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

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

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

(a) Is labeled as containing radioactive material; or

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

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

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

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

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

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

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

(5) A licensee or registrant shall:

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

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

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

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

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

(a) Total effective dose equivalent;

(b) Shallow-dose equivalent;

(c) Eye dose equivalent;

(d) Deep-dose equivalent; and

(e) Committed effective dose equivalent.

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

(a) The provisions of the program; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The form or record shall:

1. Show each period the individual received occupational

exposure to radiation or radioactive material; and

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

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

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

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

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

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

(6) A licensee or registrant shall:

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

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

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

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

(b) A copy of the signed authorization; and

(c) Description of:

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

2. What actions were necessary;

3. Why the actions were necessary;

4. How doses were maintained ALARA;

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

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

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

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

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

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

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

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

(b) Eye dose equivalent;

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

(d) Estimated intake or body burden of radionuclides;

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

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

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

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

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

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

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

(6) A licensee or registrant shall maintain the:

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

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

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

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

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

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

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

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

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

(2) The record shall be:

1. The original;

2. A reproduced copy; or

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

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

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

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

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

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

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

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

Section 2, still missing at this time.

(b) Reports shall be made to the cabinet.

(2) Written reports.

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

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

a. Kind;

b. Quantity; and

c. Chemical and physical form;

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

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

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

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

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

(b) Reports shall be made to the cabinet.

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

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

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

(a) An individual may receive:

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

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

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

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

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

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

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

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

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

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

3. A shallow-dose equivalent to the skin or extremities exceeding fifty (50) rems (five-tenths (0.5) Sv);

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

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

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

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

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

(a) Telephone;

(b) Telegram;

(c) Mailgram; or

(d) Facsimile.

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

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

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

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

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

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

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

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

5. Applicable limit in the license or registration; or

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

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

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

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

(2) Contents of reports.

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

1. Estimates of each individual's dose;

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

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

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

or registration conditions.

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

1. Name of the individual;
2. Social Security number; and
3. Date of birth.

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

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

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

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

(2) A licensee or registrant shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) A licensee or registrant shall:

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

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

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

Description[b]	Modes[c]	Protection Factors[d] Particulates only	Protection Factors[d] Particulates, gases & vapors[e]	Tested & Certified Equipment: National Institute for Occupational Safety and Health & Mine Safety and Health Administration tests for permissibility
I. AIR-PURIFYING RESPIRATORS:				
Facepiece, half-mask[g]	N	10		30 CFR Part 11, Subpart K.
Facepiece, full	NP	50		
Facepiece, half-mask full, or hood	PP	1000		
II. ATMOSPHERE-SUPPLYING RESPIRATORS:				
1. Air-line respirator:				
Facepiece, half-mask	CF		1000	30 CFR Part 11, Subpart J.
Facepiece, half-mask	D		5	
Facepiece, full	CF		2000	
Facepiece, full	D		5	
Facepiece, full	PD		2000	
Hood	CF		[h]	
Suit	CF		[i]	[i]
2. Self-contained breathing apparatus (SCBA)				
Facepiece, full	D		50	30 CFR 11, Subpart H.
Facepiece, full	PD		[k]10,000	

Facepiece, full	RD	50	
Facepiece, full	RP	[5,000	
III. COMBINATION RESPIRATORS: A combination of air-purifying and atmosphere-supplying respirators	Protection factor for type and mode of operation as listed above.		30 CFR 11, Sec. 11.63(b).

See footnotes.'

FOOTNOTES

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

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

c. The mode symbols shall be defined as follows:

CF = continuous flow

D = demand

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

PD = pressure demand, that is, always positive pressure

PP = positive pressure

RD = demand, recirculating or closed circuit

RP = pressure demand, recirculating or closed circuit

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

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

2. The protection factors apply:

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

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

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

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

e. Excluding radioactive contaminants that present an absorption or submersion hazard. For tritium oxide, approximately one-third (1/3) of the intake occurs by absorption through the skin so that an overall protection factor of less than two (2) shall be appropriate if atmosphere-supplying respirators are used to protect against tritium oxide. If the protection factor for respiratory protective equipment is five (5), the effective protection factor for tritium is about one and four-tenths (1.4); with protection factors of ten (10), the effective factor for tritium oxide is about one and seven-tenths (1.7); and with protection factors of 100 or more, the effective factor for tritium oxide is about one and nine-tenths (1.9). Air-purifying respirators shall not be suitable for protection against tritium oxide. See also footnote i concerning supplied-air suits.

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

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

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

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

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

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

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

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

Note 1: Protection factors for respirators approved by the U.S.

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

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

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

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

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

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

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

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

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

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

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

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

(c) 6E+0 represents 6×10^{0} or 6.

(6) Occupational Values - Table I.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. The values of ALI and DAC shall not apply directly if the individual both ingests and inhales a radionuclide, if the individual is exposed to a mixture of radionuclides by inhalation, ingestion, or both, or if the individual is exposed to both internal and external irradiation (see Section 13 of this administrative regulation). If an individual is exposed to radioactive materials which fall under several of the

translocation classifications of the same radionuclide (for example, Class D, Class W, or Class Y), the exposure may be evaluated as if it were a mixture of different radionuclides; and

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

(7) Effluent Concentrations - Table II.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) Releases to Sewers - Table III.

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

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

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

Name	Symbol	Atomic Number	Name	Symbol	Atomic Number
Actinium	Ac	89	Mercury	Hg	80
Aluminum	Al	13	Molybdenum	Mo	42
Americium	Am	95	Neodymium	Nd	60
Antimony	Sb	51	Neptunium	Np	93
Argon	Ar	18	Nickel	Ni	28
Arsenic	As	33	Niobium	Nb	41
Astatine	At	85	Osmium	Os	76
Barium	Ba	56	Palladium	Pd	46
Berkelium	Bk	97	Phosphorus	P	15
Beryllium	Be	4	Platinum	Pt	78
Bismuth	Bi	83	Plutonium	Pu	94
Bromine	Br	35	Polonium	Po	84
Cadmium	Cd	48	Potassium	K	19
Calcium	Ca	20	Praseodymium	Pr	59
Californium	Cf	98	Promethium	Pm	61
Carbon	C	6	Protactinium	Pa	91
Cerium	Ce	58	Radium	Ra	88

Cesium	Cs	55	Radon	Rn	86
Chlorine	Cl	17	Rhenium	Re	75
Chromium	Cr	24	Rhodium	Rh	45
Cobalt	Co	27	Rubidium	Rb	37
Copper	Cu	29	Ruthenium	Ru	44
Curium	Cm	96	Samarium	Sm	62
Dysprosium	Dy	66	Scandium	Sc	21
Einsteinium	Es	99	Selenium	Se	34
Erbium	Er	68	Silicon	Si	14
Europium	Eu	63	Silver	Ag	47
Fermium	Fm	100	Sodium	Na	11
Fluorine	F	9	Strontium	Sr	38
Francium	Fr	87	Sulfur	S	16
Gadolinium	Gd	64	Tantalum	Ta	73
Gallium	Ga	31	Technetium	Tc	43
Germanium	Ge	32	Tellurium	Te	52
Gold	Au	79	Terbium	Tb	65
Hafnium	Hf	72	Thallium	Tl	81
Holmium	Ho	67	Thorium	Th	90
Hydrogen	H	1	Thulium	Tm	69
Indium	In	49	Tin	Sn	50
Iodine	I	53	Titanium	Ti	22
Iridium	Ir	77	Tungsten	W	74
Iron	Fe	26	Uranium	U	92
Krypton	Kr	36	Vanadium	V	23
Lanthanum	La	57	Xenon	Xe	54
Lead	Pb	82	Ytterbium	Yb	70
Lutetium	Lu	71	Yttrium	Y	39
Magnesium	Mg	12	Zinc	Zn	30
Manganese	Mn	25	Zirconium	Zr	40
Mendelevium	Md	101			

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

11	Sodium-22	D, all compounds	4E+2	6E+2	3E-7	9E-10	6E-6	6E-5
11	Sodium-24	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
12	Magnesium-28	D, all compounds except those given for W	7E+2	2E+3	7E-7	2E-9	9E-6	9E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	1E+3	5E-7	2E-9	-	-
13	Aluminum-26	D, all compounds except those given for W	4E+2	6E+1	3E-8	9E-11	6E-6	6E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	9E+1	4E-8	1E-10	-	-
14	Silicon-31	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, oxides, hydroxides, carbides, and nitrates	-	3E+4	1E-5	5E-8	-	-
		Y, aluminosilicate glass	-	3E+4	1E-5	4E-8	-	-
14	Silicon-32	D, see ^{31}Si	2E+3	2E+2	1E-7	3E-10	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
		W, see ^{31}Si	-	1E+2	5E-8	2E-10	-	-
		Y, see ^{31}Si	-	5E+0	2E-9	7E-12	-	-
15	Phosphorus-32	D, all compounds except phosphates given for W	6E+2	9E+2	4E-7	1E-9	9E-6	9E-5
		W, phosphates of Zn^{2+}, S^{3+}, Mg^{2+}, Fe^{3+}, Bi^{3+}, and lanthanides	-	4E+2	2E-7	5E-10	-	-
15	Phosphorus-33	D, see ^{32}P	6E+3	8E+3	4E-6	1E-8	8E-5	8E-4
		W, see ^{32}P	-	3E+3	1E-6	4E-9	-	-
16	Sulfur-35	Vapor	1E+4	6E-6	2E-8	-	-	
		D, sulfides and sulfates except those given for W	1E+4	2E+4	7E-6	2E-8	-	-
			LLI wall (8E+3)	-	-	-	1E-4	1E-3
		W, elemental sulfur, sulfides of Sr, Ba, Ge, Sn, Pb, As, Sb, Bi, Cu, Ag, Au, Zn, Cd, Hg, W, and Mo. Sulfates of Ca, Sr, Ba, Ra, As, Sb, and Bi	6E+3 -	2E+3	9E-7	3E-9	-	-
17	Chlorine-36	D, chlorides of H, Li, Na, K, Rb, Cs, and Fr	2E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		W, chlorides of lantha-nides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Cr, Mo, W, Mn, Tc, and Re	-	2E+2	1E-7	3E-10	-	-
17	Chlorine-38[2]	D, see ^{36}Cl	2E+4	4E+4	2E-5	6E-8	-	-
			St wall (3E+4)	-	-	-	3E-4	3E-3
		W, see ^{36}Cl	-	5E+4	2E-5	6E-8	-	-
17	Chlorine-39[2]	D, see ^{36}Cl	2E+4	5E+4	2E-5	7E-8	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
		W, see ^{36}Cl	-	6E+4	2E-5	8E-8	-	-
18	Argon-37	Submersion[1]	-	-	1E+0	6E-3	-	-
18	Argon-39	Submersion[1]	-	-	2E-4	8E-7	-	-
18	Argon-41	Submersion[1]	-	-	3E-6	1E-8	-	-
19	Potassium-40	D, all compounds	3E+2	4E+2	2E-7	6E-10	4E-6	4E-5
19	Potassium-42	D, all compounds	5E+3	5E+3	2E-6	7E-9	6E-5	6E-4
19	Potassium-43	D, all compounds	6E+3	9E+3	4E-6	1E-8	9E-5	9E-4

19	Potassium-44[2]	D, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
19	Potassium-45[2]	D, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
			St wall (5E+4)	-	-	-	7E-4	7E-3
20	Calcium-41	W, all compounds	3E+3	4E+3	2E-6	-	-	-
			Bone surf (4E+3)	Bone surf (4E+3)	-	5E-9	6E-5	6E-4
20	Calcium-45	W, all compounds	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
20	Calcium-47	W, all compounds	8E+2	9E+2	4E-7	1E-9	1E-5	1E-4
21	Scandium-43	Y, all compounds	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
21	Scandium-44m	Y, all compounds	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
21	Scandium-44	Y, all compounds	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
21	Scandium-46	Y, all compounds	9E+2	2E+2	1E-7	3E-10	1E-5	1E-4
21	Scandium-47	Y, all compounds	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
21	Scandium-48	Y, all compounds	8E+2	1E+3	6E-7	2E-9	1E-5	1E-4
21	Scandium-49[2]	Y, all compounds	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
22	Titanium-44	D, all compounds except those given for W and Y	3E+2	1E+1	5E-9	2E-11	4E-6	4E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	3E+1	1E-8	4E-11	-	-
		Y, SrTiO	-	6E+0	2E-9	8E-12	-	-
22	Titanium-45	D, see ^{44}Ti	9E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		W, see ^{44}Ti	-	4E+4	1E-5	5E-8	-	-
		Y, see ^{44}Ti	-	3E+4	1E-5	4E-8	-	-
23	Vanadium-47[2]	D, all compounds except those given for W	3E+4	8E+4	3E-5	1E-7	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		W, oxides, hydroxides, carbides, and halides	-	1E+5	4E-5	1E-7	-	-
23	Vanadium-48	D, see ^{47}V	6E+2	1E+3	5E-7	2E-9	9E-6	9E-5
		W, see ^{47}V	-	6E+2	3E-7	9E-10	-	-
23	Vanadium-49	D, see ^{47}V	7E+4	3E+4	1E-5	-	-	-
			LLI wall (9E+4)	Bone surf (3E+4)	-	5E-8	1E-3	1E-2
		W, see ^{47}V	-	2E+4	8E-6	2E-8	-	-
24	Chromium-48	D, all compounds except those given for W and Y	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, halides and nitrates	-	7E+3	3E-6	1E-8	-	-
		Y, oxides and hydroxides	-	7E+3	3E-6	1E-8	-	-
24	Chromium-49[2]	D, see ^{48}Cr	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
		W, see ^{48}Cr	-	1E+5	4E-5	1E-7	-	-
		Y, see ^{48}Cr	-	9E+4	4E-5	1E-7	-	-
24	Chromium-51	D, see ^{48}Cr	4E+4	5E+4	2E-5	6E-8	5E-4	5E-3
		W, see ^{48}Cr	-	2E+4	1E-5	3E-8	-	-
		Y, see ^{48}Cr	-	2E+4	8E-6	3E-8	-	-
25	Manganese-51[2]	D, all compounds except those given for W	2E+4	5E+4	2E-5	7E-8	3E-4	3E-3
		W, oxides, hydroxides, halides, and nitrates	-	6E+4	3E-5	8E-8	-	-
25	Manganese-52m[2]	D, see ^{51}Mn	3E+4	9E+4	4E-5	1E-7	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
		W, see ^{51}Mn	-	1E+5	4E-5	1E-7	-	-
25	Manganese-52	D, see ^{51}Mn	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
		W, see ^{51}Mn	-	9E+2	4E-7	1E-9	-	-

25	Manganese-53	D, see ^{51}Mn	5E+4	1E+4	5E-6	-	7E-4	7E-3
			-	Bone surf (2E+4)	-	3E-8	-	-
		W, see ^{51}Mn	-	1E+4	5E-6	2E-8	-	-
25	Manganese-54	D, see ^{51}Mn	2E+3	9E+2	4E-7	1E-9	3E-5	3E-4
		W, see ^{51}Mn	-	8E+2	3E-7	1E-9	-	-
25	Manganese-56	D, see ^{51}Mn	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see ^{51}Mn	-	2E+4	9E-6	3E-8	-	-
26	Iron-52	D, all compounds except those given for W	9E+2	3E+3	1E-6	4E-9	1E-5	1E-4
		W, oxides, hydroxides, and halides	-	2E+3	1E-6	3E-9	-	-
26	Iron-55	D, see ^{52}Fe	9E+3	2E+3	8E-7	3E-9	1E-4	1E-3
		W, see ^{52}Fe	-	4E+3	2E-6	6E-9	-	-
26	Iron-59	D, see ^{52}Fe	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		W, see ^{52}Fe	-	5E+2	2E-7	7E-10	-	-
26	Iron-60	D, see ^{52}Fe	3E+1	6E+0	3E-9	9E-12	4E-7	4E-6
		W, see ^{52}Fe	-	2E+1	8E-9	3E-11	-	-
27	Cobalt-55	W, all compounds except those given for Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
27	Cobalt-56	W, see ^{55}Co	5E+2	3E+2	1E-7	4E-10	6E-6	6E-5
		Y, see ^{55}Co	4E+2	2E+2	8E-8	3E-10	-	-
27	Cobalt-57	W, see ^{55}Co	8E+3	3E+3	1E-6	4E-9	6E-5	6E-4
		Y, see ^{55}Co	4E+3	7E+2	3E-7	9E-10	-	-
27	Cobalt-58m	W, see ^{55}Co	6E+4	9E+4	4E-5	1E-7	8E-4	8E-3
		Y, see ^{55}Co	-	6E+4	3E-5	9E-8	-	-
27	Cobalt-58	W, see ^{55}Co	2E+3	1E+3	5E-7	2E-9	2E-5	2E-4
		Y, see ^{55}Co	1E+3	7E+2	3E-7	1E-9	-	-
27	Cobalt-60m[2]	W, see ^{55}Co	1E+6	4E+6	2E-3	6E-6	-	-
			St wall (1E+6)	-	-	-	2E-2	2E-1
		Y, see ^{55}Co	-	3E+6	1E-3	4E-6	-	-
27	Cobalt-60	W, see ^{55}Co	5E+2	2E+2	7E-8	2E-10	3E-6	3E-5
		Y, see ^{55}Co	2E+2	3E+1	1E-8	5E-11	-	-
27	Cobalt-61[2]	W, see ^{55}Co	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		Y, see ^{55}Co	2E+4	6E+4	2E-5	8E-8	-	-
27	Cobalt-62m[2]	W, see ^{55}Co	4E+4	2E+5	7E-5	2E-7	-	-
			St wall (5E+4)	-	-	-	7E-4	7E-3
		Y, see ^{55}Co	-	2E+5	6E-5	2E-7	-	-
28	Nickel-56	D, all compounds except those given for W	1E+3	2E+3	8E-7	3E-9	2E-5	2E-4
		W, oxides, hydroxides, and carbides	-	1E+3	5E-7	2E-9	-	-
		Vapor	-	1E+3	5E-7	2E-9	-	-
28	Nickel-57	D, see ^{56}Ni	2E+3	5E+3	2E-6	7E-9	2E-5	2E-4
		W, see ^{56}Ni	-	3E+3	1E-6	4E-9	-	-
		Vapor	-	6E+3	3E-6	9E-9	-	-
28	Nickel-59	D, see ^{56}Ni	2E+4	4E+3	2E-6	5E-9	3E-4	3E-3
		W, see ^{56}Ni	-	7E+3	3E-6	1E-8	-	-
		Vapor	-	2E+3	8E-7	3E-9	-	-
28	Nickel-63	D, see ^{56}Ni	9E+3	2E+3	7E-7	2E-9	1E-4	1E-3
		W, see ^{56}Ni	-	3E+3	1E-6	4E-9	-	-
		Vapor	-	8E+2	3E-7	1E-9	-	-
28	Nickel-65	D, see ^{56}Ni	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ^{56}Ni	-	3E+4	1E-5	4E-8	-	-
		Vapor	-	2E+4	7E-6	2E-8	-	-
28	Nickel-66	D, see ^{56}Ni	4E+2	2E+3	7E-7	2E-9	-	-
			LLI wall (5E+2)	-	-	-	6E-6	6E-5

		W, see ^{56}Ni	-	6E+2	3E-7	9E-10	-	-
		Vapor	-	3E+3	1E-6	4E-9	-	-
29	Copper-60[2]	D, all compounds except those given for W and Y	3E+4	9E+4	4E-5	1E-7	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		W, sulfides, halides, and nitrates	-	1E+5	5E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	4E-5	1E-7	-	-
29	Copper-61	D, see ^{60}Cu	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ^{60}Cu	-	4E+4	2E-5	6E-8	-	-
		Y, see ^{60}Cu	-	4E+4	1E-5	5E-8	-	-
29	Copper-64	D, see ^{60}Cu	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ^{60}Cu	-	2E+4	1E-5	3E-8	-	-
		Y, see ^{60}Cu	-	2E+4	9E-6	3E-8	-	-
29	Copper-67	D, see ^{60}Cu	5E+3	8E+3	3E-6	1E-8	6E-5	6E-4
		W, see ^{60}Cu	-	5E+3	2E-6	7E-9	-	-
		Y, see ^{60}Cu	-	5E+3	2E-6	6E-9	-	-
30	Zinc-62	Y, all compounds	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
30	Zinc-63[2]	Y, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
			St wall (3E+4)	-	-	-	3E-4	3E-3
30	Zinc-65	Y, all compounds	4E+2	3E+2	1E-7	4E-10	5E-6	5E-5
30	Zinc-69m	Y, all compounds	4E+3	7E+3	3E-6	1E-8	6E-5	6E-4
30	Zinc-69[2]	Y, all compounds	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
30	Zinc-71m	Y, all compounds	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
30	Zinc-72	Y, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
31	Gallium-65[2]	D, all compounds except those given for W	5E+4	2E+5	7E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	9E-4	9E-3
		W, oxides, hydroxides, carbides, halides, and nitrates	-	2E+5	8E-5	3E-7	-	-
31	Gallium-66	D, see ^{65}Ga	1E+3	4E+3	1E-6	5E-9	1E-5	1E-4
		W, see ^{65}Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-67	D, see ^{65}Ga	7E+3	1E+4	6E-6	2E-8	1E-4	1E-3
		W, see ^{65}Ga	-	1E+4	4E-6	1E-8	-	-
31	Gallium-68[2]	D, see ^{65}Ga	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{65}Ga	-	5E+4	2E-5	7E-8	-	-
31	Gallium-70[2]	D, see ^{65}Ga	5E+4	2E+5	7E-5	2E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
		W, see ^{65}Ga	-	2E+5	8E-5	3E-7	-	-
31	Gallium-72	D, see ^{65}Ga	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ^{65}Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-73	D, see ^{65}Ga	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see ^{65}Ga	-	2E+4	6E-6	2E-8	-	-
32	Germanium-66	D, all compounds except those given for W	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
		W, oxides, sulfides, and halides	-	2E+4	8E-6	3E-8	-	-
32	Germanium-67[2]	D, see ^{66}Ge	3E+4	9E+4	4E-5	1E-7	-	-
			St wall (4E+4)	-	-	-	6E-4	6E-3
		W, see ^{66}Ge	-	1E+5	4E-5	1E-7	-	-
32	Germanium-68	D, see ^{66}Ge	5E+3	4E+3	2E-6	5E-9	6E-5	6E-4
		W, see ^{66}Ge	-	1E+2	4E-8	1E-10	-	-
32	Germanium-69	D, see ^{66}Ge	1E+4	2E+4	6E-6	2E-8	2E-4	2E-3
		W, see ^{66}Ge	-	8E+3	3E-6	1E-8	-	-
32	Germanium-71	D, see ^{66}Ge	5E+5	4E+5	2E-4	6E-7	7E-3	7E-2

		W, see ^{66}Ge	-	4E+4	2E-5	6E-8	-	-
32	Germanium-75[2]	D, see ^{66}Ge	4E+4 St wall (7E+4)	8E+4 -	3E-5 -	1E-7 -	- 9E-4	- 9E-3
		W, see ^{66}Ge	-	8E+4	4E-5	1E-7	-	-
32	Germanium-77	D, see ^{66}Ge	9E+3	1E+4	4E-6	1E-8	1E-4	1E-3
		W, see ^{66}Ge	-	6E+3	2E-6	8E-9	-	-
32	Germanium-78[2]	D, see ^{66}Ge	2E+4 St wall (2E+4)	2E+4 -	9E-6 -	3E-8 -	- 3E-4	- 3E-3
		W, see ^{66}Ge	-	2E+4	9E-6	3E-8	-	-
33	Arsenic-69[2]	W, all compounds	3E+4 St wall (4E+4)	1E+5 -	5E-5 -	2E-7 -	- 6E-4	- 6E-3
33	Arsenic-70[2]	W, all compounds	1E+4	5E+4	2E-5	7E-8	2E-4	2E-3
33	Arsenic-71	W, all compounds	4E+3	5E+3	2E-6	6E-9	5E-5	5E-4
33	Arsenic-72	W, all compounds	9E+2	1E+3	6E-7	2E-9	1E-5	1E-4
33	Arsenic-73	W, all compounds	8E+3	2E+3	7E-7	2E-9	1E-4	1E-3
33	Arsenic-74	W, all compounds	1E+3	8E+2	3E-7	1E-9	2E-5	2E-4
33	Arsenic-76	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
33	Arsenic-77	W, all compounds	4E+3 LLI wall (5E+3)	5E+3 -	2E-6 -	7E-9 -	- 6E-5	- 6E-4
33	Arsenic-78[2]	W, all compounds	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
34	Selenium-70[2]	D, all compounds except those given for W W, oxides, hydroxides, carbides, and elemental Se	2E+4 1E+4	4E+4 4E+4	2E-5 2E-5	5E-8 6E-8	1E-4 -	1E-3 -
34	Selenium-73m[2]	D, see ^{70}Se	6E+4	2E+5	6E-5	2E-7	4E-4	4E-3
		W, see ^{70}Se	3E+4	1E+5	6E-5	2E-7	-	-
34	Selenium-73	D, see ^{70}Se	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
		W, see ^{70}Se	-	2E+4	7E-6	2E-8	-	-
34	Selenium-75	D, see ^{70}Se	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
		W, see ^{70}Se	-	6E+2	3E-7	8E-10	-	-
34	Selenium-79	D, see ^{70}Se	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
		W, see ^{70}Se	-	6E+2	2E-7	8E-10	-	-
34	Selenium-81m[2]	D, see ^{70}Se	4E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		W, see ^{70}Se	2E+4	7E+4	3E-5	1E-7	-	-
34	Selenium-81[2]	D, see ^{70}Se	6E+4 St wall (8E+4)	2E+5 -	9E-5 -	3E-7 -	- 1E-3	- 1E-2
		W, see ^{70}Se	-	2E+5	1E-4	3E-7	-	-
34	Selenium-83[2]	D, see ^{70}Se	4E+4	1E+5	5E-5	2E-7	4E-4	4E-3
		W, see ^{70}Se	3E+4	1E+5	5E-5	2E-7	-	-
35	Bromine-74m[2]	D, bromides of H, Li, Na, K, Rb, Cs, and Fr	1E+4 St wall (2E+4)	4E+4 -	2E-5 -	5E-8 -	- 3E-4	- 3E-3
		W, bromides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Mn, Tc, and Re	-	4E+4	2E-5	6E-8	-	-
35	Bromine-74[2]	D, see ^{74m}Br	2E+4 St wall (4E+4)	7E+4 -	3E-5 -	1E-7 -	- 5E-4	- 5E-3
		W, see ^{74m}Br	-	8E+4	4E-5	1E-7	-	-

35	Bromine-75[2]	D, see ^{74m}Br	3E+4	5E+4	2E-5	7E-8	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
		W, see ^{74m}Br	-	5E+4	2E-5	7E-8	-	-
35	Bromine-76	D, see ^{74m}Br	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
		W, see ^{74m}Br	-	4E+3	2E-6	6E-9	-	-
35	Bromine-77	D, see ^{74m}Br	2E+4	2E+4	1E-5	3E-8	2E-4	2E-3
		W, see ^{74m}Br	-	2E+4	8E-6	3E-8	-	-
35	Bromine-80m	D, see ^{74m}Br	2E+4	2E+4	7E-6	2E-8	3E-4	3E-3
		W, see ^{74m}Br	-	1E+4	6E-6	2E-8	-	-
35	Bromine-80[2]	D, see ^{74m}Br	5E+4	2E+5	8E-5	3E-7	-	-
			St wall (9E+4)	-	-	-	1E-3	1E-2
		W, see ^{74m}Br	-	2E+5	9E-5	3E-7	-	-
35	Bromine-82	D, see ^{74m}Br	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see ^{74m}Br	-	4E+3	2E-6	5E-9	-	-
35	Bromine-83	D, see ^{74m}Br	5E+4	6E+4	3E-5	9E-8	-	-
			St wall (7E+4)	-	-	-	9E-4	9E-3
		W, see ^{74m}Br	-	6E+4	3E-5	9E-8	-	-
35	Bromine-84[2]	D, see ^{74m}Br	2E+4	6E+4	2E-5	8E-8	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		W, see ^{74m}Br	-	6E+4	3E-5	9E-8	-	-
36	Krypton-74[2]	Submersion[1]	-	-	3E-6	1E-8	-	-
36	Krypton-76	Submersion[1]	-	-	9E-6	4E-8	-	-
36	Krypton-77[2]	Submersion[1]	-	-	4E-6	2E-8	-	-
36	Krypton-79	Submersion[1]	-	-	2E-5	7E-8	-	-
36	Krypton-81	Submersion[1]	-	-	7E-4	3E-6	-	-
36	Krypton-83m[2]	Submersion[1]	-	-	1E-2	5E-5	-	-
36	Krypton-85m	Submersion[1]	-	-	2E-5	1E-7	-	-
36	Krypton-85	Submersion[1]	-	-	1E-4	7E-7	-	-
36	Krypton-87[2]	Submersion[1]	-	-	5E-6	2E-8	-	-
36	Krypton-88	Submersion[1]	-	-	2E-6	9E-9	-	-
37	Rubidium-79[2]	D, all compounds	4E+4	1E+5	5E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	8E-4	8E-3
37	Rubidium-81m[2]	D, all compounds	2E+5	3E+5	1E-4	5E-7	-	-
			St wall (3E+5)	-	-	-	4E-3	4E-2
37	Rubidium-81	D, all compounds	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
37	Rubidium-82m	D, all compounds	1E+4	2E+4	7E-6	2E-8	2E-4	2E-3
37	Rubidium-83	D, all compounds	6E+2	1E+3	4E-7	1E-9	9E-6	9E-5
37	Rubidium-84	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-86	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-87	D, all compounds	1E+3	2E+3	6E-7	2E-9	1E-5	1E-4
37	Rubidium-88[2]	D, all compounds	2E+4	6E+4	3E-5	9E-8	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
37	Rubidium-89[2]	D, all compounds	4E+4	1E+5	6E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	9E-4	9E-3
38	Strontium-80[2]	D, all soluble compounds except SrTiO	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		Y, all insoluble compounds and SrTiO	-	1E+4	5E-6	2E-8	-	-

38	Strontium-81[2]	D, see ^{80}Sr	3E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		Y, see ^{80}Sr	2E+4	8E+4	3E-5	1E-7	-	-
38	Strontium-82	D, see ^{80}Sr	3E+2	4E+2	2E-7	6E-10	-	-
			LLI wall					
			(2E+2)	-	-	-	3E-6	3E-5
		Y, see ^{80}Sr	2E+2	9E+1	4E-8	1E-10	-	-
38	Strontium-83	D, see ^{80}Sr	3E+3	7E+3	3E-6	1E-8	3E-5	3E-4
		Y, see ^{80}Sr	2E+3	4E+3	1E-6	5E-9	-	-
38	Strontium-85m[2]	D, see ^{80}Sr	2E+5	6E+5	3E-4	9E-7	3E-3	3E-2
		Y, see ^{80}Sr	-	8E+5	4E-4	1E-6	-	-
38	Strontium-85	D, see ^{80}Sr	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
		Y, see ^{80}Sr	-	2E+3	6E-7	2E-9	-	-
38	Strontium-87m	D, see ^{80}Sr	5E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		Y, see ^{80}Sr	4E+4	2E+5	6E-5	2E-7	-	-
38	Strontium-89	D, see ^{80}Sr	6E+2	8E+2	4E-7	1E-9	-	-
			LLI wall					
			(6E+2)	-	-	-	8E-6	8E-5
		Y, see ^{80}Sr	5E+2	1E+2	6E-8	2E-10	-	-
38	Strontium-90	D, see ^{80}Sr	3E+1	2E+1	8E-9	-	-	-
			Bone surf	Bone surf				
			(4E+1)	(2E+1)	-	3E-11	5E-7	5E-6
		Y, see ^{80}Sr	-	4E+0	2E-9	6E-12	-	-
38	Strontium-91	D, see ^{80}Sr	2E+3	6E+3	2E-6	8E-9	2E-5	2E-4
		Y, see ^{80}Sr	-	4E+3	1E-6	5E-9	-	-
38	Strontium-92	D, see ^{80}Sr	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ^{80}Sr	-	7E+3	3E-6	9E-9	-	-
39	Yttrium-86m[2]	W, all compounds except						
		those given for Y	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		Y, oxides and hydroxides	-	5E+4	2E-5	8E-8	-	-
39	Yttrium-86	W, see ^{86m}Y	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
		Y, see ^{86m}Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-87	W, see ^{86m}Y	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		Y, see ^{86m}Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-88	W, see ^{86m}Y	1E+3	3E+2	1E-7	3E-10	1E-5	1E-4
		Y, see ^{86m}Y	-	2E+2	1E-7	3E-10	-	-
39	Yttrium-90m	W, see ^{86m}Y	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
		Y, see ^{86m}Y	-	1E+4	5E-6	2E-8	-	-
39	Yttrium-90	W, see ^{86m}Y	4E+2	7E+2	3E-7	9E-10	-	-
			LLI wall					
			(5E+2)	-	-	-	7E-6	7E-5
		Y, see ^{86m}Y	-	6E+2	3E-7	9E-10	-	-
39	Yttrium-91m[2]	W, see ^{86m}Y	1E+5	2E+5	1E-4	3E-7	2E-3	2E-2
		Y, see ^{86m}Y	-	2E+5	7E-5	2E-7	-	-
39	Yttrium-91	W, see ^{86m}Y	5E+2	2E+2	7E-8	2E-10	-	-
			LLI wall					
			(6E+2)	-	-	-	8E-6	8E-5
		Y, see ^{86m}Y	-	1E+2	5E-8	2E-10	-	-
39	Yttrium-92	W, see ^{86m}Y	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ^{86m}Y	-	8E+3	3E-6	1E-8	-	-
39	Yttrium-93	W, see ^{86m}Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see ^{86m}Y	-	2E+3	1E-6	3E-9	-	-
39	Yttrium-94[2]	W, see ^{86m}Y	2E+4	8E+4	3E-5	1E-7	-	-
			St wall					
			(3E+4)	-	-	-	4E-4	4E-3
		Y, see ^{86m}Y	-	8E+4	3E-5	1E-7	-	-
39	Yttrium-95[2]	W, see ^{86m}Y	4E+4	2E+5	6E-5	2E-7	-	-
			St wall					
			(5E+4)	-	-	-	7E-4	7E-3
		Y, see ^{86m}Y	-	1E+5	6E-5	2E-7	-	-
40	Zirconium-86	D, all compounds except						
		those given for W and Y	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, oxides, hydroxides,						

		halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
		Y, carbide	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-88	D, see ^{86}Zr	4E+3	2E+2	9E-8	3E-10	5E-5	5E-4
		W, see ^{86}Zr	-	5E+2	2E-7	7E-10	-	-
		Y, see ^{86}Zr	-	3E+2	1E-7	4E-10	-	-
40	Zirconium-89	D, see ^{86}Zr	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ^{86}Zr	-	2E+3	1E-6	3E-9	-	-
		Y, see ^{86}Zr	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-93	D, see ^{86}Zr	1E+3	6E+0	3E-9	-	-	-
			Bone surf (3E+3)	Bone surf (2E+1)	-	2E-11	4E-5	4E-4
		W, see ^{86}Zr	-	2E+1	1E-8	-	-	-
			-	Bone surf (6E+1)	-	9E-11	-	-
		Y, see ^{86}Zr	-	6E+1	2E-8	-	-	-
			-	Bone surf (7E+1)	-	9E-11	-	-
40	Zirconium-95	D, see ^{86}Zr	1E+3	1E+2	5E-8	-	2E-5	2E-4
			-	Bone surf (3E+2)	-	4E-10	-	-
		W, see ^{86}Zr	-	4E+2	2E-7	5E-10	-	-
		Y, see ^{86}Zr	-	3E+2	1E-7	4E-10	-	-
40	Zirconium-97	D, see ^{86}Zr	6E+2	2E+3	8E-7	3E-9	9E-6	9E-5
		W, see ^{86}Zr	-	1E+3	6E-7	2E-9	-	-
		Y, see ^{86}Zr	-	1E+3	5E-7	2E-9	-	-
41	Niobium-88[2]	W, all compounds except those given for Y	5E+4	2E+5	9E-5	3E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
		Y, oxides and hydroxides	-	2E+5	9E-5	3E-7	-	-
41	Niobium-89[2] (66 min)	W, see ^{88}Nb	1E+4	4E+4	2E-5	6E-8	1E-4	1E-3
		Y, see ^{88}Nb	-	4E+4	2E-5	5E-8	-	-
41	Niobium-89 (122 min)	W, see ^{88}Nb	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		Y, see ^{88}Nb	-	2E+4	6E-6	2E-8	-	-
41	Niobium-90	W, see ^{88}Nb	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		Y, see ^{88}Nb	-	2E+3	1E-6	3E-9	-	-
41	Niobium-93m	W, see ^{88}Nb	9E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (1E+4)	-	-	-	2E-4	2E-3
		Y, see ^{88}Nb	-	2E+2	7E-8	2E-10	-	-
41	Niobium-94	W, see ^{88}Nb	9E+2	2E+2	8E-8	3E-10	1E-5	1E-4
		Y, see ^{88}Nb	-	2E+1	6E-9	2E-11	-	-
41	Niobium-95m	W, see ^{88}Nb	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		Y, see ^{88}Nb	-	2E+3	9E-7	3E-9	-	-
41	Niobium-95	W, see ^{88}Nb	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
		Y, see ^{88}Nb	-	1E+3	5E-7	2E-9	-	-
41	Niobium-96	W, see ^{88}Nb	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see ^{88}Nb	-	2E+3	1E-6	3E-9	-	-
41	Niobium-97[2]	W, see ^{88}Nb	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		Y, see ^{88}Nb	-	7E+4	3E-5	1E-7	-	-
41	Niobium-98[2]	W, see ^{88}Nb	1E+4	5E+4	2E-5	8E-8	2E-4	2E-3
		Y, see ^{88}Nb	-	5E+4	2E-5	7E-8	-	-
42	Molybdenum-90	D, all compounds except those given for Y	4E+3	7E+3	3E-6	1E-8	3E-5	3E-4
		Y, oxides, hydroxides, and MoS	2E+3	5E+3	2E-6	6E-9	-	-
42	Molybdenum-93m	D, see ^{90}Mo	9E+3	2E+4	7E-6	2E-8	6E-5	6E-4
		Y, see ^{90}Mo	4E+3	1E+4	6E-6	2E-8	-	-
42	Molybdenum-93	D, see ^{90}Mo	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
		Y, see ^{90}Mo	2E+4	2E+2	8E-8	2E-10	-	-

42	Molybdenum-99	D, see ^{90}Mo	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall					
		Y, see ^{90}Mo	(1E+3)	-	-	-	2E-5	2E-4
			1E+3	1E+3	6E-7	2E-9	-	-
42	Molybdenum-101[2]	D, see ^{90}Mo	4E+4	1E+5	6E-5	2E-7	-	-
			St wall					
		Y, see ^{90}Mo	(5E+4)	-	-	-	7E-4	7E-3
			-	1E+5	6E-5	2E-7	-	-
43	Technetium-93m[2]	D, all compounds except those given for W	7E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, and nitrates	-	3E+5	1E-4	4E-7	-	-
43	Technetium-93	D, see ^{93m}Tc	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		W, see ^{93m}Tc	-	1E+5	4E-5	1E-7	-	-
43	Technetium-94m[2]	D, see ^{93m}Tc	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
		W, see ^{93m}Tc	-	6E+4	2E-5	8E-8	-	-
43	Technetium-94	D, see ^{93m}Tc	9E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see ^{93m}Tc	-	2E+4	1E-5	3E-8	-	-
43	Technetium-95m	D, see ^{93m}Tc	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
		W, see ^{93m}Tc	-	2E+3	8E-7	3E-9	-	-
43	Technetium-95	D, see ^{93m}Tc	1E+4	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{93m}Tc	-	2E+4	8E-6	3E-8	-	-
43	Technetium-96m[2]	D, see ^{93m}Tc	2E+5	3E+5	1E-4	4E-7	2E-3	2E-2
		W, see ^{93m}Tc	-	2E+5	1E-4	3E-7	-	-
43	Technetium-96	D, see ^{93m}Tc	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		W, see ^{93m}Tc	-	2E+3	9E-7	3E-9	-	-
43	Technetium-97m	D, see ^{93m}Tc	5E+3	7E+3	3E-6	-	6E-5	6E-4
			St wall					
		W, see ^{93m}Tc	-	(7E+3)	-	1E-8	-	-
			-	1E+3	5E-7	2E-9	-	-
43	Technetium-97	D, see ^{93m}Tc	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
		W, see ^{93m}Tc	-	6E+3	2E-6	8E-9	-	-
43	Technetium-98	D, see ^{93m}Tc	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see ^{93m}Tc	-	3E+2	1E-7	4E-10	-	-
43	Technetium-99m	D, see ^{93m}Tc	8E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, see ^{93m}Tc	-	2E+5	1E-4	3E-7	-	-
43	Technetium-99	D, see ^{93m}Tc	4E+3	5E+3	2E-6	-	6E-5	6E-4
				St wall				
		W, see ^{93m}Tc	-	(6E+3)	-	8E-9	-	-
			-	7E+2	3E-7	9E-10	-	-
43	Technetium-101[2]	D, see ^{93m}Tc	9E+4	3E+5	1E-4	5E-7	-	-
			St wall					
		W, see ^{93m}Tc	(1E+5)	-	-	-	2E-3	2E-2
			-	4E+5	2E-4	5E-7	-	-
43	Technetium-104[2]	D, see ^{93m}Tc	2E+4	7E+4	3E-5	1E-7	-	-
			St wall					
		W, see ^{93m}Tc	(3E+4)	-	-	-	4E-4	4E-3
			-	9E+4	4E-5	1E-7	-	-
44	Ruthenium-94[2]	D, all compounds except those given for W and Y	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, halides	-	6E+4	3E-5	9E-8	-	-
		Y, oxides and hydroxides	-	6E+4	2E-5	8E-8	-	-
44	Ruthenium-97	D, see ^{94}Ru	8E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see ^{94}Ru	-	1E+4	5E-6	2E-8	-	-
		Y, see ^{94}Ru	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-103	D, see ^{94}Ru	2E+3	2E+3	7E-7	2E-9	3E-5	3E-4
		W, see ^{94}Ru	-	1E+3	4E-7	1E-9	-	-
		Y, see ^{94}Ru	-	6E+2	3E-7	9E-10	-	-
44	Ruthenium-105	D, see ^{94}Ru	5E+3	1E+4	6E-6	2E-8	7E-5	7E-4
		W, see ^{94}Ru	-	1E+4	6E-6	2E-8	-	-
		Y, see ^{94}Ru	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-106	D, see ^{94}Ru	2E+2	9E+1	4E-8	1E-10	-	-
			LLI wall					

			(2E+2)	-	-	-	3E-6	3E-5
		W, see ^{94}Ru	-	5E+1	2E-8	8E-11	-	-
		Y, see ^{94}Ru	-	1E+1	5E-9	2E-11	-	-
45	Rhodium-99m	D, all compounds except						
		those given for W and Y	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		W, halides	-	8E+4	3E-5	1E-7	-	-
		Y, oxides and hydroxides	-	7E+4	3E-5	9E-8	-	-
45	Rhodium-99	D, see ^{99m}Rh	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ^{99m}Rh	-	2E+3	9E-7	3E-9	-	-
		Y, see ^{99m}Rh	-	2E+3	8E-7	3E-9	-	-
45	Rhodium-100	D, see ^{99m}Rh	2E+3	5E+3	2E-6	7E-9	2E-5	2E-4
		W, see ^{99m}Rh	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{99m}Rh	-	4E+3	2E-6	5E-9	-	-
45	Rhodium-101m	D, see ^{99m}Rh	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see ^{99m}Rh	-	8E+3	4E-6	1E-8	-	-
		Y, see ^{99m}Rh	-	8E+3	3E-6	1E-8	-	-
45	Rhodium-101	D, see ^{99m}Rh	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see ^{99m}Rh	-	8E+2	3E-7	1E-9	-	-
		Y, see ^{99m}Rh	-	2E+2	6E-8	2E-10	-	-
45	Rhodium-102m	D, see ^{99m}Rh	1E+3	5E+2	2E-7	7E-10	-	-
			LLI wall					
			(1E+3)	-	-	-	2E-5	2E-4
		W, see ^{99m}Rh	-	4E+2	2E-7	5E-10	-	-
		Y, see ^{99m}Rh	-	1E+2	5E-8	2E-10	-	-
45	Rhodium-102	D, see ^{99m}Rh	6E+2	9E+1	4E-8	1E-10	8E-6	8E-5
		W, see ^{99m}Rh	-	2E+2	7E-8	2E-10	-	-
		Y, see ^{99m}Rh	-	6E+1	2E-8	8E-11	-	-
45	Rhodium-103m[2]	D, see ^{99m}Rh	4E+5	1E+6	5E-4	2E-6	6E-3	6E-2
		W, see ^{99m}Rh	-	1E+6	5E-4	2E-6	-	-
		Y, see ^{99m}Rh	-	1E+6	5E-4	2E-6	-	-
45	Rhodium-105	D, see ^{99m}Rh	4E+3	1E+4	5E-6	2E-8	-	-
			LLI wall					
			(4E+3)	-	-	-	5E-5	5E-4
		W, see ^{99m}Rh	-	6E+3	3E-6	9E-9	-	-
		Y, see ^{99m}Rh	-	6E+3	2E-6	8E-9	-	-
45	Rhodium-106m	D, see ^{99m}Rh	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, see ^{99m}Rh	-	4E+4	2E-5	5E-8	-	-
		Y, see ^{99m}Rh	-	4E+4	1E-5	5E-8	-	-
45	Rhodium-107[2]	D, see ^{99m}Rh	7E+4	2E+5	1E-4	3E-7	-	-
			St wall					
			(9E+4)	-	-	-	1E-3	1E-2
		W, see ^{99m}Rh	-	3E+5	1E-4	4E-7	-	-
		Y, see ^{99m}Rh	-	3E+5	1E-4	3E-7	-	-
46	Palladium-100	D, all compounds except						
		those given for W and Y	1E+3	1E+3	6E-7	2E-9	2E-5	2E-4
		W, nitrates	-	1E+3	5E-7	2E-9	-	-
		Y, oxides and hydroxides	-	1E+3	6E-7	2E-9	-	-
46	Palladium-101	D, see ^{100}Pd	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
		W, see ^{100}Pd	-	3E+4	1E-5	5E-8	-	-
		Y, see ^{100}Pd	-	3E+4	1E-5	4E-8	-	-
46	Palladium-103	D, see ^{100}Pd	6E+3	6E+3	3E-6	9E-9	-	-
			LLI wall					
			(7E+3)	-	-	-	1E-4	1E-3
		W, see ^{100}Pd	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{100}Pd	-	4E+3	1E-6	5E-9	-	-
46	Palladium-107	D, see ^{100}Pd	3E+4	2E+4	9E-6	-	-	-
			LLI wall	Kidneys				
			(4E+4)	(2E+4)	-	3E-8	5E-4	5E-3
		W, see ^{100}Pd	-	7E+3	3E-6	1E-8	-	-
		Y, see ^{100}Pd	-	4E+2	2E-7	6E-10	-	-
46	Palladium-109	D, see ^{100}Pd	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
		W, see ^{100}Pd	-	5E+3	2E-6	8E-9	-	-
		Y, see ^{100}Pd	-	5E+3	2E-6	6E-9	-	-
47	Silver-102[2]	D, all compounds except						
		those given for W and Y	5E+4	2E+5	8E-5	2E-7	-	-
			St wall					
			(6E+4)	-	-	-	9E-4	9E-3

		W, nitrates and sulfides	-	2E+5	9E-5	3E-7	-	-
		Y, oxides and hydroxides	-	2E+5	8E-5	3E-7	-	-
47	Silver-103[2]	D, see ^{102}Ag	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
		Y, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
47	Silver-104m[2]	D, see ^{102}Ag	3E+4	9E+4	4E-5	1E-7	4E-4	4E-3
		W, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
		Y, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
47	Silver-104[2]	D, see ^{102}Ag	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see ^{102}Ag	-	1E+5	6E-5	2E-7	-	-
		Y, see ^{102}Ag	-	1E+5	6E-5	2E-7	-	-
47	Silver-105	D, see ^{102}Ag	3E+3	1E+3	4E-7	1E-9	4E-5	4E-4
		W, see ^{102}Ag	-	2E+3	7E-7	2E-9	-	-
		Y, see ^{102}Ag	-	2E+3	7E-7	2E-9	-	-
47	Silver-106m	D, see ^{102}Ag	8E+2	7E+2	3E-7	1E-9	1E-5	1E-4
		W, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
		Y, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
47	Silver-106[2]	D, see ^{102}Ag	6E+4 St. wall (6E+4)	2E+5	8E-5	3E-7	-	-
				-	-	-	9E-4	9E-3
		W, see ^{102}Ag	-	2E+5	9E-5	3E-7	-	-
		Y, see ^{102}Ag	-	2E+5	8E-5	3E-7	-	-
47	Silver-108m	D, see ^{102}Ag	6E+2	2E+2	8E-8	3E-10	9E-6	9E-5
		W, see ^{102}Ag	-	3E+2	1E-7	4E-10	-	-
		Y, see ^{102}Ag	-	2E+1	1E-8	3E-11	-	-
47	Silver-110m	D, see ^{102}Ag	5E+2	1E+2	5E-8	2E-10	6E-6	6E-5
		W, see ^{102}Ag	-	2E+2	8E-8	3E-10	-	-
		Y, see ^{102}Ag	-	9E+1	4E-8	1E-10	-	-
47	Silver-111	D, see ^{102}Ag	9E+2 LLI wall (1E+3)	2E+3 Liver (2E+3)	6E-7	-	-	-
				-		2E-9	2E-5	2E-4
		W, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
		Y, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
47	Silver-112	D, see ^{102}Ag	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{102}Ag	-	1E+4	4E-6	1E-8	-	-
		Y, see ^{102}Ag	-	9E+3	4E-6	1E-8	-	-
47	Silver-115[2]	D, see ^{102}Ag	3E+4 St wall (3E+4)	9E+4	4E-5	1E-7	-	-
				-	-	-	4E-4	4E-3
		W, see ^{102}Ag	-	9E+4	4E-5	1E-7	-	-
		Y, see ^{102}Ag	-	8E+4	3E-5	1E-7	-	-
48	Cadmium-104[2]	D, all compounds except those given for W and Y	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		W, sulfides, halides, and nitrates	-	1E+5	5E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
48	Cadmium-107	D, see ^{104}Cd	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
		W, see ^{104}Cd	-	6E+4	2E-5	8E-8	-	-
		Y, see ^{104}Cd	-	5E+4	2E-5	7E-8	-	-
48	Cadmium-109	D, see ^{104}Cd	3E+2 Kidneys (4E+2)	4E+1 Kidneys (5E+1)	1E-8	-	-	-
				-		7E-11	6E-6	6E-5
		W, see ^{104}Cd	-	1E+2 Kidneys	5E-8	-	-	-
			-	(1E+2)	-	2E-10	-	-
		Y, see ^{104}Cd	-	1E+2	5E-8	2E-10	-	-
48	Cadmium-113m	D, see ^{104}Cd	2E+1 Kidneys (4E+1)	2E+0 Kidneys (4E+0)	1E-9	-	-	-
				-		5E-12	5E-7	5E-6
		W, see ^{104}Cd	-	8E+0 Kidneys	4E-9	-	-	-
			-	(1E+1)	-	2E-11	-	-
		Y, see ^{104}Cd	-	1E+1	5E-9	2E-11	-	-
48	Cadmium-113	D, see ^{104}Cd	2E+1 Kidneys (3E+1)	2E+0 Kidneys (3E+0)	9E-10	-	-	-
				-		5E-12	4E-7	4E-6
		W, see ^{104}Cd	-	8E+0 Kidneys	3E-9	-	-	-

			-	(1E+1)	-	2E-11	-	-
		Y, see ^{104}Cd	-	1E+1	6E-9	2E-11	-	-
48	Cadmium-115m	D, see ^{104}Cd	3E+2	5E+1	2E-8	-	4E-6	4E-5
				Kidneys				
			-	(8E+1)	-	1E-10	-	-
		W, see ^{104}Cd	-	1E+2	5E-8	2E-10	-	-
		Y, see ^{104}Cd	-	1E+2	6E-8	2E-10	-	-
48	Cadmium-115	D, see ^{104}Cd	9E+2	1E+3	6E-7	2E-9	-	-
			LLI wall					
			(1E+3)	-	-	-	1E-5	1E-4
		W, see ^{104}Cd	-	1E+3	5E-7	2E-9	-	-
		Y, see ^{104}Cd	-	1E+3	6E-7	2E-9	-	-
48	Cadmium-117m	D, see ^{104}Cd	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see ^{104}Cd	-	2E+4	7E-6	2E-8	-	-
		Y, see ^{104}Cd	-	1E+4	6E-6	2E-8	-	-
48	Cadmium-117	D, see ^{104}Cd	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see ^{104}Cd	-	2E+4	7E-6	2E-8	-	-
		Y, see ^{104}Cd	-	1E+4	6E-6	2E-8	-	-
49	Indium-109	D, all compounds except						
		those given for W	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
		W, oxides, hydroxides,						
		halides, and nitrates	-	6E+4	3E-5	9E-8	-	-
49	Indium-110[2]	D, see ^{109}In	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
	(69.1 min)	W, see ^{109}In	-	6E+4	2E-5	8E-8	-	-
49	Indium-110	D, see ^{109}In	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
	(4.9 h)	W, see ^{109}In	-	2E+4	8E-6	3E-8	-	-
49	Indium-111	D, see ^{109}In	4E+3	6E+3	3E-6	9E-9	6E-5	6E-4
		W, see ^{109}In	-	6E+3	3E-6	9E-9	-	-
49	Indium-112[2]	D, see ^{109}In	2E+5	6E+5	3E-4	9E-7	2E-3	2E-2
		W, see ^{109}In	-	7E+5	3E-4	1E-6	-	-
49	Indium-113m[2]	D, see ^{109}In	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		W, see ^{109}In	-	2E+5	8E-5	3E-7	-	-
49	Indium-114m	D, see ^{109}In	3E+2	6E+1	3E-8	9E-11	-	-
			LLI wall					
			(4E+2)	-	-	-	5E-6	5E-5
		W, see ^{109}In	-	1E+2	4E-8	1E-10	-	-
49	Indium-115m	D, see ^{109}In	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{109}In	-	5E+4	2E-5	7E-8	-	-
49	Indium-115	D, see ^{109}In	4E+1	1E+0	6E-10	2E-12	5E-7	5E-6
		W, see ^{109}In	-	5E+0	2E-9	8E-12	-	-
49	Indium-116m[2]	D, see ^{109}In	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		W, see ^{109}In	-	1E+5	5E-5	2E-7	-	-
49	Indium-117m[2]	D, see ^{109}In	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
		W, see ^{109}In	-	4E+4	2E-5	6E-8	-	-
49	Indium-117[2]	D, see ^{109}In	6E+4	2E+5	7E-5	2E-7	8E-4	8E-3
		W, see ^{109}In	-	2E+5	9E-5	3E-7	-	-
49	Indium-119m[2]	D, see ^{109}In	4E+4	1E+5	5E-5	2E-7	-	-
			St wall					
			(5E+4)	-	-	-	7E-4	7E-3
		W, see ^{109}In	-	1E+5	6E-5	2E-7	-	-
50	Tin-110	D, all compounds except						
		those given for W	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
		W, sulfides, oxides,						
		hydroxides, halides,						
		nitrates, and stannic						
		phosphate	-	1E+4	5E-6	2E-8	-	-
50	Tin-111[2]	D, see ^{110}Sn	7E+4	2E+5	9E-5	3E-7	1E-3	1E-2
		W, see ^{110}Sn	-	3E+5	1E-4	4E-7	-	-
50	Tin-113	D, see ^{110}Sn	2E+3	1E+3	5E-7	2E-9	-	-
			LLI wall					
			(2E+3)	-	-	-	3E-5	3E-4
		W, see ^{110}Sn	-	5E+2	2E-7	8E-10	-	-
50	Tin-117m	D, see ^{110}Sn	2E+3	1E+3	5E-7	-	-	-

			LLI wall (2E+3)	Bone surf (2E+3)	-	3E-9	3E-5	3E-4
		W, see ^{110}Sn	-	1E+3	6E-7	2E-9	-	-
50	Tin-119m	D, see ^{110}Sn	3E+3	2E+3	1E-6	3E-9	-	-
			LLI wall (4E+3)	-	-	-	6E-5	6E-4
		W, see ^{110}Sn	-	1E+3	4E-7	1E-9	-	-
50	Tin-121m	D, see ^{110}Sn	3E+3	9E+2	4E-7	1E-9	-	-
			LLI wall (4E+3)	-	-	-	5E-5	5E-4
		W, see ^{110}Sn	-	5E+2	2E-7	8E-10	-	-
50	Tin-121	D, see ^{110}Sn	6E+3	2E+4	6E-6	2E-8	-	-
			LLI wall (6E+3)	-	-	-	8E-5	8E-4
		W, see ^{110}Sn	-	1E+4	5E-6	2E-8	-	-
50	Tin-123m[2]	D, see ^{110}Sn	5E+4	1E+5	5E-5	2E-7	7E-4	7E-3
		W, see ^{110}Sn	-	1E+5	6E-5	2E-7	-	-
50	Tin-123	D, see ^{110}Sn	5E+2	6E+2	3E-7	9E-10	-	-
			LLI wall (6E+2)	-	-	-	9E-6	9E-5
		W, see ^{110}Sn	-	2E+2	7E-8	2E-10	-	-
50	Tin-125	D, see ^{110}Sn	4E+2	9E+2	4E-7	1E-9	-	-
			LLI wall (5E+2)	-	-	-	6E-6	6E-5
		W, see ^{110}Sn	-	4E+2	1E-7	5E-10	-	-
50	Tin-126	D, see ^{110}Sn	3E+2	6E+1	2E-8	8E-11	4E-6	4E-5
		W, see ^{110}Sn	-	7E+1	3E-8	9E-11	-	-
50	Tin-127	D, see ^{110}Sn	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		W, see ^{110}Sn.	-	2E+4	8E-6	3E-8	-	-
50	Tin-128[2]	D, see ^{110}Sn	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, see ^{110}Sn	-	4E+4	1E-5	5E-8	-	-
51	Antimony-115[2]	D, all compounds except those given for W	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, sulfides, sulfates, and nitrates	-	3E+5	1E-4	4E-7	-	-
51	Antimony-116m[2]	D, see ^{115}Sb	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see ^{115}Sb	-	1E+5	6E-5	2E-7	-	-
51	Antimony-116[2]	D, see ^{115}Sb	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (9E+4)	-	-	-	1E-3	1E-2
		W, see ^{115}Sb	-	3E+5	1E-4	5E-7	-	-
51	Antimony-117	D, see ^{115}Sb	7E+4	2E+5	9E-5	3E-7	9E-4	9E-3
		W, see ^{115}Sb	-	3E+5	1E-4	4E-7	-	-
51	Antimony-118m	D, see ^{115}Sb	6E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		W, see ^{115}Sb	5E+3	2E+4	9E-6	3E-8	-	-
51	Antimony-119	D, see ^{115}Sb	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{115}Sb	2E+4	3E+4	1E-5	4E-8	-	-
51	Antimony-120[2] (16 min)	D, see ^{115}Sb	1E+5	4E+5	2E-4	6E-7	-	-
			St wall (2E+5)	-	-	-	2E-3	2E-2
		W, see ^{115}Sb	-	5E+5	2E-4	7E-7	-	-
51	Antimony-120 (5.76 d)	D, see ^{115}Sb	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		W, see ^{115}Sb	9E+2	1E+3	5E-7	2E-9	-	-
51	Antimony-122	D, see ^{115}Sb	8E+2	2E+3	1E-6	3E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
		W, see ^{115}Sb	7E+2	1E+3	4E-7	2E-9	-	-
51	Antimony-124m[2]	D, see ^{115}Sb	3E+5	8E+5	4E-4	1E-6	3E-3	3E-2
		W, see ^{115}Sb	2E+5	6E+5	2E-4	8E-7	-	-
51	Antimony-124	D, see ^{115}Sb	6E+2	9E+2	4E-7	1E-9	7E-6	7E-5
		W, see ^{115}Sb	5E+2	2E+2	1E-7	3E-10	-	-
51	Antimony-125	D, see ^{115}Sb	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4

		W, see ^{115}Sb	-	5E+2	2E-7	7E-10	-	-
51	Antimony-126m[2]	D, see ^{115}Sb	5E+4 St wall (7E+4)	2E+5 -	8E-5 -	3E-7 -	- 9E-4	- 9E-3
		W, see ^{115}Sb	-	2E+5	8E-5	3E-7	-	-
51	Antimony-126	D, see ^{115}Sb	6E+2	1E+3	5E-7	2E-9	7E-6	7E-5
		W, see ^{115}Sb	5E+2	5E+2	2E-7	7E-10	-	-
51	Antimony-127	D, see ^{115}Sb	8E+2 LLI wall (8E+2)	2E+3 -	9E-7 -	3E-9 -	- 1E-5	- 1E-4
		W, see ^{115}Sb	7E+2	9E+2	4E-7	1E-9	-	-
51	Antimony-128[2] (10.4 min)	D, see ^{115}Sb	8E+4 St wall (1E+5)	4E+5 -	2E-4 -	5E-7 -	- 1E-3	- 1E-2
		W, see ^{115}Sb	-	4E+5	2E-4	6E-7	-	-
51	Antimony-128 (9.01 h)	D, see ^{115}Sb	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, see ^{115}Sb	-	3E+3	1E-6	5E-9	-	-
51	Antimony-129	D, see ^{115}Sb	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		W, see ^{115}Sb	-	9E+3	4E-6	1E-8	-	-
51	Antimony-130[2]	D, see ^{115}Sb	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, see ^{115}Sb	-	8E+4	3E-5	1E-7	-	-
51	Antimony-131[2]	D, see ^{115}Sb	1E+4 Thyroid (2E+4)	2E+4 Thyroid (4E+4)	1E-5 -	- 6E-8	- 2E-4	- 2E-3
		W, see ^{115}Sb	- -	2E+4 Thyroid (4E+4)	1E-5 -	6E-8	- -	- -
52	Tellurium-116	D, all compounds except those given for W	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, oxides, hydroxides, and nitrates	-	3E+4	1E-5	4E-8	-	-
52	Tellurium-121m	D, see ^{116}Te	5E+2 Bone surf (7E+2)	2E+2 Bone surf (4E+2)	8E-8 -	- 5E-10	- 1E-5	- 1E-4
		W, see ^{116}Te	-	4E+2	2E-7	6E-10	-	-
52	Tellurium-121	D, see ^{118}Te	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see ^{118}Te	-	3E+3	1E-6	4E-9	-	-
52	Tellurium-123m	D, see ^{116}Te	6E+2 Bone surf (1E+3)	2E+2 Bone surf (5E+2)	9E-8 -	- 8E-10	- 1E-5	- 1E-4
		W, see ^{116}Te	-	5E+2	2E-7	8E-10	-	-
52	Tellurium-123	D, see ^{116}Te	5E+2 Bone surf (1E+3)	2E+2 Bone surf (5E+2)	8E-8 -	- 7E-10	- 2E-5	- 2E-4
		W, see ^{116}Te	- -	4E+2 Bone surf (1E+3)	2E-7 -	- 2E-9	- -	- -
52	Tellurium-125m	D, see ^{116}Te	1E+3 Bone surf (1E+3)	4E+2 Bone surf (1E+3)	2E-7 -	- 1E-9	- 2E-5	- 2E-4
		W, see ^{116}Te	-	7E+2	3E-7	1E-9	-	-
52	Tellurium-127m	D, see ^{116}Te	6E+2 -	3E+2 Bone surf (4E+2)	1E-7 -	- 6E-10	9E-6 -	9E-5 -
		W, see ^{116}Te	-	3E+2	1E-7	4E-10	-	-
52	Tellurium-127	D, see ^{116}Te	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{116}Te	-	2E+4	7E-6	2E-8	-	-
52	Tellurium-129m	D, see ^{116}Te	5E+2	6E+2	3E-7	9E-10	7E-6	7E-5
		W, see ^{116}Te	-	2E+2	1E-7	3E-10	-	-
52	Tellurium-129[2]	D, see ^{116}Te	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see ^{116}Te	-	7E+4	3E-5	1E-7	-	-
52	Tellurium-131m	D, see ^{116}Te	3E+2 Thyroid (6E+2)	4E+2 Thyroid (1E+3)	2E-7 -	- 2E-9	- 8E-6	- 8E-5
		W, see ^{116}Te	-	4E+2	2E-7	-	-	-

			-	Thyroid (9E+2)	-	1E-9	-	-
52	Tellurium-131[2]	D, see ^{116}Te	3E+3 Thyroid (6E+3)	5E+3 Thyroid (1E+4)	2E-6	-	-	-
		W, see ^{116}Te	-	5E+3 Thyroid (1E+4)	2E-6	2E-8	8E-5	8E-4
			-	-	-	-	-	-
						2E-8	-	-
52	Tellurium-132	D, see ^{116}Te	2E+2 Thyroid (7E+2)	2E+2 Thyroid (8E+2)	9E-8	-	-	-
		W, see ^{116}Te	-	2E+2 Thyroid (6E+2)	-	1E-9	9E-6	9E-5
			-	-	9E-8	-	-	-
						9E-10	-	-
52	Tellurium-133m[2]	D, see ^{116}Te	3E+3 Thyroid (6E+3)	5E+3 Thyroid (1E+4)	2E-6	-	-	-
		W, see ^{116}Te	-	5E+3 Thyroid (1E+4)	-	2E-8	9E-5	9E-4
			-	-	2E-6	-	-	-
						2E-8	-	-
52	Tellurium-133[2]	D, see ^{116}Te	1E+4 Thyroid (3E+4)	2E+4 Thyroid (6E+4)	9E-6	-	-	-
		W, see ^{116}Te	-	2E+4 Thyroid (6E+4)	-	8E-8	4E-4	4E-3
			-	-	9E-6	-	-	-
						8E-8	-	-
52	Tellurium-134[2]	D, see ^{116}Te	2E+4 Thyroid (2E+4)	2E+4 Thyroid (5E+4)	1E-5	-	-	-
		W, see ^{116}Te	-	2E+4 Thyroid (5E+4)	-	7E-8	3E-4	3E-3
			-	-	1E-5	-	-	-
						7E-8	-	-
53	Iodine-120m[2]	D, all compounds	1E+4 Thyroid (1E+4)	2E+4	9E-6	3E-8	-	-
				-	-	-	2E-4	2E-3
53	Iodine-120[2]	D, all compounds	4E+3 Thyroid (8E+3)	9E+3 Thyroid (1E+4)	4E-6	-	-	-
					-	2E-8	1E-4	1E-3
53	Iodine-121	D, all compounds	1E+4 Thyroid (3E+4)	2E+4 Thyroid (5E+4)	8E-6	-	-	-
					-	7E-8	4E-4	4E-3
53	Iodine-123	D, all compounds	3E+3 Thyroid (1E+4)	6E+3 Thyroid (2E+4)	3E-6	-	-	-
					-	2E-8	1E-4	1E-3
53	Iodine-124	D, all compounds	5E+1 Thyroid (2E+2)	8E+1 Thyroid (3E+2)	3E-8	-	-	-
					-	4E-10	2E-6	2E-5
53	Iodine-125	D, all compounds	4E+1 Thyroid (1E+2)	6E+1 Thyroid (2E+2)	3E-8	-	-	-
					-	3E-10	2E-6	2E-5
53	Iodine-126	D, all compounds	2E+1 Thyroid (7E+1)	4E+1 Thyroid (1E+2)	1E-8	-	-	-
					-	2E-10	1E-6	1E-5
53	Iodine-128[2]	D, all compounds	4E+4 St wall (6E+4)	1E+5	5E-5	2E-7	-	-
				-	-	-	8E-4	8E-3
53	Iodine-129	D, all compounds	5E+0 Thyroid (2E+1)	9E+0 Thyroid (3E+1)	4E-9	-	-	-
					-	4E-11	2E-7	2E-6
53	Iodine-130	D, all compounds	4E+2 Thyroid (1E+3)	7E+2 Thyroid (2E+3)	3E-7	-	-	-
					-	3E-9	2E-5	2E-4
53	Iodine-131	D, all compounds	3E+1 Thyroid (9E+1)	5E+1 Thyroid (2E+2)	2E-8	-	-	-
					-	2E-10	1E-6	1E-5
53	Iodine-132m[2]	D, all compounds	4E+3 Thyroid	8E+3 Thyroid	4E-6	-	-	-

			(1E+4)	(2E+4)	-	3E-8	1E-4	1E-3
53	Iodine-132	D, all compounds	4E+3 Thyroid	8E+3 Thyroid	3E-6	-	-	-
			(9E+3)	(1E+4)	-	2E-8	1E-4	1E-3
53	Iodine-133	D, all compounds	1E+2 Thyroid	3E+2 Thyroid	1E-7	-	-	-
			(5E+2)	(9E+2)	-	1E-9	7E-6	7E-5
53	Iodine-134[2]	D, all compounds	2E+4 Thyroid	5E+4	2E-5	6E-8	-	-
			(3E+4)	-	-	-	4E-4	4E-3
53	Iodine-135	D, all compounds	8E+2 Thyroid	2E+3 Thyroid	7E-7	-	-	-
			(3E+3)	(4E+3)	-	6E-9	3E-5	3E-4
54	Xenon-120[2]	Submersion[1]	-	-	1E-5	4E-8	-	-
54	Xenon-121[2]	Submersion[1]	-	-	2E-6	1E-8	-	-
54	Xenon-122	Submersion[1]	-	-	7E-5	3E-7	-	-
54	Xenon-123	Submersion[1]	-	-	6E-6	3E-8	-	-
54	Xenon-125	Submersion[1]	-	-	2E-5	7E-8	-	-
54	Xenon-127	Submersion[1]	-	-	1E-5	6E-8	-	-
54	Xenon-129m	Submersion[1]	-	-	2E-4	9E-7	-	-
54	Xenon-131m	Submersion[1]	-	-	4E-4	2E-6	-	-
54	Xenon-133m	Submersion[1]	-	-	1E-4	6E-7	-	-
54	Xenon-133	Submersion[1]	-	-	1E-4	5E-7	-	-
54	Xenon-135m[2]	Submersion[1]	-	-	9E-6	4E-8	-	-
54	Xenon-135	Submersion[1]	-	-	1E-5	7E-8	-	-
54	Xenon-138[2]	Submersion[1]	-	-	4E-6	2E-8	-	-
55	Cesium-125[2]	D, all compounds	5E+4 St wall	1E+5	6E-5	2E-7	-	-
			(9E+4)	-	-	-	1E-3	1E-2
55	Cesium-127	D, all compounds	6E+4	9E+4	4E-5	1E-7	9E-4	9E-3
55	Cesium-129	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
55	Cesium-130[2]	D, all compounds	6E+4 St wall	2E+5	8E-5	3E-7	-	-
			(1E+5)	-	-	-	1E-3	1E-2
55	Cesium-131	D, all compounds	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
55	Cesium-132	D, all compounds	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
55	Cesium-134m	D, all compounds	1E+5 St wall	1E+5	6E-5	2E-7	-	-
			(1E+5)	-	-	-	2E-3	2E-2
55	Cesium-134	D, all compounds	7E+1	1E+2	4E-8	2E-10	9E-7	9E-6
55	Cesium-135m[2]	D, all compounds	1E+5	2E+5	8E-5	3E-7	1E-3	1E-2
55	Cesium-135	D, all compounds	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
55	Cesium-136	D, all compounds	4E+2	7E+2	3E-7	9E-10	6E-6	6E-5
55	Cesium-137	D, all compounds	1E+2	2E+2	6E-8	2E-10	1E-6	1E-5
55	Cesium-138[2]	D, all compounds	2E+4 St wall	6E+4	2E-5	8E-8	-	-
			(3E+4)	-	-	-	4E-4	4E-3
56	Barium-126[2]	D, all compounds	6E+3	2E+4	6E-6	2E-8	8E-5	8E-4
56	Barium-128	D, all compounds	5E+2	2E+3	7E-7	2E-9	7E-6	7E-5
56	Barium-131m[2]	D, all compounds	4E+5 St wall	1E+6	6E-4	2E-6	-	-

			(5E+5)	-	-	-	7E-3	7E-2
56	Barium-131	D, all compounds	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
56	Barium-133m	D, all compounds	2E+3	9E+3	4E-6	1E-8	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
56	Barium-133	D, all compounds	2E+3	7E+2	3E-7	9E-10	2E-5	2E-4
56	Barium-135m	D, all compounds	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
56	Barium-139[2]	D, all compounds	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
56	Barium-140	D, all compounds	5E+2	1E+3	6E-7	2E-9	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
56	Barium-141[2]	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
56	Barium-142[2]	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
57	Lanthanum-131[2]	D, all compounds except those given for W	5E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		W, oxides and hydroxides	-	2E+5	7E-5	2E-7	-	-
57	Lanthanum-132	D, see ^{131}La	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
		W, see ^{131}La	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-135	D, see ^{131}La	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see ^{131}La	-	9E+4	4E-5	1E-7	-	-
57	Lanthanum-137	D, see ^{131}La	1E+4	6E+1 Liver	3E-8	-	2E-4	2E-3
			-	(7E+1)	-	1E-10	-	-
		W, see ^{131}La	-	3E+2	1E-7	-	-	-
			-	Liver (3E+2)	-	4E-10	-	-
57	Lanthanum-138	D, see ^{131}La	9E+2	4E+0	1E-9	5E-12	1E-5	1E-4
		W, see ^{131}La	-	1E+1	6E-9	2E-11	-	-
57	Lanthanum-140	D, see ^{131}La	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see ^{131}La	-	1E+3	5E-7	2E-9	-	-
57	Lanthanum-141	D, see ^{131}La	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		W, see ^{131}La	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-142[2]	D, see ^{131}La	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{131}La	-	3E+4	1E-5	5E-8	-	-
57	Lanthanum-143[2]	D, see ^{131}La	4E+4	1E+5	4E-5	1E-7	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
		W, see ^{131}La	-	9E+4	4E-5	1E-7	-	-
58	Cerium-134	W, all compounds except those given for Y	5E+2	7E+2	3E-7	1E-9	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
		Y, oxides, hydroxides, and fluorides	-	7E+2	3E-7	9E-10	-	-
58	Cerium-135	W, see ^{134}Ce	2E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		Y, see ^{134}Ce	-	4E+3	1E-6	5E-9	-	-
58	Cerium-137m	W, see ^{134}Ce	2E+3	4E+3	2E-6	6E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		Y, see ^{134}Ce	-	4E+3	2E-6	5E-9	-	-
58	Cerium-137	W, see ^{134}Ce	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		Y, see ^{134}Ce	-	1E+5	5E-5	2E-7	-	-
58	Cerium-139	W, see ^{134}Ce	5E+3	8E+2	3E-7	1E-9	7E-5	7E-4
		Y, see ^{134}Ce	-	7E+2	3E-7	9E-10	-	-
58	Cerium-141	W, see ^{134}Ce	2E+3	7E+2	3E-7	1E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		Y, see ^{134}Ce	-	6E+2	2E-7	8E-10	-	-
58	Cerium-143	W, see ^{134}Ce	1E+3	2E+3	8E-7	3E-9	-	-
			LLI wall					

			(1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{134}Ce	-	2E+3	7E-7	2E-9	-	-
58	Cerium-144	W, see ^{134}Ce	2E+2	3E+1	1E-8	4E-11	-	-
			LLI wall					
			(3E+2)	-	-	-	3E-6	3E-5
		Y, see ^{134}Ce	-	1E+1	6E-9	2E-11	-	-
59	Praseodymium-136[2]	W, all compounds except						
		those given for Y	5E+4	2E+5	1E-4	3E-7	-	-
			St wall					
			(7E+4)	-	-	-	1E-3	1E-2
		Y, oxides, hydroxides,						
		carbides, and fluorides	-	2E+5	9E-5	3E-7	-	-
59	Praseodymium-137[2]	W, see ^{136}Pr	4E+4	2E+5	6E-5	2E-7	5E-4	5E-3
		Y, see ^{136}Pr	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-138m	W, see ^{136}Pr	1E+4	5E+4	2E-5	8E-8	1E-4	1E-3
		Y, see ^{136}Pr	-	4E+4	2E-5	6E-8	-	-
59	Praseodymium-139	W, see ^{136}Pr	4E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		Y, see ^{136}Pr	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-142m[2]	W, see ^{136}Pr	8E+4	2E+5	7E-5	2E-7	1E-3	1E-2
		Y, see ^{136}Pr	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-142	W, see ^{136}Pr	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		Y, see ^{136}Pr	-	2E+3	8E-7	3E-9	-	-
59	Praseodymium-143	W, see ^{136}Pr	9E+2	8E+2	3E-7	1E-9	-	-
			LLI wall					
			(1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{136}Pr	-	7E+2	3E-7	9E-10	-	-
59	Praseodymium-144[2]	W, see ^{136}Pr	3E+4	1E+5	5E-5	2E-7	-	-
			St wall					
			(4E+4)	-	-	-	6E-4	6E-3
		Y, see ^{136}Pr	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-145	W, see ^{136}Pr	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ^{136}Pr	-	8E+3	3E-6	1E-8	-	-
59	Praseodymium-147[2]	W, see ^{136}Pr	5E+4	2E+5	8E-5	3E-7	-	-
			St wall					
			(8E+4)	-	-	-	1E-3	1E-2
		Y, see ^{136}Pr	-	2E+5	8E-5	3E-7	-	-
60	Neodymium-136[2]	W, all compounds except						
		those given for Y	1E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		Y, oxides, hydroxides,						
		carbides, and fluorides	-	5E+4	2E-5	8E-8	-	-
60	Neodymium-138	W, see ^{136}Nd	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
		Y, see ^{136}Nd	-	5E+3	2E-6	7E-9	-	-
60	Neodymium-139m	W, see ^{136}Nd	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		Y, see ^{136}Nd	-	1E+4	6E-6	2E-8	-	-
60	Neodymium-139[2]	W, see ^{136}Nd	9E+4	3E+5	1E-4	5E-7	1E-3	1E-2
		Y, see ^{136}Nd	-	3E+5	1E-4	4E-7	-	-
60	Neodymium-141	W, see ^{136}Nd	2E+5	7E+5	3E-4	1E-6	2E-3	2E-2
		Y, see ^{136}Nd	-	6E+5	3E-4	9E-7	-	-
60	Neodymium-147	W, see ^{136}Nd	1E+3	9E+2	4E-7	1E-9	-	-
			LLI wall					
			(1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{136}Nd	-	8E+2	4E-7	1E-9	-	-
60	Neodymium-149[2]	W, see ^{136}Nd	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
		Y, see ^{136}Nd	-	2E+4	1E-5	3E-8	-	-
60	Neodymium-151[2]	W, see ^{136}Nd	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
		Y, see ^{136}Nd	-	2E+5	8E-5	3E-7	-	-
61	Promethium-141[2]	W, all compounds except						
		those given for Y	5E+4	2E+5	8E-5	3E-7	-	-
			St wall					
			(6E+4)	-	-	-	8E-4	8E-3
		Y, oxides, hydroxides,						
		carbides, and fluorides	-	2E+5	7E-5	2E-7	-	-
61	Promethium-143	W, see ^{141}Pm	5E+3	6E+2	2E-7	8E-10	7E-5	7E-4

		Y, see ^{141}Pm	-	7E+2	3E-7	1E-9	-	-
61	Promethium-144	W, see ^{141}Pm	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
		Y, see ^{141}Pm	-	1E+2	5E-8	2E-10	-	-
61	Promethium-145	W, see ^{141}Pm	1E+4	2E+2	7E-8	-	1E-4	1E-3
			-	Bone surf (2E+2)	-	3E-10	-	-
		Y, see ^{141}Pm	-	2E+2	8E-8	3E-10	-	-
61	Promethium-146	W, see ^{141}Pm	2E+3	5E+1	2E-8	7E-11	2E-5	2E-4
		Y, see ^{141}Pm	-	4E+1	2E-8	6E-11	-	-
61	Promethium-147	W, see ^{141}Pm	4E+3	1E+2	5E-8	-	-	-
			LLI wall (5E+3)	Bone surf (2E+2)	-	3E-10	7E-5	7E-4
		Y, see ^{141}Pm	-	1E+2	6E-8	2E-10	-	-
61	Promethium-148m	W, see ^{141}Pm	7E+2	3E+2	1E-7	4E-10	1E-5	1E-4
		Y, see ^{141}Pm	-	3E+2	1E-7	5E-10	-	-
61	Promethium-148	W, see ^{141}Pm	4E+2	5E+2	2E-7	8E-10	-	-
			LLI wall (5E+2)	-	-	-	7E-6	7E-5
		Y, see ^{141}Pm	-	5E+2	2E-7	7E-10	-	-
61	Promethium-149	W, see ^{141}Pm	1E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{141}Pm	-	2E+3	8E-7	2E-9	-	-
61	Promethium-150	W, see ^{141}Pm	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		Y, see ^{141}Pm	-	2E+4	7E-6	2E-8	-	-
61	Promethium-151	W, see ^{141}Pm	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		Y, see ^{141}Pm	-	3E+3	1E-6	4E-9	-	-
62	Samarium-141m[2]	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
62	Samarium-141[2]	W, all compounds	5E+4	2E+5	8E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	8E-4	8E-3
62	Samarium-142[2]	W, all compounds	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
62	Samarium-145	W, all compounds	6E+3	5E+2	2E-7	7E-10	8E-5	8E-4
62	Samarium-146	W, all compounds	1E+1	4E2	1E-11	-	-	-
			Bone surf (3E+1)	Bone surf (6E-2)	-	9E-14	3E-7	3E-6
62	Samarium-147	W, all compounds	2E+1	4E2	2E-11	-	-	-
			Bone surf (3E+1)	Bone surf (7E-2)	-	1E-13	4E-7	4E-6
62	Samarium-151	W, all compounds	1E+4	1E+2	4E-8	-	-	-
			LLI wall (1E+4)	Bone surf (2E+2)	-	2E-10	2E-4	2E-3
62	Samarium-153	W, all compounds	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
62	Samarium-155[2]	W, all compounds	6E+4	2E+5	9E-5	3E-7	-	-
			St wall (8E+4)	-	-	-	1E-3	1E-2
62	Samarium-156	W, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
63	Europium-145	W, all compounds	2E+3	2E+3	8E-7	3E-9	2E-5	2E-4
63	Europium-146	W, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
63	Europium-147	W, all compounds	3E+3	2E+3	7E-7	2E-9	4E-5	4E-4
63	Europium-148	W, all compounds	1E+3	4E+2	1E-7	5E-10	1E-5	1E-4
63	Europium-149	W, all compounds	1E+4	3E+3	1E-6	4E-9	2E-4	2E-3
63	Europium-150 (12.62 h)	W, all compounds	3E+3	8E+3	4E-6	1E-8	4E-5	4E-4
63	Europium-150 (34.2 y)	W, all compounds	8E+2	2E+1	8E-9	3E-11	1E-5	1E-4

63	Europium-152m	W, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
63	Europium-152	W, all compounds	8E+2	2E+1	1E-8	3E-11	1E-5	1E-4
63	Europium-154	W, all compounds	5E+2	2E+1	8E-9	3E-11	7E-6	7E-5
63	Europium-155	W, all compounds	4E+3	9E+1	4E-8	-	5E-5	5E-4
			-	Bone surf (1E+2)	-	2E-10	-	-
63	Europium-156	W, all compounds	6E+2	5E+2	2E-7	6E-10	8E-6	8E-5
63	Europium-157	W, all compounds	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
63	Europium-158[2]	W, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
64	Gadolinium-145[2]	D, all compounds except those given for W	5E+4	2E+5	6E-5	2E-7	-	-
			St wall (5E+4)	-	-	-	6E-4	6E-3
		W, oxides, hydroxides, and fluorides	-	2E+5	7E-5	2E-7	-	-
64	Gadolinium-146	D, see ^{145}Gd	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
		W, see ^{145}Gd	-	3E+2	1E-7	4E-10	-	-
64	Gadolinium-147	D, see ^{145}Gd	2E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		W, see ^{145}Gd	-	4E+3	1E-6	5E-9	-	-
64	Gadolinium-148	D, see ^{145}Gd	1E+1	8E+3	3E-12	-	-	-
			Bone surf (2E+1)	Bone surf (2E+2)	-	2E-14	3E-7	3E-6
		W, see ^{145}Gd	-	3E-2	1E-11	-	-	-
			-	Bone surf (6E-2)	-	8E-14	-	-
64	Gadolinium-149	D, see ^{145}Gd	3E+3	2E+3	9E-7	3E-9	4E-5	4E-4
		W, see ^{145}Gd	-	2E+3	1E-6	3E-9	-	-
64	Gadolinium-151	D, see ^{145}Gd	6E+3	4E+2	2E-7	-	9E-5	9E-4
			-	Bone surf (6E+2)	-	9E-10	-	-
		W, see ^{145}Gd	-	1E+3	5E-7	2E-9	-	-
64	Gadolinium-152	D, see ^{145}Gd	2E+1	1E-2	4E-12	-	-	-
			Bone surf (3E+1)	Bone surf (2E-2)	-	3E-14	4E-7	4E-6
		W, see ^{145}Gd	-	4E-2	2E-11	-	-	-
			-	Bone surf (8E-2)	-	1E-13	-	-
64	Gadolinium-153	D, see ^{145}Gd	5E+3	1E+2	6E-8	-	6E-5	6E-4
			-	Bone surf (2E+2)	-	3E-10	-	-
		W, see ^{145}Gd	-	6E+2	2E-7	8E-10	-	-
64	Gadolinium-159	D, see ^{145}Gd	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{145}Gd	-	6E+3	2E-6	8E-9	-	-
65	Terbium-147[2]	W, all compounds	9E+3	3E+4	1E-5	5E-8	1E-4	1E-3
65	Terbium-149	W, all compounds	5E+3	7E+2	3E-7	1E-9	7E-5	7E-4
65	Terbium-150	W, all compounds	5E+3	2E+4	9E-6	3E-8	7E-5	7E-4
65	Terbium-151	W, all compounds	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
65	Terbium-153	W, all compounds	5E+3	7E+3	3E-6	1E-8	7E-5	7E-4
65	Terbium-154	W, all compounds	2E+3	4E+3	2E-6	6E-9	2E-5	2E-4
65	Terbium-155	W, all compounds	6E+3	8E+3	3E-6	1E-8	8E-5	8E-4
65	Terbium-156m (5.0 h)	W, all compounds	2E+4	3E+4	1E-5	4E-8	2E-4	2E-3
65	Terbium-156m (24.4 h)	W, all compounds	7E+3	8E+3	3E-6	1E-8	1E-4	1E-3
65	Terbium-156	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
65	Terbium-157	W, all compounds	5E+4	3E+2	1E-7	-	-	-
			LLI wall (5E+4)	Bone surf (6E+2)	-	8E-10	7E-4	7E-3

65	Terbium-158	W, all compounds	1E+3	2E+1	8E-9	3E-11	2E-5	2E-4
65	Terbium-160	W, all compounds	8E+2	2E+2	9E-8	3E-10	1E-5	1E-4
65	Terbium-161	W, all compounds	2E+3	2E+3	7E-7	2E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
66	Dysprosium-155	W, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
66	Dysprosium-157	W, all compounds	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
66	Dysprosium-159	W, all compounds	1E+4	2E+3	1E-6	3E-9	2E-4	2E-3
66	Dysprosium-165	W, all compounds	1E+4	5E+4	2E-5	6E-8	2E-4	2E-3
66	Dysprosium-166	W, all compounds	6E+2	7E+2	3E-7	1E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
67	Holmium-155[2]	W, all compounds	4E+4	2E+5	6E-5	2E-7	6E-4	6E-3
67	Holmium-157[2]	W, all compounds	3E+5	1E+6	6E-4	2E-6	4E-3	4E-2
67	Holmium-159[2]	W, all compounds	2E+5	1E+6	4E-4	1E-6	3E-3	3E-2
67	Holmium-161	W, all compounds	1E+5	4E+5	2E-4	6E-7	1E-3	1E-2
67	Holmium-162m[2]	W, all compounds	5E+4	3E+5	1E-4	4E-7	7E-4	7E-3
67	Holmium-162[2]	W, all compounds	5E+5	2E+6	1E-3	3E-6	-	-
			St wall (8E+5)	-	-	-	1E-2	1E-1
67	Holmium-164m[2]	W, all compounds	1E+5	3E+5	1E-4	4E-7	1E-3	1E-2
67	Holmium-164[2]	W, all compounds	2E+5	6E+5	3E-4	9E-7	-	-
			St wall (2E+5)	-	-	-	3E-3	3E-2
67	Holmium-166m	W, all compounds	6E+2	7E+0	3E-9	9E-12	9E-6	9E-5
67	Holmium-166	W, all compounds	9E+2	2E+3	7E-7	2E-9	-	-
			LLI wall (9E+2)	-	-	-	1E-5	1E-4
67	Holmium-167	W, all compounds	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
68	Erbium-161	W, all compounds	2E+4	6E+4	3E-5	9E-8	2E-4	2E-3
68	Erbium-165	W, all compounds	6E+4	2E+5	8E-5	3E-7	9E-4	9E-3
68	Erbium-169	W, all compounds	3E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (4E+3)	-	-	-	5E-5	5E-4
68	Erbium-171	W, all compounds	4E+3	1E+4	4E-6	1E-8	5E-5	5E-4
68	Erbium-172	W, all compounds	1E+3	1E+3	6E-7	2E-9	-	-
			LLI wall (E+3)	-	-	-	2E-5	2E-4
69	Thulium-162[2]	W, all compounds	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
69	Thulium-166	W, all compounds	4E+3	1E+4	6E-6	2E-8	6E-5	6E-4
69	Thulium-167	W, all compounds	2E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
69	Thulium-170	W, all compounds	8E+2	2E+2	9E-8	3E-10	-	-
			LLI wall (1E+3)	-	-	-	1E-5	1E-4
69	Thulium-171	W, all compounds	1E+4	3E+2	1E-7	-	-	-
			LLI wall (1E+4)	Bone surf (6E+2)	-	8E-10	2E-4	2E-3
69	Thulium-172	W, all compounds	7E+2	1E+3	5E-7	2E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4

69	Thulium-173	W, all compounds	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
69	Thulium-175[2]	W, all compounds	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (9E+4)	-	-	-	1E-3	1E-2
70	Ytterbium-162[2]	W, all compounds except those given for Y	7E+4	3E+5	1E-4	4E-7	1E-3	1E-2
		Y, oxides, hydroxides, and fluorides	-	3E+5	1E-4	4E-7	-	-
70	Ytterbium-166	W, see ^{162}Yb	1E+3	2E+3	8E-7	3E-9	2E-5	2E-4
		Y, see ^{162}Yb	-	2E+3	8E-7	3E-9	-	-
70	Ytterbium-167[2]	W, see ^{162}Yb	3E+5	8E+5	3E-4	1E-6	4E-3	4E-2
		Y, see ^{162}Yb	-	7E+5	3E-4	1E-6	-	-
70	Ytterbium-169	W, see ^{162}Yb	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
		Y, see ^{162}Yb	-	7E+2	3E-7	1E-9	-	-
70	Ytterbium-175	W, see ^{162}Yb	3E+3	4E+3	1E-6	5E-9	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
		Y, see ^{162}Yb	-	3E+3	1E-6	5E-9	-	-
70	Ytterbium-177[2]	W, see ^{162}Yb	2E+4	5E+4	2E-5	7E-8	2E-4	2E-3
		Y, see ^{162}Yb	-	5E+4	2E-5	6E-8	-	-
70	Ytterbium-178[2]	W, see ^{162}Yb	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		Y, see ^{162}Yb	-	4E+4	2E-5	5E-8	-	-
71	Lutetium-169	W, all compounds except those given for Y	3E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		Y, oxides, hydroxides, and fluorides	-	4E+3	2E-6	6E-9	-	-
71	Lutetium-170	W, see ^{169}Lu	1E+3	2E+3	9E-7	3E-9	2E-5	2E-4
		Y, see ^{169}Lu	-	2E+3	8E-7	3E-9	-	-
71	Lutetium-171	W, see ^{169}Lu	2E+3	2E+3	8E-7	3E-9	3E-5	3E-4
		Y, see ^{169}Lu	-	2E+3	8E-7	3E-9	-	-
71	Lutetium-172	W, see ^{169}Lu	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
		Y, see ^{169}Lu	-	1E+3	5E-7	2E-9	-	-
71	Lutetium-173	W, see ^{169}Lu	5E+3	3E+2	1E-7	-	7E-5	7E-4
			-	Bone surf (5E+2)	-	6E-10	-	-
		Y, see ^{169}Lu	-	3E+2	1E-7	4E-10	-	-
71	Lutetium-174m	W, see ^{169}Lu	2E+3	2E+2	1E-7	-	-	-
			LLI wall (3E+3)	Bone surf (3E+2)	-	5E-10	4E-5	4E-4
		Y, see ^{169}Lu	-	2E+2	9E-8	3E-10	-	-
71	Lutetium-174	W, see ^{169}Lu	5E+3	1E+2	5E-8	-	7E-5	7E-4
			-	Bone surf (2E+2)	-	3E-10	-	-
		Y, see ^{169}Lu	-	2E+2	6E-8	2E-10	-	-
71	Lutetium-176m	W, see ^{169}Lu	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		Y, see ^{169}Lu	-	2E+4	9E-6	3E-8	-	-
71	Lutetium-176	W, see ^{169}Lu	7E+2	5E+0	2E-9	-	1E-5	1E-4
			-	Bone surf (1E+1)	-	2E-11	-	-
		Y, see ^{169}Lu	-	8E+0	3E-9	1E-11	-	-
71	Lutetium-177m	W, see ^{169}Lu	7E+2	1E+2	5E-8	-	1E-5	1E-4
			-	Bone surf (1E+2)	-	2E-10	-	-
		Y, see ^{169}Lu	-	8E+1	3E-8	1E-10	-	-
71	Lutetium-177	W, see ^{169}Lu	2E+3	2E+3	9E-7	3E-9	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
		Y, see ^{169}Lu	-	2E+3	9E-7	3E-9	-	-
71	Lutetium-178m[2]	W, see ^{169}Lu	5E+4	2E+5	8E-5	3E-7	-	-
			St. wall (6E+4)	-	-	-	8E-4	8E-3
		Y, see ^{169}Lu	-	2E+5	7E-5	2E-7	-	-
71	Lutetium-178[2]	W, see ^{169}Lu	4E+4	1E+5	5E-5	2E-7	-	-

			St wall (4E+4)	-	-	-	6E-4	6E-3
		Y, see ^{166}Lu	-	1E+5	5E-5	2E-7	-	-
71	Lutetium-179	W, see ^{166}Lu	6E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see ^{166}Lu	-	2E+4	6E-6	3E-8	-	-
72	Hafnium-170	D, all compounds except those given for W W, oxides, hydroxides, carbides, and nitrates	3E+3	6E+3	2E-6	8E-9	4E-5	4E-4
			-	5E+3	2E-6	6E-9	-	-
72	Hafnium-172	D, see ^{170}Hf	1E+3	9E+0	4E-9	-	2E-5	2E-4
			-	Bone surf (2E+1)	-	3E-11	-	-
		W, see ^{170}Hf	-	4E+1	2E-8	-	-	-
			-	Bone surf (6E+1)	-	8E-11	-	-
72	Hafnium-173	D, see ^{170}Hf	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ^{170}Hf	-	1E+4	5E-6	2E-8	-	-
72	Hafnium-175	D, see ^{170}Hf	3E+3	9E+2	4E-7	-	4E-5	4E-4
			-	Bone surf (1E+3)	-	1E-9	-	-
		W, see ^{170}Hf	-	1E+3	5E-7	2E-9	-	-
72	Hafnium-177m[2]	D, see ^{170}Hf	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		W, see ^{170}Hf	-	9E+4	4E-5	1E-7	-	-
72	Hafnium-178m	D, see ^{170}Hf	3E+2	1E+0	5E-10	-	3E-6	3E-5
			-	Bone surf (2E+0)	-	3E-12	-	-
		W, see ^{170}Hf	-	5E+0	2E-9	-	-	-
			-	Bone surf (9E+0)	-	1E-11	-	-
72	Hafnium-179m	D, see ^{170}Hf	1E+3	3E+2	1E-7	-	1E-5	1E-4
			-	Bone surf (6E+2)	-	8E-10	-	-
		W, see ^{170}Hf	-	6E+2	3E-7	8E-10	-	-
72	Hafnium-180m	D, see ^{170}Hf	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{170}Hf	-	3E+4	1E-5	4E-8	-	-
72	Hafnium-181	D, see ^{170}Hf	1E+3	2E+2	7E-8	-	2E-5	2E-4
			-	Bone surf (4E+2)	-	6E-10	-	-
		W, see ^{170}Hf	-	4E+2	2E-7	6E-10	-	-
72	Hafnium-182m[2]	D, see ^{170}Hf	4E+4	9E+4	4E-5	1E-7	5E-4	5E-3
		W, see ^{170}Hf	-	1E+5	6E-5	2E-7	-	-
72	Hafnium-182	D, see ^{170}Hf	2E+2	8E-1	3E-10	-	-	-
			Bone surf (4E+2)	Bone surf (2E+0)	-	2E-12	5E-6	5E-5
		W, see ^{170}Hf	-	3E+0	1E-9	-	-	-
			-	Bone surf (7E+0)	-	1E-11	-	-
72	Hafnium-183[2]	D, see ^{170}Hf	2E+4	5E+4	2E-5	6E-8	3E-4	3E-3
		W, see ^{170}Hf	-	6E+4	2E-5	8E-8	-	-
72	Hafnium-184	D, see ^{170}Hf	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		W, see ^{170}Hf	-	6E+3	3E-6	9E-9	-	-
73	Tantalum-172[2]	W, all compounds except those given for Y Y, elemental Ta, oxides, hydroxides, halides, carbides, nitrates, and nitrides	4E+4	1E+5	5E-5	2E-7	5E-4	5E-3
			-	1E+5	4E-5	1E-7	-	-
73	Tantalum-173	W, see ^{172}Ta	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see ^{172}Ta	-	2E+4	7E-6	2E-8	-	-
73	Tantalum-174[2]	W, see ^{172}Ta	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
		Y, see ^{172}Ta	-	9E+4	4E-5	1E-7	-	-
73	Tantalum-175	W, see ^{172}Ta	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
		Y, see ^{172}Ta	-	1E+4	6E-6	2E-8	-	-
73	Tantalum-176	W, see ^{172}Ta	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
		Y, see ^{172}Ta	-	1E+4	5E-6	2E-8	-	-

73	Tantalum-177	W, see ^{172}Ta	1E+4	2E+4	8E-6	3E-8	2E-4	2E-3
		Y, see ^{172}Ta	-	2E+4	7E-6	2E-8	-	-
73	Tantalum-178	W, see ^{172}Ta	2E+4	9E+4	4E-5	1E-7	2E-4	2E-3
		Y, see ^{172}Ta	-	7E+4	3E-5	1E-7	-	-
73	Tantalum-179	W, see ^{172}Ta	2E+4	5E+3	2E-6	8E-9	3E-4	3E-3
		Y, see ^{172}Ta	-	9E+2	4E-7	1E-9	-	-
73	Tantalum-180m	W, see ^{172}Ta	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		Y, see ^{172}Ta	-	6E+4	2E-5	8E-8	-	-
73	Tantalum-180	W, see ^{172}Ta	1E+3	4E+2	2E-7	6E-10	2E-5	2E-4
		Y, see ^{172}Ta	-	2E+1	1E-8	3E-11	-	-
73	Tantalum-182m[2]	W, see ^{172}Ta	2E+5	5E+5	2E-4	8E-7	-	-
			St wall					
			(2E+5)	-	-	-	3E-3	3E-2
		Y, see ^{172}Ta	-	4E+5	2E-4	6E-7	-	-
73	Tantalum-182	W, see ^{172}Ta	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		Y, see ^{172}Ta	-	1E+2	6E-8	2E-10	-	-
73	Tantalum-183	W, see ^{172}Ta	9E+2	1E+3	5E-7	2E-9	-	-
			LLI wall					
			(1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{172}Ta	-	1E+3	4E-7	1E-9	-	-
73	Tantalum-184	W, see ^{172}Ta	2E+3	5E+3	2E-6	8E-9	3E-5	3E-4
		Y, see ^{172}Ta	-	5E+3	2E-6	7E-9	-	-
73	Tantalum-185[2]	W, see ^{172}Ta	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		Y, see ^{172}Ta	-	6E+4	3E-5	9E-8	-	-
73	Tantalum-186[2]	W, see ^{172}Ta	5E+4	2E+5	1E-4	3E-7	-	-
			St wall					
			(7E+4)	-	-	-	1E-3	1E-2
		Y, see ^{172}Ta	-	2E+5	9E-5	3E-7	-	-
74	Tungsten-176	D, all compounds	1E+4	5E+4	2E-5	7E-8	1E-4	1E-3
74	Tungsten-177	D, all compounds	2E+4	9E+4	4E-5	1E-7	3E-4	3E-3
74	Tungsten-178	D, all compounds	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
74	Tungsten-179[2]	D, all compounds	5E+5	2E+6	7E-4	2E-6	7E-3	7E-2
74	Tungsten-181	D, all compounds	2E+4	3E+4	1E-5	5E-8	2E-4	2E-3
74	Tungsten-185	D, all compounds	2E+3	7E+3	3E-6	9E-9	-	-
			LLI wall					
			(3E+3)	-	-	-	4E-5	4E-4
74	Tungsten-187	D, all compounds	2E+3	9E+3	4E-6	1E-8	3E-5	3E-4
74	Tungsten-188	D, all compounds	4E+2	1E+3	5E-7	2E-9	-	-
			LLI wall					
			(5E+2)	-	-	-	7E-6	7E-5
75	Rhenium-177[2]	D, all compounds except						
		those given for W	9E+4	3E+5	1E-4	4E-7	-	-
			St wall					
			(1E+5)	-	-	-	2E-3	2E-2
		W, oxides, hydroxides,						
		and nitrates	-	4E+5	1E-4	5E-7	-	-
75	Rhenium-178[2]	D, see ^{177}Re	7E+4	3E+5	1E-4	4E-7	-	-
			St wall					
			(1E+5)	-	-	-	1E-3	1E-2
		W, see ^{177}Re	-	3E+5	1E-4	4E-7	-	-
75	Rhenium-181	D, see ^{177}Re	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
		W, see ^{177}Re	-	9E+3	4E-6	1E-8	-	-
75	Rhenium-182	D, see ^{177}Re	7E+3	1E+4	5E-6	2E-8	9E-5	9E-4
	(12.7 h)	W, see ^{177}Re	-	2E+4	6E-6	2E-8	-	-
75	Rhenium-182	D, see ^{177}Re	1E+3	2E+3	1E-6	3E-9	2E-5	2E-4
	(64.0 h)	W, see ^{177}Re	-	2E+3	9E-7	3E-9	-	-
75	Rhenium-184m	D, see ^{177}Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ^{177}Re	-	4E+2	2E-7	6E-10	-	-
75	Rhenium-184	D, see ^{177}Re	2E+3	4E+3	1E-6	5E-9	3E-5	3E-4

		W, see ^{177}Re	-	1E+3	6E-7	2E-9	-	-
75	Rhenium-186m	D, see ^{177}Re	1E+3 St wall (2E+3)	2E+3 St wall (2E+3)	7E-7 -	- 3E-9	- 2E-5	- 2E-4
		W, see ^{177}Re	-	2E+2	6E-8	2E-10	-	-
75	Rhenium-186	D, see ^{177}Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ^{177}Re	-	2E+3	7E-7	2E-9	-	-
75	Rhenium-187	D, see ^{177}Re	6E+5 St wall	8E+5	4E-4	-	8E-3	8E-2
			-	(9E+5)	-	1E-6	-	-
		W, see ^{177}Re	-	1E+5	4E-5	1E-7	-	-
75	Rhenium-188m[2]	D, see ^{177}Re	8E+4	1E+5	6E-5	2E-7	1E-3	1E-2
		W, see ^{177}Re	-	1E+5	6E-5	2E-7	-	-
75	Rhenium-188	D, see ^{177}Re	2E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		W, see ^{177}Re	-	3E+3	1E-6	4E-9	-	-
75	Rhenium-189	D, see ^{177}Re	3E+3	5E+3	2E-6	7E-9	4E-5	4E-4
		W, see ^{177}Re	-	4E+3	2E-6	6E-9	-	-
76	Osmium-180[2]	D, all compounds except those given for W and Y	1E+5	4E+5	2E-4	5E-7	1E-3	1E-2
		W, halides and nitrates	-	5E+5	2E-4	7E-7	-	-
		Y, oxides and hydroxides	-	5E+5	2E-4	6E-7	-	-
76	Osmium-181[2]	D, see ^{180}Os	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{180}Os	-	5E+4	2E-5	6E-8	-	-
		Y, see ^{180}Os	-	4E+4	2E-5	6E-8	-	-
76	Osmium-182	D, see ^{180}Os	2E+3	6E+3	2E-6	8E-9	3E-5	3E-4
		W, see ^{180}Os	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{180}Os	-	4E+3	2E-6	6E-9	-	-
76	Osmium-185	D, see ^{180}Os	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see ^{180}Os	-	8E+2	3E-7	1E-9	-	-
		Y, see ^{180}Os	-	8E+2	3E-7	1E-9	-	-
76	Osmium-189m	D, see ^{180}Os	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, see ^{180}Os	-	2E+5	9E-5	3E-7	-	-
		Y, see ^{180}Os	-	2E+5	7E-5	2E-7	-	-
76	Osmium-191m	D, see ^{180}Os	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ^{180}Os	-	2E+4	8E-6	3E-8	-	-
		Y, see ^{180}Os	-	2E+4	7E-6	2E-8	-	-
76	Osmium-191	D, see ^{180}Os	2E+3 LLI wall (3E+3)	2E+3 -	9E-7 -	3E-9 -	- 3E-5	- 3E-4
		W, see ^{180}Os	-	2E+3	7E-7	2E-9	-	-
		Y, see ^{180}Os	-	1E+3	6E-7	2E-9	-	-
76	Osmium-193	D, see ^{180}Os	2E+3 LLI wall (2E+3)	5E+3 -	2E-6 -	6E-9 -	- 2E-5	- 2E-4
		W, see ^{180}Os	-	3E+3	1E-6	4E-9	-	-
		Y, see ^{180}Os	-	3E+3	1E-6	4E-9	-	-
76	Osmium-194	D, see ^{180}Os	4E+2 LLI wall (6E+2)	4E+1 -	2E-8 -	6E-11 -	- 8E-6	- 8E-5
		W, see ^{180}Os	-	6E+1	2E-8	8E-11	-	-
		Y, see ^{180}Os	-	8E+0	3E-9	1E-11	-	-
77	Iridium-182[2]	D, all compounds except those given for W and Y	4E+4 St wall (4E+4)	1E+5 -	6E-5 -	2E-7 -	- 6E-4	- 6E-3
		W, halides, nitrates, and metallic iridium	-	2E+5	6E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
77	Iridium-184	D, see ^{182}Ir	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ^{182}Ir	-	3E+4	1E-5	5E-8	-	-
		Y, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
77	Iridium-185	D, see ^{182}Ir	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ^{182}Ir	-	1E+4	5E-6	2E-8	-	-
		Y, see ^{182}Ir	-	1E+4	4E-6	1E-8	-	-
77	Iridium-186	D, see ^{182}Ir	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4

		W, see ^{182}Ir	-	6E+3	3E-6	9E-9	-	-
		Y, see ^{182}Ir	-	6E+3	2E-6	8E-9	-	-
77	Iridium-187	D, see ^{182}Ir	1E+4	3E+4	1E-5	5E-8	1E-4	1E-3
		W, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
		Y, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
77	Iridium-188	D, see ^{182}Ir	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
		W, see ^{182}Ir	-	4E+3	1E-6	5E-9	-	-
		Y, see ^{182}Ir	-	3E+3	1E-6	5E-9	-	-
77	Iridium-189	D, see ^{182}Ir	5E+3	5E+3	2E-6	7E-9	-	-
			LLI wall					
			(5E+3)	-	-	-	7E-5	7E-4
		W, see ^{182}Ir	-	4E+3	2E-6	5E-9	-	-
		Y, see ^{182}Ir	-	4E+3	1E-6	5E-9	-	-
77	Iridium-190m[2]	D, see ^{182}Ir	2E+5	2E+5	8E-5	3E-7	2E-3	2E-2
		W, see ^{182}Ir	-	2E+5	9E-5	3E-7	-	-
		Y, see ^{182}Ir	-	2E+5	8E-5	3E-7	-	-
77	Iridium-190	D, see ^{182}Ir	1E+3	9E+2	4E-7	1E-9	1E-5	1E-4
		W, see ^{182}Ir	-	1E+3	4E-7	1E-9	-	-
		Y, see ^{182}Ir	-	9E+2	4E-7	1E-9	-	-
77	Iridium-192m	D, see ^{182}Ir	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
		W, see ^{182}Ir	-	2E+2	9E-8	3E-10	-	-
		Y, see ^{182}Ir	-	2E+1	6E-9	2E-11	-	-
77	Iridium-192	D, see ^{182}Ir	9E+2	3E+2	1E-7	4E-10	1E-5	1E-4
		W, see ^{182}Ir	-	4E+2	2E-7	6E-10	-	-
		Y, see ^{182}Ir	-	2E+2	9E-8	3E-10	-	-
77	Iridium-194m	D, see ^{182}Ir	6E+2	9E+1	4E-8	1E-10	9E-6	9E-5
		W, see ^{182}Ir	-	2E+2	7E-8	2E-10	-	-
		Y, see ^{182}Ir	-	1E+2	4E-8	1E-10	-	-
77	Iridium-194	D, see ^{182}Ir	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W, see ^{182}Ir	-	2E+3	9E-7	3E-9	-	-
		Y, see ^{182}Ir	-	2E+3	8E-7	3E-9	-	-
77	Iridium-195m	D, see ^{182}Ir	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
		Y, see ^{182}Ir	-	2E+4	9E-6	3E-8	-	-
77	Iridium-195	D, see ^{182}Ir	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{182}Ir	-	5E+4	2E-5	7E-8	-	-
		Y, see ^{182}Ir	-	4E+4	2E-5	6E-8	-	-
78	Platinum-186	D, all compounds	1E+4	4E+4	2E-5	5E-8	2E-4	2E-3
78	Platinum-188	D, all compounds	2E+3	2E+3	7E-7	2E-9	2E-5	2E-4
78	Platinum-189	D, all compounds	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
78	Platinum-191	D, all compounds	4E+3	8E+3	4E-6	1E-8	5E-5	5E-4
78	Platinum-193m	D, all compounds	3E+3	6E+3	3E-6	8E-9	-	-
			LLI wall					
			(3E+4)	-	-	-	4E-5	4E-4
78	Platinum-193	D, all compounds	4E+4	2E+4	1E-5	3E-8	-	-
			LLI wall					
			(5E+4)	-	-	-	6E-4	6E-3
78	Platinum-195m	D, all compounds	2E+3	4E+3	2E-6	6E-9	-	-
			LLI wall					
			(2E+3)	-	-	-	3E-5	3E-4
78	Platinum-197m[2]	D, all compounds	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
78	Platinum-197	D, all compounds	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
78	Platinum-199[2]	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
78	Platinum-200	D, all compounds	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
79	Gold-193	D, all compounds except						
		those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, halides and nitrates	-	2E+4	9E-6	3E-8	-	-
		Y, oxides and hydroxides	-	2E+4	8E-6	3E-8	-	-
79	Gold-194	D, see ^{193}Au	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{193}Au	-	5E+3	2E-6	8E-9	-	-

		Y, see ^{190}Au	-	5E+3	2E-6	7E-9	-	-
79	Gold-195	D, see ^{190}Au	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ^{190}Au	-	1E+3	6E-7	2E-9	-	-
		Y, see ^{190}Au	-	4E+2	2E-7	6E-10	-	-
79	Gold-198m	D, see ^{190}Au	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W, see ^{190}Au	-	1E+3	5E-7	2E-9	-	-
		Y, see ^{190}Au	-	1E+3	5E-7	2E-9	-	-
79	Gold-198	D, see ^{190}Au	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W, see ^{190}Au	-	2E+3	8E-7	3E-9	-	-
		Y, see ^{190}Au	-	2E+3	7E-7	2E-9	-	-
79	Gold-199	D, see ^{190}Au	3E+3	9E+3	4E-6	1E-8	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
		W, see ^{190}Au	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{190}Au	-	4E+3	2E-6	5E-9	-	-
79	Gold-200m	D, see ^{190}Au	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ^{190}Au	-	3E+3	1E-6	4E-9	-	-
		Y, see ^{190}Au	-	2E+4	1E-6	3E-9	-	-
79	Gold-200[2]	D, see ^{190}Au	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see ^{190}Au	-	8E+4	3E-5	1E-7	-	-
		Y, see ^{190}Au	-	7E+4	3E-5	1E-7	-	-
79	Gold-201[2]	D, see ^{190}Au	7E+4	2E+5	9E-5	3E-7	-	-
			St wall (9E+4)	-	-	-	1E-3	1E-2
		W, see ^{190}Au	-	2E+5	1E-4	3E-7	-	-
		Y, see ^{190}Au	-	2E+5	9E-5	3E-7	-	-
80	Mercury-193m	Vapor	-	8E+3	4E-6	1E-8	-	-
		Organic D	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		D, sulfates	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		W, oxides, hydroxides, halides, nitrates, and sulfides	-	8E+3	3E-6	1E-8	-	-
80	Mercury-193	Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		D, see ^{193m}Hg	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{193m}Hg	-	4E+4	2E-5	6E-8	-	-
80	Mercury-194	Vapor	-	3E+1	1E-8	4E-11	-	-
		Organic D	2E+1	3E+1	1E-8	4E-11	2E-7	2E-6
		D, see ^{193m}Hg	8E+2	4E+1	2E-8	6E-11	1E-5	1E-4
		W, see ^{193m}Hg	-	1E+2	5E-8	2E-10	-	-
80	Mercury-195m	Vapor	-	4E+3	2E-6	6E-9	-	-
		Organic D	3E+3	6E+3	3E-6	8E-9	4E-5	4E-4
		D, see ^{193m}Hg	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
		W, see ^{193m}Hg	-	4E+3	2E-6	5E-9	-	-
80	Mercury-195	Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
		D, see ^{193m}Hg	1E+4	4E+4	1E-5	5E-8	2E-4	2E-3
		W, see ^{193m}Hg	-	3E+4	1E-5	5E-8	-	-
80	Mercury-197m	Vapor	-	5E+3	2E-6	7E-9	-	-
		Organic D	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		D, see ^{193m}Hg	3E+3	7E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{193m}Hg	-	5E+3	2E-6	7E-9	-	-
80	Mercury-197	Vapor	-	8E+3	4E-6	1E-8	-	-
		Organic D	7E+3	1E+4	6E-6	2E-8	9E-5	9E-4
		D, see ^{193m}Hg	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see ^{193m}Hg	-	9E+3	4E-6	1E-8	-	-
80	Mercury-199m[2]	Vapor	-	8E+4	3E-5	1E-7	-	-
		Organic D	6E+4	2E+5	7E-5	2E-7	-	-
			St wall (1E+5)	-	-	-	1E-3	1E-2
		D, see ^{193m}Hg	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
		W, see ^{193m}Hg	-	2E+5	7E-5	2E-7	-	-
80	Mercury-203	Vapor	-	8E+2	4E-7	1E-9	-	-
		Organic D	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
		D, see ^{193m}Hg	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
		W, see ^{193m}Hg	-	1E+3	5E-7	2E-9	-	-
81	Thallium-194m[2]	D, all compounds	5E+4	2E+5	6E-5	2E-7	-	-

			St wall (7E+4)	-	-	-	1E-3	1E-2
81	Thallium-194[2]	D, all compounds	3E+5	6E+5	2E-4	8E-7	-	-
			St wall (3E+5)	-	-	-	4E-3	4E-2
81	Thallium-195[2]	D, all compounds	6E+4	1E+5	5E-5	2E-7	9E-4	9E-3
81	Thallium-197	D, all compounds	7E+4	1E+5	5E-5	2E-7	1E-3	1E-2
81	Thallium-198m[2]	D, all compounds	3E+4	5E+4	2E-5	8E-8	4E-4	4E-3
81	Thallium-198	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
81	Thallium-199	D, all compounds	6E+4	8E+4	4E-5	1E-7	9E-4	9E-3
81	Thallium-200	D, all compounds	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
81	Thallium-201	D, all compounds	2E+4	2E+4	9E-6	3E-8	2E-4	2E-3
81	Thallium-202	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
81	Thallium-204	D, all compounds	2E+3	2E+3	9E-7	3E-9	2E-5	2E-4
82	Lead-195m[2]	D, all compounds	6E+4	2E+5	8E-5	3E-7	8E-4	8E-3
82	Lead-198	D, all compounds	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
82	Lead-199[2]	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
82	Lead-200	D, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
82	Lead-201	D, all compounds	7E+3	2E+4	8E-6	3E-8	1E-4	1E-3
82	Lead-202m	D, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
82	Lead-202	D, all compounds	1E+2	5E+1	2E-8	7E-11	2E-6	2E-5
82	Lead-203	D, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
82	Lead-205	D, all compounds	4E+3	1E+3	6E-7	2E-9	5E-5	5E-4
82	Lead-209	D, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
82	Lead-210	D, all compounds	6E1	2E1	1E-10	-	-	-
			Bone surf (1E+0)	Bone surf (4E-1)	-	6E-13	1E-8	1E-7
82	Lead-211[2]	D, all compounds	1E+4	6E+2	3E-7	9E-10	2E-4	2E-3
82	Lead-212	D, all compounds	8E+1	3E+1	1E-8	5E-11	-	-
			Bone surf (1E+2)	-	-	-	2E-6	2E-5
82	Lead-214[2]	D, all compounds	9E+3	8E+2	3E-7	1E-9	1E-4	1E-3
83	Bismuth-200[2]	D, nitrates	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
		W, all other compounds	-	1E+5	4E-5	1E-7	-	-
83	Bismuth-201[2]	D, see ^{200}Bi	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ^{200}Bi	-	4E+4	2E-5	5E-8	-	-
83	Bismuth-202[2]	D, see ^{200}Bi	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{200}Bi	-	8E+4	3E-5	1E-7	-	-
83	Bismuth-203	D, see ^{200}Bi	2E+3	7E+3	3E-6	9E-9	3E-5	3E-4
		W, see ^{200}Bi	-	6E+3	3E-6	9E-9	-	-
83	Bismuth-205	D, see ^{200}Bi	1E+3	3E+3	1E-6	3E-9	2E-5	2E-4
		W, see ^{200}Bi	-	1E+3	5E-7	2E-9	-	-
83	Bismuth-206	D, see ^{200}Bi	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see ^{200}Bi	-	9E+2	4E-7	1E-9	-	-
83	Bismuth-207	D, see ^{200}Bi	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see ^{200}Bi	-	4E+2	1E-7	5E-10	-	-
83	Bismuth-210m	D, see ^{200}Bi	4E+1	5E+0	2E-9	-	-	-
			Kidneys (6E+1)	Kidneys (6E+0)	-	9E-12	8E-7	8E-6
		W, see ^{200}Bi	-	7E-1	3E-10	9E-13	-	-
83	Bismuth-210	D, see ^{200}Bi	8E+2	2E+2	1E-7	-	1E-5	1E-4

			-	Kidneys				
			-	(4E+2)	-	5E-10	-	-
		W, see ^{200}Bi	-	3E+1	1E-8	4E-11	-	-
83	Bismuth-212[2]	D, see ^{200}Bi	5E+3	2E+2	1E-7	3E-10	7E-5	7E-4
		W, see ^{200}Bi	-	3E+2	1E-7	4E-10	-	-
83	Bismuth-213[2]	D, see ^{200}Bi	7E+3	3E+2	1E-7	4E-10	1E-4	1E-3
		W, see ^{200}Bi	-	4E+2	1E-7	5E-10	-	-
83	Bismuth-214[2]	D, see ^{200}Bi	2E+4	8E+2	3E-7	1E-9	-	-
			St wall					
			(2E+4)	-	-	-	3E-4	3E-3
		W, see ^{200}Bi	-	9E-2	4E-7	1E-9	-	-
84	Polonium-203[2]	D, all compounds except those given for W	3E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, oxides, hydroxides, and nitrates	-	9E+4	4E-5	1E-7	-	-
84	Polonium-205[2]	D, see ^{203}Po	2E+4	4E+4	2E-5	5E-8	3E-4	3E-3
		W, see ^{203}Po	-	7E+4	3E-5	1E-7	-	-
84	Polonium-207	D, see ^{203}Po	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		W, see ^{203}Po	-	3E+4	1E-5	4E-8	-	-
84	Polonium-210	D, see ^{203}Po	3E+0	6E-1	3E-10	9E-13	4E-8	4E-7
		W, see ^{203}Po	-	6E-1	3E-10	9E-13	-	-
85	Astatine-207[2]	D, halides	6E+3	3E+3	1E-6	4E-9	8E-5	8E-4
		W	-	2E+3	9E-7	3E-9	-	-
85	Astatine-211	D, halides	1E+2	8E+1	3E-8	1E-10	2E-6	2E-5
		W	-	5E+1	2E-8	8E-11	-	-
86	Radon-220	With daughters removed	-	2E+4	7E-6	2E-8	-	-
		With daughters present	-	2E+1	9E-9	3E-11	-	-
				(or 12 working level months)		(or 1.0 working level)		
86	Radon-222	With daughters removed	-	1E+4	4E-6	1E-8	-	-
		With daughters present	-	1E+2	3E-8	1E-10	-	-
				(or 4 working level months)		(or 0.33 working level)		
87	Francium-222[2]	D, all compounds	2E+3	5E+2	2E-7	6E-10	3E-5	3E-4
87	Francium-223[2]	D, all compounds	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
88	Radium-223	W, all compounds	5E+0	7E-1	3E-10	9E-13	-	-
			Bone surf					
			(9E+0)	-	-	-	1E-7	1E-6
88	Radium-224	W, all compounds	8E+0	2E+0	7E-10	2E-12	-	-
			Bone surf					
			(2E+1)	-	-	-	2E-7	2E-6
88	Radium-225	W, all compounds	8E+0	7E-1	3E-10	9E-13	-	-
			Bone surf					
			(2E+1)	-	-	-	2E-7	2E-6
88	Radium-226	W, all compounds	2E+0	6E-1	3E-10	9E-13	-	-
			Bone surf					
			(5E+0)	-	-	-	6E-8	6E-7
88	Radium-227[2]	W, all compounds	2E+4	1E+4	6E-6	-	-	-
			Bone surf	Bone surf				
			(2E+4)	(2E+4)	-	3E-8	3E-4	3E-3
88	Radium-228	W, all compounds	2E+0	1E+0	5E-10	2E-12	-	-
			Bone surf					
			(4E+0)	-	-	-	6E-8	6E-7
89	Actinium-224	D, all compounds except those given for W and Y	2E+3	3E+1	1E-8	-	-	-
			LLI wall	Bone surf				
			(2E+3)	(4E+1)	-	5E-11	3E-5	3E-4
		W, halides and nitrates	-	5E+1	2E-8	7E-11	-	-
		Y, oxides and hydroxides	-	5E+1	2E-8	6E-11	-	-
89	Actinium-225	D, see ^{224}Ac	5E+1	3E-1	1E-10	-	-	-
			LLI wall	Bone surf				

			(5E+1)	(5E-1)	-	7E-13	7E-7	7E-6
		W, see ^{224}Ac	-	6E-1	3E-10	9E-13	-	-
		Y, see ^{224}Ac	-	6E-1	3E-10	9E-13	-	-
89	Actinium-226	D, see ^{224}Ac	1E+2	3E+0	1E-9	-	-	-
			LLI wall	Bone surf				
			(1E+2)	(4E+0)	-	5E-12	2E-6	2E-5
		W, see ^{224}Ac	-	5E+0	2E-9	7E-12	-	-
		Y, see ^{224}Ac	-	5E+0	2E-9	6E-12	-	-
89	Actinium-227	D, see ^{224}Ac	2E-1	4E-4	2E-13	-	-	-
			Bone surf	Bone surf				
			(4E-1)	(8E-4)	-	1E-15	5E-9	5E-8
		W, see ^{224}Ac	-	2E-3	7E-13	-	-	-
				Bone surf				
			-	(3E-3)	-	4E-15	-	-
		Y, see ^{224}Ac	-	4E-3	2E-12	6E-15	-	-
89	Actinium-228	D, see ^{224}Ac	2E+3	9E+0	4E-9	-	3E-5	3E-4
				Bone surf				
			-	(2E+1)	-	2E-11	-	-
		W, see ^{224}Ac	-	4E+1	2E-8	-	-	-
				Bone surf				
			-	(6E+1)	-	8E-11	-	-
		Y, see ^{224}Ac	-	4E+1	2E-8	6E-11	-	-
90	Thorium-226[2]	W, all compounds except those given for Y	5E+3	2E+2	6E-8	2E-10	-	-
			St wall					
			(5E+3)	-	-	-	7E-5	7E-4
		Y, oxides and hydroxides	-	1E+2	6E-8	2E-10	-	-
90	Thorium-227	W, see ^{226}Th	1E+2	3E-1	1E-10	5E-13	2E-6	2E-5
		Y, see ^{226}Th	-	3E-1	1E-10	5E-13	-	-
90	Thorium-228	W, see ^{226}Th	6E+0	1E-2	4E-12	-	-	-
			Bone surf	Bone surf				
			(1E+1)	(2E-2)	-	3E-14	2E-7	2E-6
		Y, see ^{226}Th	-	2E-2	7E-12	2E-14	-	-
90	Thorium-229	W, see ^{226}Th	6E-1	9E-4	4E-13	-	-	-
			Bone surf	Bone surf				
			(1E+0)	(2E-3)	-	3E-15	2E-8	2E-7
		Y, see ^{226}Th	-	2E-3	1E-12	-	-	-
				Bone surf				
			-	(3E-3)	-	4E-15	-	-
90	Thorium-230	W, see ^{226}Th	4E+0	6E-3	3E-12	-	-	-
			Bone surf	Bone surf				
			(9E+0)	(2E-2)	-	2E-14	1E-7	1E-6
		Y, see ^{226}Th	-	2E-2	6E-12	-	-	-
				Bone surf				
			-	(2E-2)	-	3E-14	-	-
90	Thorium-231	W, see ^{226}Th	4E+3	6E+3	3E-6	9E-9	5E-5	5E-4
		Y, see ^{226}Th	-	6E+3	3E-6	9E-9	-	-
90	Thorium-232	W, see ^{226}Th	7E-1	1E-3	5E-13	-	-	-
			Bone surf	Bone surf				
			(2E+0)	(3E-3)	-	4E-15	3E-8	3E-7
		Y, see ^{226}Th	-	3E-3	1E-12	-	-	-
				Bone surf				
			-	(4E-3)	-	6E-15	-	-
90	Thorium-234	W, see ^{226}Th	3E+2	2E+2	8E-8	3E-10	-	-
			LLI wall					
			(4E+2)	-	-	-	5E-6	5E-5
		Y, see ^{226}Th	-	2E+2	6E-8	2E-10	-	-
91	Protactinium-227[2]	W, all compounds except those given for Y	4E+3	1E+2	5E-8	2E-10	5E-5	5E-4
		Y, oxides and hydroxides	-	1E+2	4E-8	1E-10	-	-
91	Protactinium-228	W, see ^{227}Pa	1E+3	1E+1	5E-9	-	2E-5	2E-4
				Bone surf				
			-	(2E+1)	-	3E-11	-	-
		Y, see ^{227}Pa	-	1E+1	5E-9	2E-11	-	-
91	Protactinium-230	W, see ^{227}Pa	6E+2	5E+0	2E-9	7E-12	-	-
			Bone surf					
			(9E+2)	-	-	-	1E-5	1E-4
		Y, see ^{227}Pa	-	4E+0	1E-9	5E-12	-	-
91	Protactinium-231	W, see ^{227}Pa	2E-1	2E-3	6E-13	-	-	-

			Bone surf (5E-1)	Bone surf (4E-3)	-	6E-15	6E-9	6E-8
		Y, see ^{227}Pa	-	4E-3	2E-12	-	-	-
			-	Bone surf (6E-3)	-	8E-15	-	-
91	Protactinium-232	W, see ^{227}Pa	1E+3	2E+1	9E-9	-	2E-5	2E-4
			-	Bone surf (6E+1)	-	8E-11	-	-
		Y, see ^{227}Pa	-	6E+1	2E-8	-	-	-
			-	Bone surf (7E+1)	-	1E-10	-	-
91	Protactinium-233	W, see ^{227}Pa	1E+3	7E+2	3E-7	1E-9	-	-
			LLI wall (2E+3)	-	-	-	2E-5	2E-4
		Y, see ^{227}Pa	-	6E+2	2E-7	8E-10	-	-
91	Protactinium-234	W, see ^{227}Pa	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		Y, see ^{227}Pa	-	7E+3	3E-6	9E-9	-	-
92	Uranium-230	D, UF, UOF, UO(NO)	4E+0	4E-1	2E-10	-	-	-
			Bone surf (6E+0)	Bone surf (6E-1)	-	8E-13	8E-8	8E-7
		W, UO, UF, UCl	-	4E-1	1E-10	5E-13	-	-
		Y, UO, UO	-	3E-1	1E-10	4E-13	-	-
92	Uranium-231	D, see ^{230}U	5E+3	8E+3	3E-6	1E-8	-	-
			LLI wall (4E+3)	-	-	-	6E-5	6E-4
		W, see ^{230}U	-	6E+3	2E-6	8E-9	-	-
		Y, see ^{230}U	-	5E+3	2E-6	6E-9	-	-
92	Uranium-232	D, see ^{230}U	2E+0	2E-1	9E-11	-	-	-
			Bone surf (4E+0)	Bone surf (4E-1)	-	6E-13	6E-8	6E-7
		W, see ^{230}U	-	4E-1	2E-10	5E-13	-	-
		Y, see ^{230}U	-	8E-3	3E-12	1E-14	-	-
92	Uranium-233	D, see ^{230}U	1E+1	1E+0	5E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	7E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	5E-14	-	-
92	Uranium-234[3]	D, see ^{230}U	1E+1	1E+0	5E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	7E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	5E-14	-	-
92	Uranium-235[3]	D, see ^{230}U	1E+1	1E+0	6E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	8E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-236	D, see ^{230}U	1E+1	1E+0	5E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	8E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-237	D, see ^{230}U	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		W, see ^{230}U	-	2E+3	7E-7	2E-9	-	-
		Y, see ^{230}U	-	2E+3	6E-7	2E-9	-	-
92	Uranium-238[3]	D, see ^{230}U	1E+1	1E+0	6E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	8E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-239[2]	D, see ^{230}U	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
		W, see ^{230}U	-	2E+5	7E-5	2E-7	-	-
		Y, see ^{230}U	-	2E+5	6E-5	2E-7	-	-
92	Uranium-240	D, see ^{230}U	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W, see ^{230}U	-	3E+3	1E-6	4E-9	-	-
		Y, see ^{230}U	-	2E+3	1E-6	3E-9	-	-
92	Uranium-natural[3]	D, see ^{230}U	1E+1	1E+0	5E-10	-	-	-

			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	8E-1	3E-10	9E-13	-	-
		Y, see ^{230}U	-	5E-2	2E-11	9E-14	-	-
93	Neptunium-232[2]	W, all compounds	1E+5	2E+3	7E-7	-	2E-3	2E-2
			-	Bone surf (5E+2)	-	6E-9	-	-
93	Neptunium-233[2]	W, all compounds	8E+5	3E+6	1E-3	4E-6	1E-2	1E-1
93	Neptunium-234	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
93	Neptunium-235	W, all compounds	2E+4	8E+2	3E-7	-	-	-
			LLI wall (2E+4)	Bone surf (1E+3)	-	2E-9	3E-4	3E-3
93	Neptunium-236 (1.15E+5 y)	W, all compounds	3E+0	2E-2	9E-12	-	-	-
			Bone surf (6E+0)	Bone surf (5E-2)	-	8E-14	9E-8	9E-7
93	Neptunium-236 (22.5 h)*	W, all compounds	3E+3	3E+1	1E-8	-	-	-
			Bone surf (4E+3)	Bone surf (7E+1)	-	1E-10	5E-5	5E-4
93	Neptunium-237	W, all compounds	5E-1	4E-3	2E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	1E-14	2E-8	2E-7
93	Neptunium-238	W, all compounds	1E+3	6E+1	3E-8	-	2E-5	2E-4
			-	Bone surf (2E+2)	-	2E-10	-	-
93	Neptunium-239	W, all compounds	2E+3	2E+3	9E-7	3E-9	-	-
			LLI wall (2E+3)	-	-	-	2E-5	2E-4
93	Neptunium-240[2]	W, all compounds	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
94	Plutonium-234	W, all compounds except PuO	8E+3	2E+2	9E-8	3E-10	1E-4	1E-3
		Y, PuO	-	2E+2	8E-8	3E-10	-	-
94	Plutonium-235[2]	W, see ^{234}Pu	9E+5	3E+6	1E-3	4E-6	1E-2	1E-1
		Y, see ^{234}Pu	-	3E+6	1E-3	3E-6	-	-
94	Plutonium-236	W, see ^{234}Pu	2E+0	2E-2	8E-12	-	-	-
			Bone surf (4E+0)	Bone surf (4E-2)	-	5E-14	6E-8	6E-7
		Y, see ^{234}Pu	-	4E-2	2E-11	6E-14	-	-
94	Plutonium-237	W, see ^{234}Pu	1E+4	3E+3	1E-6	5E-9	2E-4	2E-3
		Y, see ^{234}Pu	-	3E+3	1E-6	4E-9	-	-
94	Plutonium-238	W, see ^{234}Pu	9E-1	7E-3	3E-12	-	-	-
			Bone surf (2E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	8E-12	2E-14	-	-
94	Plutonium-239	W, see ^{234}Pu	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-240	W, see ^{234}Pu	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-241	W, see ^{234}Pu	4E+1	3E-1	1E-10	-	-	-
			Bone surf (7E+1)	Bone surf (6E-1)	-	8E-13	1E-6	1E-5
		Y, see ^{234}Pu	-	8E-1	3E-10	-	-	-
			-	Bone surf (1E+0)	-	1E-12	-	-
94	Plutonium-242	W, see ^{234}Pu	8E-1	7E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	7E-12	-	-	-

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

96	Curium-245	W, all compounds	7E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-246	W, all compounds	7E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-247	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-248	W, all compounds	2E-1	2E-3	7E-13	-	-	-
			Bone surf (4E-1)	Bone surf (3E-3)	-	4E-15	5E-9	5E-8
96	Curium-249[2]	W, all compounds	5E+4	2E+4	7E-6	-	7E-4	7E-3
			-	Bone surf (3E+4)	-	4E-8	-	-
96	Curium-250	W, all compounds	4E-2	3E-4	1E-13	-	-	-
			Bone surf (6E-2)	Bone surf (5E-4)	-	8E-16	9E-10	9E-9
97	Berkelium-245	W, all compounds	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
97	Berkelium-246	W, all compounds	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
97	Berkelium-247	W, all compounds	5E-1	4E-3	2E-12	-	-	-
			Bone surf (1E+0)	Bone surf (9E-3)	-	1E-14	2E-8	2E-7
97	Berkelium-249	W, all compounds	2E+2	2E+0	7E-10	-	-	-
			Bone surf (5E+2)	Bone surf (4E+0)	-	5E-12	6E-6	6E-5
97	Berkelium-250	W, all compounds	9E+3	3E+2	1E-7	-	1E-4	1E-3
			-	Bone surf (7E+2)	-	1E-9	-	-
98	Californium-244[2]	W, all compounds except those given for Y	3E+4	6E+2	2E-7	8E-10	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		Y, oxides and hydroxides	-	6E+2	2E-7	8E-10	-	-
98	Californium-246	W, see ^{244}Cf	4E+2	9E+0	4E-9	1E-11	5E-6	5E-5
		Y, see ^{244}Cf	-	9E+0	4E-9	1E-11	-	-
98	Californium-248	W, see ^{244}Cf	8E+0	6E-2	3E-11	-	-	-
			Bone surf (2E+1)	Bone surf (1E-1)	-	2E-13	2E-7	2E-6
		Y, see ^{244}Cf	-	1E-1	4E-11	1E-13	-	-
98	Californium-249	W, see ^{244}Cf	5E-1	4E-3	2E-12	-	-	-
			Bone surf (1E+0)	Bone surf (9E-3)	-	1E-14	2E-8	2E-7
		Y, see ^{244}Cf	-	1E-2	4E-12	-	-	-
			-	Bone surf (1E-2)	-	2E-14	-	-
98	Californium-250	W, see ^{244}Cf	1E+0	9E-3	4E-12	-	-	-
			Bone surf (2E+0)	Bone surf (2E-2)	-	3E-14	3E-8	3E-7
		Y, see ^{244}Cf	-	3E-2	1E-11	4E-14	-	-
98	Californium-251	W, see ^{244}Cf	5E-1	4E-3	2E-12	-	-	-
			Bone surf (1E+0)	Bone surf (9E-3)	-	1E-14	2E-8	2E-7
		Y, see ^{244}Cf	-	1E-2	4E-12	-	-	-
			-	Bone surf (1E-2)	-	2E-14	-	-
98	Californium-252	W, see ^{244}Cf	2E+0	2E-2	8E-12	-	-	-
			Bone surf (5E+0)	Bone surf (4E-2)	-	5E-14	7E-8	7E-7
		Y, see ^{244}Cf	-	3E-2	1E-11	5E-14	-	-
98	Californium-253	W, see ^{244}Cf	2E+2	2E+0	8E-10	3E-12	-	-
			Bone surf (4E+2)	-	-	-	5E-6	5E-5
		Y, see ^{244}Cf	-	2E+0	7E-10	2E-12	-	-
98	Californium-254	W, see ^{244}Cf	2E+0	2E-2	9E-12	3E-14	3E-8	3E-7

		Y, see ^{244}Cf	-	2E-2	7E-12	2E-14	-	-
99	Einsteinium-250	W, all compounds	4E+4	5E+2	2E-7	-	6E-4	6E-3
			-	Bone surf (1E+3)	-	2E-9	-	-
99	Einsteinium-251	W, all compounds	7E+3	9E+2	4E-7	-	1E-4	1E-3
			-	Bone surf (1E+3)	-	2E-9	-	-
99	Einsteinium-253	W, all compounds	2E+2	1E+0	6E-10	2E-12	2E-6	2E-5
99	Einsteinium-254m	W, all compounds	3E+2	1E+1	4E-9	1E-11	-	-
			LLI wall (3E+2)	-	-	-	4E-6	4E-5
99	Einsteinium-254	W, all compounds	8E+0	7E-2	3E-11	-	-	-
			Bone surf (2E+1)	Bone surf (1E-1)	-	2E-13	2E-7	2E-6
100	Fermium-252	W, all compounds	5E+2	1E+1	5E-9	2E-11	6E-6	6E-5
100	Fermium-253	W, all compounds	1E+3	1E+1	4E-9	1E-11	1E-5	1E-4
100	Fermium-254	W, all compounds	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
100	Fermium-255	W, all compounds	5E+2	2E+1	9E-9	3E-11	7E-6	7E-5
100	Fermium-257	W, all compounds	2E+1	2E-1	7E-11	-	-	-
			Bone surf (4E+1)	Bone surf (2E-1)	-	3E-13	5E-7	5E-6
101	Mendelevium-257	W, all compounds	7E+3	8E+1	4E-8	-	1E-4	1E-3
			-	Bone surf (9E+1)	-	1E-10	-	-
101	Mendelevium-258		W, all compounds		3E+1	2E-1	1E-10	---
			Bone surf (5E+1)	Bone surf (3E-1)	-	5E-13	6E-7	6E-6
-	A single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life less than 2 hours	Submersion[1]	-	2E+2	1E-7	1E-9	-	-
-	A single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life greater than 2 hours		-	2E-1	1E-10	1E-12	1E-8	1E-7
-	A single radionuclide not listed above that decays by alpha emission or spontaneous fission, or a mixture for which either the identity or the concentration of a radionuclide in the mixture is not known		-	4E-4	2E-13	1E-15	2E-9	2E-8
If it is known that Ac-227-D and Cm-250-W are not present			-	7E-4	3E-13	-	-	-
If, in addition, it is known that Ac-227-W,Y, Th-229-W,Y, Th-230-W, Th-232-W,Y, Pa-231-W,Y, Np-237-W, Pu-239-W, Pu-240-W, Pu-242-W, Am-241-W, Am-242m-W, Am-243-W, Cm-245-W, Cm-246-W, Cm-247-W, Cm-248-W, Bk-247-W, Cf-249-W, and Cf-251-W are not present			-	7E-3	3E-12	-	-	-
If, in addition, it is known that Sm-146-W, Sm-147-W, Gd-148-D,W, Gd-152-D,W, Th-228-W,Y, Th-230-Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, Np-236-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-Y, Pu-240-Y, Pu-242-Y, Pu-244-W,Y, Cm-243-W, Cm-244-W, Cf-248-W, Cf-249-Y, Cf-250-W,Y, Cf-251-Y, Cf-252-W,Y, and Cf-254-W,Y are not present			-	7E-2	3E-11	-	-	-
If, in addition, it is known that Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-Y, Es-254-W, Fm-257-W, and Md-258-W								

are not present	-	7E-1	3E-10	-	-	-	
If, in addition, it is known that Si-32-Y, Ti-44-Y, Fe-60-D, Sr-90-Y, Zr-93-D, Cd-113m-D, Cd-113-D, In-115-D,W, La-138-D, Lu-176-W, Hf-178m-D,W, Hf-182-D,W, Bi-210m-D, Ra-224-W, Ra-228-W, Ac-226-D,W,Y, Pa-230-W,Y, U-233-D,W, U-234-D,W, U-235-D,W, U-236-D,W, U-238-D,W, Pu-241-Y, Bk-249-W, Cf-253-W,Y, and Es-253-W are not present	-	7E+0	3E-9	-	-	-	
If it is known that Ac-227-D,W,Y, Th-229-W,Y, Th-232-W,Y, Pa-231-W,Y, Cm-248-W, and Cm-250-W are not present	-	-	-	1E-14	-	-	
If, in addition, it is known that Sm-146-W, Gd-148-D,W, Gd-152-D, Th-228-W,Y, Th-230-W,Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, U-Nat-Y, Np-236-W, Np-237-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-W,Y, Pu-240-W,Y, Pu-242-W,Y, Pu-244-W,Y, Am-241-W, Am-242m-W, Am-243-W, Cm-243-W, Cm-244-W, Cm-245-W, Cm-246-W, Cm-247-W, Bk-247-W, Cf-249-W,Y, Cf-250-W,Y, Cf-251-W,Y, Cf-252-W,Y, and Cf-254-W,Y are not present	-	-	-	1E-13	-	-	
If, in addition, it is known that Sm-147-W, Gd-152-W, Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, U-Nat-W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-W,Y, Es-254-W, Fm-257-W, and Md-258-W are not present	-	-	-	1E-12	-		
If, in addition it is known that Fe-60, Sr-90, Cd-113m, Cd-113, In-115, I-129, Cs-134, Sm-145, Sm-147, Gd-148, Gd-152, Hg-194 (organic), Bi-210m, Ra-223, Ra-224, Ra-225, Ac-225, Th-228, Th-230, U-233, U-234, U-235, U-236, U-238, U-Nat, Cm-242, Cf-248, Es-254, Fm-257, and Md-258 are not present	-	-	-	-	1E-6	1E-5	

FOOTNOTES:

[1]"Submersion" means that values given are for submersion in a hemispherical semi-infinite cloud of airborne material.

[2]These radionuclides have radiological half-lives of less than 2 hours. The total effective dose equivalent received during operations with these radionuclides may include a significant contribution from external exposure. The DAC values for all radionuclides, other than those designated Class "Submersion," are based upon the committed effective dose equivalent due to the intake of the radionuclide into the body and do NOT include potentially significant contributions to dose equivalent from external exposures. The licensee may substitute 1E-7 μCi/ml for the listed DAC to account for the submersion dose prospectively, but may use individual monitoring devices or other radiation measuring instruments that measure external exposure to demonstrate compliance with the limits. (See Section 43 of this administrative regulation)

[3]For soluble mixtures of U-238, U-234, and U-235 in air, chemical toxicity may be the limiting factor (Section 3(5) of this administrative regulation). If the percent by weight (enrichment) of U-235 is not greater than five (5), the concentration value for a forty (40) hour workweek is two-tenths (0.2) milligrams uranium per cubic meter of air average. For enrichment, the product of the average concentration and time of exposure during a forty (40) hour workweek shall not exceed 8E-3 (SA) μCi-hr/ml, if SA is the specific activity of the uranium inhaled. The specific activity for natural uranium is 6.77E-7 curies per gram U. The specific activity for other mixtures of U-238, U-235, and U-234, if not known, shall be:

SA = 3.6E-7 curies/gram U U-depleted

SA = [0.4 + 0.38 (enrichment) + 0.0034 (enrichment)^2] E- , enrichment ≥ 0.72

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

NOTE:

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

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

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

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

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

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

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

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

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

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

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

RICE C. LEACH, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 9, 1993
FILED WITH LRC: January 14, 1994 at 11 a.m.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Environmental Health and Community Safety
(As Amended)

902 KAR 100:073. Use of radionuclides in the healing arts.

RELATES TO: KRS 211.842 to 211.852, 211.990(4), 10 CFR 35
STATUTORY AUTHORITY: KRS 194.050, 211.090, 211.844, 10 CFR 35
NECESSITY AND FUNCTION: [~~The Cabinet for Human Resources is empowered by~~] KRS 211.844 authorizes the Cabinet for Human Resources to provide by administrative regulation for the registration and licensing of the possession or use of sources [~~any source~~] of ionizing or electronic product radiation and the handling and disposal of radioactive waste. [~~The purpose of~~] This administrative regulation provides [~~is to provide~~] requirements and provisions for the use of radioactive material in the healing arts and for issuance of licenses authorizing the medical use of radioactive material; and [~~:~~

~~Section 1. Applicability. This regulation~~] establishes requirements for specific licensees to possess, use, and transfer radioactive material for medical uses.

Section 1. [~~2.~~] License Required. (1) A [~~No~~] person shall not manufacture, produce, acquire, receive, possess, use, or transfer radioactive material for medical use except in accordance with a specific license issued pursuant to 902 KAR Chapter 100 [~~these regulations~~].

(2) Unless prohibited by license condition, an individual may receive, possess, use, or transfer radioactive material in accordance with the requirements in this administrative regulation under the supervision of an authorized user as provided in Section 8 [9] of this administrative regulation.

Section 2. [~~3.~~] License Amendments. A licensee shall apply for and receive a license amendment before:

(1) [~~Before~~] Using radioactive material for a method or type of medical use not permitted by the license issued under this administrative regulation;

(2) [~~Before~~] Permitting anyone, except a visiting authorized user described in Section 10 of this administrative regulation, to work as an authorized user under the license;

(3) [~~Before~~] Changing a radiation safety officer or teletherapy physicist;

(4) [~~Before~~] Ordering radioactive material in excess of the amount specified on the license;

(5) [~~Before~~] Adding to or changing the areas of use or address [~~or addresses~~] of use identified in the application or on the license; and

(6) [~~Before~~] Changing statements, representations, and procedures which are incorporated into the license.

Section 3. [~~4.~~] Notifications. A licensee shall notify the cabinet in writing within thirty (30) days if [~~when~~] an authorized user, radiation safety officer, or teletherapy physicist permanently discontinues performance of duties under the license.

Section 4. As Low as Reasonably Achievable ([~~5.~~] ALARA) Program. (1) A [~~Each~~] licensee shall develop and implement a written program to maintain radiation doses and releases of radioactive material in effluents to unrestricted areas as low as reasonably achievable (ALARA) in accordance with 902 KAR 100:015, Section 2 [~~of these regulations~~].

(2) To satisfy the requirement of this section:

(a) The management, radiation safety officer, and [~~all~~] authorized users shall participate in the establishment, implementation, and operation of the program as required by this administrative regulation [~~these regulations~~] or the Radiation Safety Committee; or

(b) For licensees that are not medical institutions, management and [~~all~~] authorized users shall participate in the program as required by the radiation safety officer.

(3) The ALARA program shall include an annual review by the Radiation Safety Committee for licensees that are medical institutions or management, and the radiation safety officer for licensees that are not medical institutions.

(a) The review shall consist of:

1. Summaries of the types and amounts of radioactive material used;

2. Occupational dose reports; and

3. Continuing education and training for [~~all~~] personnel who work with, or in the vicinity of, radioactive material.

(b) The purpose of the review shall be [~~is~~] to ensure that individuals make every reasonable effort to maintain occupational doses, doses to the general public, and releases of radioactive material ALARA [~~as low as reasonably achievable~~], taking into account the state of technology and the cost of improvements in relation to benefits.

(4) The licensee shall retain a current written description of the ALARA program for the duration of the license. The written description shall include:

(a) A commitment by management to keep occupational doses ALARA [~~as low as reasonably achievable~~];

(b) A requirement that the radiation safety officer brief management once each year on the radiation safety program;

(c) [~~Personnel exposure investigational levels that, when exceeded, will initiate an investigation by the radiation safety officer of the cause of the exposure; and~~

~~(d)~~] Personnel exposure investigational levels that, if [~~when~~] exceeded, will initiate a prompt investigation by the radiation safety officer of the cause of the exposure and a consideration of actions that may [~~might~~] be taken to reduce the probability of recurrence.

Section 5. [~~6.~~] Radiation Safety Officer. (1) A licensee shall appoint a radiation safety officer responsible for implementing the radiation safety program. The licensee, through the radiation safety officer, shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's radioactive

material program.

(2) The radiation safety officer shall:

(a) Investigate overexposures, accidents, spills, losses, thefts, unauthorized receipts, uses, transfers, [~~and~~] disposals, and other deviations from approved radiation safety practice and implement corrective actions as necessary;

(b) Implement written policy and procedures for:

1. Authorizing the purchase of radioactive material;

2. Receiving and opening packages of radioactive material;

3. Storing radioactive material;

4. Keeping an inventory record of radioactive material;

5. Using radioactive material safely;

6. Taking emergency action if control of radioactive material is lost;

7. Performing periodic radiation surveys;

8. Performing checks of survey instruments and other safety equipment;

9. Disposing of radioactive material;

10. Training personnel who work in or frequent areas where radioactive material is used or stored; and

11. Keeping a copy of:

a. [~~all~~] Records and reports required by 902 KAR 100:017, 902 KAR 100:020, 902 KAR 100:021, 902 KAR 100:035, 902 KAR 100:040, 902 KAR 100:050, 902 KAR 100:052, 902 KAR 100:058, 902 KAR 100:060, 902 KAR 100:070, 902 KAR 100:073, and 902 KAR 100:165;

b. This administrative regulation;

c. [~~cabinet regulations, a copy of these regulations, a copy of~~] Each licensing request; [~~and~~]

d. License and amendments; and

e. [~~the~~] Written policy and procedures required by 902 KAR 100:017, 902 KAR 100:020, 902 KAR 100:021, 902 KAR 100:035, 902 KAR 100:040, 902 KAR 100:050, 902 KAR 100:052, 902 KAR 100:058, 902 KAR 100:060, 902 KAR 100:070, 902 KAR 100:073, and 902 KAR 100:165 [~~the regulations~~]; and

(c) For medical use not sited at a medical institution, approve or disapprove radiation safety program changes with the advice and consent of management prior to submittal to the cabinet for licensing action; or

(d) For medical use sited at a medical institution, assist the Radiation Safety Committee in the performance of its duties.

Section 6. [~~7.~~] Radiation Safety Committee. A [~~Each~~] medical institution licensee shall establish a Radiation Safety Committee to oversee the use of radioactive material.

(1) The committee shall meet the following administrative requirements:

(a) Membership shall [~~must~~] consist of at least three (3) individuals and shall include:

1. An authorized user of each type of use permitted by the license;

2. The radiation safety officer;

3. A representative of the nursing service; [~~and~~]

4. A representative of management who is not [~~neither~~] an authorized user or [~~nor~~] a radiation safety officer; and

5. Other members [~~may be included~~] as the licensee deems appropriate.

(b) The committee shall meet at least once each calendar quarter.

(c) To establish a quorum and to conduct business, one-half (1/2) of the committee's membership shall be present, including the radiation safety officer and the management's representative.

(d) The minutes of each Radiation Safety Committee meeting shall include:

1. [~~The~~] Date of the meeting;

2. Members present;

3. Members absent;

4. Summary of deliberations and discussions;

5. Recommended actions and the numerical results of all ballots; and

6. Document [~~any~~] reviews required in Sections 2 [~~3~~] and 6(2) [~~Section 7(2)~~] of this administrative regulation.

(e) The committee shall provide each member with a copy of the meeting minutes and retain one (1) copy until the cabinet authorizes its disposition.

(2) To oversee the use of licensed material, the committee shall:

(a) Be responsible for monitoring the institutional program to maintain occupational doses ALARA [~~as low as reasonably achievable~~];

(b) Review, on the basis of safety and with regard to the training and experience standards of this administrative regulation, and approve or disapprove an [~~any~~] individual who is to be listed as an authorized user, the radiation safety officer, or teletherapy physicist before submitting a license application or request for amendment or renewal;

(c) Review on the basis of safety, and approve or disapprove each proposed method of use of radioactive material;

(d) Review on the basis of safety, and approve with the advice and consent of the radiation safety officer and the management representative, or disapprove procedures and radiation safety program changes prior to submittal to the cabinet for licensing action;

(e) Review quarterly, with the assistance of the radiation safety officer, occupational radiation exposure records of [~~all~~] personnel working with radioactive material;

(f) Review quarterly, with the assistance of the radiation safety officer, [~~all~~] incidents involving radioactive material with respect to cause and subsequent actions taken;

(g) Review annually, with the assistance of the radiation safety officer, the radioactive material program; and

(h) Establish a table of investigational levels for occupational dose that, if [~~when~~] exceeded, shall [~~will~~] initiate investigations and considerations of action by the radiation safety officer.

Section 7. [~~8.~~] Statement of Authorities and Responsibilities. (1) A licensee shall provide sufficient authority and organizational freedom to the radiation safety officer and the Radiation Safety Committee to:

(a) Identify radiation safety problems;

(b) Initiate, recommend, or provide solutions; and

(c) Verify implementation of corrective actions.

(2) A licensee shall:

(a) Establish in writing the authorities, duties, responsibilities, and radiation safety activities of the radiation safety officer and the Radiation Safety Committee; and

(b) Retain the current edition of these statements as a record until the cabinet terminates the license.

Section 8. [~~9.~~] Supervision. (1) A licensee who permits the receipt, possession, use, or transfer of radioactive material by an individual under the supervision of an authorized user as allowed by Section 1 [~~2~~] of this administrative regulation shall:

(a) Instruct the supervised individual in the principles of radiation safety appropriate to that individual's use of radioactive material and provide reinstruction as needed;

(b) Review the supervised individual's use of radioactive material[~~, provide reinstruction as needed and~~]

(c) Review records kept to reflect [~~this~~] use of radioactive materials;

(d) [~~(c)~~] Require the authorized user to be immediately available to communicate with the supervised individual;

(e) [~~(d)~~] Require the authorized user to be [~~able to be~~] physically present and available to the supervised individual on one (1) hour notice; and

(f) [~~(e)~~] Require that only those individuals specifically trained, and designated by the authorized user, shall be permitted to administer

radionuclides or radiation to patients.

(2) A licensee shall require the supervised individual receiving, possessing, using, or transferring radioactive material under Section 1 [2] of this administrative regulation to:

(a) Follow the instructions of the supervising authorized user;

(b) Follow the procedures established by the radiation safety officer; and

(c) Comply with 902 KAR Chapter 100 [~~these regulations~~] and the license conditions with respect to the use of radioactive material.

Section 9. Quality Management Program. (1) An applicant or licensee shall establish and maintain a written quality management program to provide high confidence that radioactive material or radiation from radioactive material shall be administered as directed by the authorized user, unless otherwise excepted by the cabinet.

(2) The quality management program shall include written policies and procedures to meet the following specific objectives:

(a) Prior to administration, a written directive is prepared for:

1. A teletherapy radiation dose;

2. A gamma stereotactic radiosurgery radiation dose;

3. A brachytherapy radiation dose;

4. An administration of quantities greater than thirty (30) microcuries of either sodium iodide I-125 or I-131; or

5. A therapeutic administration of a radiopharmaceutical, other than sodium iodide I-125 or I-131;

(b) If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive shall be acceptable. The oral revision shall be documented immediately in the patient's record, and a revised written directive shall be signed by the authorized user within forty-eight (48) hours of the oral revision;

(c) A written revision to an existing written directive may be made for a diagnostic or therapeutic procedure if the revision is dated and signed by an authorized user prior to the administration of the radiopharmaceutical dosage, brachytherapy dose, gamma stereotactic radiosurgery dose, teletherapy dose, or next teletherapy fractional dose;

(d) Prior to each administration, the patient's identity shall be verified by more than one (1) method as the individual named in the written directive;

(e) Final plans for treatment and related calculations for brachytherapy, teletherapy, and gamma stereotactic radiosurgery shall be as specified in the respective written directives;

(f) Each administration shall be specified in the written directive; and

(g) An unintended deviation from the written directive shall be identified and evaluated, and appropriate action shall be taken.

(3) A licensee shall develop procedures for, and conduct a review of, the quality management program. The review shall include, since the last review, an evaluation of a representative sample of patient administrations, recordable events, and misadministrations to verify compliance with the quality management programs.

(a) Reviews shall be conducted at intervals not to exceed twelve (12) months;

(b) Reviews shall be evaluated to determine the effectiveness of the quality management program and, if required, modifications shall be made to meet the objectives of subsection (1) of this section; and

(c) Records of each review shall be retained, including the evaluations and findings, for three (3) years. The records shall be in an auditable form.

(4) A licensee shall evaluate and respond, within thirty (30) days after discovery of the recordable event, to each recordable event. The licensee shall:

(a) Assemble relevant facts, including the cause;

(b) Identify corrective action required to prevent recurrence; and

(c) Retain a record of the relevant facts and corrective action taken for three (3) years. The records shall be in an auditable form.

(5) If a written directive is required in subsection (1)(a) of this section, the licensee shall retain the written directive and a record of each administered radiation dose or radiopharmaceutical dosage for three (3) years after the date of administration. The written directive shall be in an auditable form.

(6) A licensee shall modify the quality management program to increase the program's efficiency if the program's effectiveness is not decreased. The licensee shall furnish the modification to the Radiation Control Branch within thirty (30) days after the modification has been made.

(7) An applicant for a new license shall submit to the Radiation Control Branch a quality management program as part of the application for a license, and implement the program upon issuance of the license by the Radiation Control Branch.

(8) An existing licensee shall submit to the Radiation Control Branch, by December 31, 1994, a written certification that the quality management program has been implemented and a copy of the program.

Section 10. Visiting Authorized User. (1) A licensee may permit a [~~any~~] visiting authorized user to use licensed material for medical use under the terms of the licensee's license for sixty (60) days each year if:

(a) The visiting authorized user has the prior written permission of the licensee's management and, if the use occurs on behalf of an institution, the institution's Radiation Safety Committee;

(b) The licensee has a copy of the cabinet, another agreement state, or U.S. Nuclear Regulatory Commission license that identifies the visiting authorized user by name as an authorized user for medical use; [~~; and~~] The supervising authorized user need not be present for each use of radioactive material; and

(c) Only those procedures for which the visiting authorized user is specifically authorized by the cabinet, another agreement state, or U.S. Nuclear Regulatory Commission license are performed by that individual.

(2) A licensee need not apply for a license amendment in order to permit a visiting authorized user to use licensed material as described in this section.

(3) A licensee shall retain copies of the records specified in this section for five (5) years from the date of the last visit.

Section 11. Mobile Nuclear Medicine Service Administrative Requirements. (1) The cabinet shall [~~will only~~] license mobile nuclear medicine services in accordance with this administrative regulation and [~~other~~] applicable requirements of 902 KAR 100:012, 902 KAR 100:015, 902 KAR 100:020, 902 KAR 100:021, 902 KAR 100:035, 902 KAR 100:040, 902 KAR 100:050, 902 KAR 100:060, 902 KAR 100:070, 902 KAR 100:073, and 902 KAR 100:016 [~~these regulations~~] to serve clients [~~who are~~] not licensed for medical use by the cabinet.

(2) Mobile nuclear medicine service licensees shall retain for three (3) years after the last provision of service a letter signed by the management of each location where services are rendered that authorizes use of radioactive material.

(3) A mobile nuclear medicine service shall not have radioactive material delivered directly from the manufacturer or the distributor to the client's address of use.

Section 12. Records and Reports of Misadministrations. (1)(a) If [~~When~~] a misadministration **occurs** [~~involves a [any] therapy procedure~~], the licensee shall notify the:

1. Cabinet **by telephone no later than the next calendar day after discovery of the misadministration**; [~~. The licensee shall also notify the~~]

2. Referring physician of the affected patient; and

3. [~~the~~] Patient or a responsible relative or guardian, unless:

a. The referring physician agrees to inform the patient; or

b. **The referring physician** believes, based on medical judgment, that telling the patient or the patient's responsible relative or guardian may [would] be harmful to one or the other[, respectively].

(b) [These] Notifications **of individuals in paragraph (a)2 and 3 of this subsection** shall [must] be made within twenty- four (24) hours after the licensee discovers the misadministration. If the referring physician, patient, or the patient's responsible relative or guardian cannot be reached within twenty-four (24) hours, the licensee shall notify them as soon as practicable.

(c) The licensee shall [is] not be required to notify the patient or the patient's responsible relative or guardian without first consulting the referring physician. [; however,]

(d) The licensee shall not delay medical care for the patient, **including necessary remedial care as a result of the misadministration** because of the notification requirements of this subsection [this].

(2) Within fifteen (15) days after **discovery of a** [an initial therapy] misadministration **[report to the cabinet]**, the licensee shall report, in writing, to the cabinet **[and to the referring physician]**, and shall furnish a copy of the report **or a brief description of both the event and consequences as they may affect the patient, if a statement is included that the report submitted to the cabinet can be obtained from the licensee,** to the patient or the patient's responsible relative or guardian if either was previously notified by the licensee as required by this section.

(a) The written report shall include:

1. The licensee's name;
2. [the] **Prescribing [Referring]** physician's name;
3. A brief description of the event;
4. [the] Effect on the patient;
5. [the] Action taken to prevent recurrence;
6. **Why the event occurred;**
7. **What improvements are needed to prevent recurrence;** and
8. [6.] If [whether] the licensee informed the patient or the patient's responsible relative or guardian, and if not, why not.

(b) The report shall not include the patient's name or other information that may [could] lead to identification of the patient.

(3) [If [When] a misadministration involves a diagnostic procedure:

(a) The radiation safety officer shall:

1. Promptly investigate the [its] cause;
2. Make a record for cabinet review; and
3. Retain the record as directed in this section.

(b) The licensee shall [also] notify the referring physician and the cabinet in writing within fifteen (15) days if the misadministration involved:

1. The use of radioactive material not intended for medical use;
2. Administration of dosage five (5) fold different from the intended dosage; or
3. Administration of radioactive material where [such that] the patient is likely to receive an organ dose greater than two (2) rems or a whole body dose greater than 500 millirems.

(c) Licensees may use dosimetry tables in package inserts, corrected only for amount of radioactivity administered, to determine if [whether] a report is required.

(4)] A [Each] licensee shall retain a record of each misadministration for **five (5)** [ten (10)] years. The record shall contain:

(a) [the] Names of [all] individuals involved in the event, including:

1. The **prescribing** physician;
2. Allied health personnel;
3. The patient; and
4. [the] Patient's referring physician;

(b) [the] Patient's Social Security [number] or identification number, if one has been assigned;

(c) A brief description of the **misadministration** event;

(d) [the] Effect on the patient; and

(e) [the] Action taken[, if any,] to prevent recurrence;

(f) What improvements are needed to prevent recurrence.

(4) [(5)] Aside from the notification requirement, nothing in this section shall affect [any] rights or duties of licensees,, and physicians in relation to each other, patients, or responsible relatives or guardians.

Section 13. Suppliers. A licensee shall use for medical use only:

(1) Radioactive material manufactured, labeled, packaged, and distributed in accordance with a license issued pursuant to 902 KAR 100:040 and 902 KAR 100:058, [these regulations or the] equivalent regulations of another agreement state, or the U.S. Nuclear Regulatory Commission; and

(2) Reagent kits [that have been] manufactured, labeled, packaged, and distributed in accordance with an approval issued by the U.S. Department of Health and Human Services, Food and Drug Administration.

Section 14. Quality Control of Imaging Equipment. A [Each] licensee shall establish written quality control procedures for [all] equipment used to obtain images from radionuclide studies.

(1) As a minimum, the procedures shall include:

(a) Quality control procedures recommended by equipment manufacturers; or

(b) Procedures [which have been] approved by the cabinet.

(2) The licensee shall conduct quality control procedures in accordance with written procedures.

Section 15. Possession, Use, Calibration, and Check of Dose Calibrators. (1) A medical use licensee authorized to administer radiopharmaceuticals shall possess a dose calibrator and use the calibrator [it] to measure the amount of activity administered to each patient.

(2) A licensee shall ensure the constancy, accuracy, linearity, and geometry dependence of the dose calibrator as follows:

(a) [Check each dose calibrator for] Constancy shall be checked with a dedicated check source at the beginning of each day of use. [To satisfy the requirement of this section,] The check shall be done on a frequently used setting with a sealed source of not less than ten (10) microcuries of radium-226 or fifty (50) microcuries of [any] other photon-emitting radionuclides [radionuclide] with a half-life greater than ninety (90) days;

(b) [Test each dose calibrator for] Accuracy shall be tested upon installation and at intervals not to exceed twelve (12) months [thereafter] by assaying at least two (2) sealed sources containing different radionuclides, the activity [of which] the manufacturer has determined within five (5) percent of the stated activity, with minimum activity of ten (10) microcuries for radium-226 and fifty (50) microcuries for [any] other photon-emitting radionuclides, and at least one (1) having [of which has] a principal photon energy between 100 keV and 500 keV;

(c) [Test each dose calibrator for] Linearity shall be tested upon installation and at intervals not to exceed three (3) months [thereafter] over the range of use between ten (10) microcuries and the highest dosage [that will be] administered; and

(d) [Test each dose calibrator for] Geometry dependence shall be tested upon installation over the range of volumes and volume configurations for which it shall [will] be used. The licensee shall keep a record of this test for the duration of the use of the dose calibrator.

(3) A licensee shall mathematically correct dosage readings for [any] geometry or linearity errors that exceeds ten (10) percent if the dosage is greater than ten (10) microcuries, and shall repair or replace the dose calibrator if the accuracy or constancy error exceed[s] ten (10) percent.

(4) A licensee shall [also] perform checks and tests required by this section following adjustment or repair of the dose calibrator.

(5) A licensee shall retain a record of each check and test required by this section for three (3) years. The records required shall include:

(a) For subsection (2)(a) of this section, the:

1. Model and serial number of the dose calibrator;

2. [the] Identity and calibrated activity of the radionuclide contained in the check source;

3. [the] Date of the check;

4. [the] Activity measured;

5. [the] Instrument settings; and

6. [the] Initials of the individual who performed the check;

(b) For subsection (2)(b) of this section, the:

1. Model and serial number of the dose calibrator;

2. [the] Model and serial number of each source used and [the] identity of the radionuclide contained in the source and its activity;

3. [the] Date of the test;

4. [the] Results of the test;

5. [the] Instrument settings; and

6. [the] Signature of the radiation safety officer;

(c) For subsection (2)(c) of this section, the:

1. Model and serial number of the dose calibrator;

2. [the] Calculated activities;

3. [the] Measured activities;

4. [the] Date of the test; and

5. [the] Signature of the radiation safety officer; and

(d) For subsection (2)(d) of this section, the:

1. Model and serial number of the dose calibrator;

2. [the] Configuration and calibrated activity of the source measured;

3. [the] Activity of the source;

4. [the] Activity measured and [the] instrument setting for each volume measured;

5. [the] Date of the test; and

6. [the] Signature of the radiation safety officer.

Section 16. Calibration and Check of Survey Instruments. (1) A licensee shall ensure that the survey instruments used to show compliance with this administrative regulation have been calibrated before first use, annually, and following repair.

(2) A [To satisfy the requirements of this section, the] licensee shall:

(a) Calibrate [all] required scale readings up to 1000 millirems per hour with a radiation source;

(b) [For each scale that shall be calibrated,] Calibrate two (2) readings for each scale, separated by at least fifty (50) percent of scale rating; and

(c) Conspicuously note on the instrument the apparent dose rate from a dedicated check source as determined at the time of calibration, and the date of calibration.

(3) A [The] licensee shall consider a point as calibrated if:

(a) [Consider a point as calibrated if] The indicated dose rate differs from the calculated dose rate by not more than ten (10) percent; and

(b) [Consider a point as calibrated if] The indicated dose rate differs from the calculated dose rate by not more than twenty (20) percent and [shall conspicuously attach] a correction chart or graph is conspicuously attached to the instrument.

(4) A licensee shall check each survey instrument for proper operation with the dedicated check source before each use. The licensee shall [is] not be required to keep records of these checks.

(5) A [The] licensee shall retain a record of each calibration required in this section for three (3) years. The record shall include:

(a) A description of the calibration procedure; [and]

(b) A description of the source used and the certified dose rates from the source; [and the]

(c) Rates indicated by the instrument being calibrated;

(d) [the] Correction factors deduced from the calibration data;

(e) [the] Signature of the individual who performed the calibration; and

(f) [the] Date of calibration.

(6) A [To meet the requirements of this section, the] licensee shall [may] obtain the services of individuals licensed by the cabinet, the U.S. Nuclear Regulatory Commission, or another agreement state, to perform calibrations of survey instruments.

(7) Records of calibrations which contain information required by subsection [paragraph] (5) of this section shall be maintained by the licensee.

Section 17. Assay of Radiopharmaceutical Dosages. A licensee shall:

(1) Assay, before medical use, the activity of each radiopharmaceutical dosage that contains more than ten (10) microcuries of a photon-emitting radionuclide;

(2) Assay, before medical use, the activity of each radiopharmaceutical dosage with a desired activity of ten (10) microcuries or less of a photon-emitting radionuclide to verify that the dosage shall [does] not exceed ten (10) microcuries; and

(3) Retain a record of the assays required by this section for three (3) years. [To satisfy this requirement,] The record shall contain the:

(a) Generic name, trade name, or abbreviation of the radiopharmaceutical, lot number, expiration dates, and the radionuclide;

(b) Patient's name and identification number if one has been assigned;

(c) Prescribed dosage and activity of the dosage at the time of assay, or a notation that the total activity is less than ten (10) microcuries;

(d) Date and time of the assay and administration; and

(e) Initials of the individual who performed the assay.

Section 18. Authorization for Calibration and Reference Sources. A [Any] person authorized by Section 1 [2] of this administrative regulation for medical use of radioactive material may receive, possess, and use the following radioactive material for check, calibration, and reference use:

(1) Sealed sources, not exceeding fifteen (15) millicuries per source [each], manufactured and distributed by persons specifically licensed pursuant to 902 KAR 100:040 and 902 KAR 100:058, [these regulations or] equivalent provisions of the U.S. Nuclear Regulatory Commission, or another agreement state;

(2) [Any] Radioactive materials listed in Sections 29 and [or] 31 of this administrative regulation with a half-life of 100 days or less in individual amounts not to exceed fifteen (15) millicuries;

(3) [Any] Radioactive materials listed in Sections 29 and [or] 31 of this administrative regulation with a half-life greater than 100 days in individual amounts not to exceed 200 microcuries [each]; and

(4) Technetium-99m in individual amounts not to exceed fifty (50) millicuries.

Section 19. Requirements for Possession of Sealed Sources and Brachytherapy Sources. (1) A licensee in possession of a [any] sealed source or brachytherapy source shall:

(a) Follow the radiation safety and handling instructions supplied by the manufacturer or equivalent instructions approved by the cabinet; and

(b) [shall] Maintain the instructions for the duration of source use in a legible form convenient to users.

(2) A licensee in possession of a sealed source shall assure that:

(a) The source is tested for leakage before its first use unless the licensee has a certificate from the supplier indicating that the source was tested within six (6) months before transfer to the licensee; and

(b) The source is tested for leakage at intervals not to exceed six (6) months or at intervals approved by the cabinet, another agreement state, or the U.S. Nuclear Regulatory Commission.

(3) To satisfy the leak test requirements of this section, a [the] licensee shall assure that:

(a) Leak tests are capable of detecting the presence of 0.005 microcurie of radioactive material on the test sample, or in the case

of radium, the escape of radon at the rate of 0.001 microcurie per twenty-four (24) hours;

(b) Test samples are taken from the source or from the surfaces of the device in which the source is mounted or stored on which radioactive contamination may [~~might be expected to~~] accumulate; and

(c) Test samples are taken with [~~when~~] the source [~~is~~] in the "off" position.

(4) A licensee shall retain leak test records for five (5) years. The records shall contain:

(a) [~~the~~] Model number and serial number if assigned, of each source tested;

(b) [~~the~~] Identity of each source radionuclide and its estimated activity;

(c) [~~the~~] Measured activity of each test sample expressed in microcuries;

(d) A description of the method used to measure each test sample;

(e) [~~the~~] Date of the test; and

(f) [~~the~~] Signature of the radiation safety officer.

(5) If the leak test reveals the presence of 0.005 microcurie or more of removable contamination, the licensee shall:

(a) Immediately withdraw the sealed source from use and store it in accordance with the requirements of 902 KAR 100:019 and 902 KAR 100:060 [~~these regulations~~]; and

(b) File a report with the cabinet within five (5) days of receiving the leak test results, describing the:

1. Equipment involved;

2. [~~the~~] Test results; and

3. [~~the~~] Action taken.

(6) A licensee need not perform a leak test on the following sources:

(a) Sources containing only radioactive material with a half-life of less than thirty (30) days;

(b) Sources containing only radioactive material as a gas;

(c) Sources containing 100 microcuries or less of beta or photon-emitting material, or ten (10) microcuries or less of alpha-emitting material;

(d) Seeds of iridium-192 encased in nylon ribbon; and

(e) Sources stored and not being used. The licensee shall[~~, however,~~] test each source for leakage before [~~any~~] use or transfer, unless it has been tested for leakage within six (6) months before the date of use or transfer.

(7) A licensee in possession of a sealed source or brachytherapy source shall conduct a physical inventory of [~~all such~~] sources at intervals not to exceed three (3) months. The licensee shall retain each inventory record for five (5) years, and [~~:~~] the inventory records shall contain:

(a) [~~the~~] Model number of each source;

(b) [~~the~~] Serial number, if one has been assigned;

(c) [~~the~~] Identity of each source radionuclide and its estimated activity;

(d) [~~the~~] Location of each source;

(e) Date of the inventory; and

(f) [~~the~~] Signature of the radiation safety officer.

(8) A licensee in possession of a sealed source or brachytherapy source shall survey with a radiation survey instrument, at intervals not to exceed three (3) months, the [~~all~~] areas where [~~such~~] sources are stored. This requirement shall [~~does~~] not apply to:

(a) Teletherapy sources in teletherapy units; or

(b) Sealed sources in diagnostic devices.

(9) A licensee shall retain a record of each survey required in this section for three (3) years. The record shall include:

(a) [~~the~~] Date of the survey;

(b) A sketch of each area [~~that was~~] surveyed; [~~and~~]

(c) [~~the~~] Measured dose rate at several points in each area expressed in millirems per hour;

(d) [~~the~~] Model [~~number~~] and serial number of the survey instrument used to make the survey; and

(e) [~~the~~] Signature of the radiation safety officer.

Section 20. Syringe Shields. (1) A licensee shall keep syringes that contain radioactive material to be administered in a radiation shield.

(2) A licensee shall require each individual who prepares or administers radiopharmaceuticals to use a syringe radiation shield, unless the use of the shield is contraindicated for that patient.

Section 21. Syringe Labels. A licensee shall conspicuously label each syringe, or syringe radiation shield that contains a syringe with a radiopharmaceutical, with the:

(1) Radiopharmaceutical name or its abbreviation;

(2) [~~the~~] Type of diagnostic study or therapy procedure to be performed; or

(3) [~~the~~] Patient's name, unless the radiopharmaceutical is to be administered immediately.

Section 22. Vial Shields. A licensee shall require each individual preparing or handling a vial that contains a radiopharmaceutical to keep the vial in a vial radiation shield.

Section 23. Vial Shield Labels. A licensee shall conspicuously label each vial radiation shield that contains a vial of a radiopharmaceutical with the radiopharmaceutical name or its abbreviation.

Section 24. Surveys for Contamination and Ambient Radiation Dose Rate. (1) A licensee shall survey with a radiation detection survey instrument at the end of each day of use [~~all~~] areas where radiopharmaceuticals are routinely prepared for use or administered.

(2) A licensee shall survey with a radiation detection survey instrument at least weekly [~~once each week all~~] areas where radiopharmaceuticals or radioactive wastes are stored.

(3) A licensee shall conduct the dose rate surveys [~~required by this section so as to be able~~] to measure dose rates as low as one-tenth (0.1) millirem per hour.

(4) A licensee shall establish dose rate action levels for the surveys [~~required by this section~~] and [~~shall~~] require that the individual performing the survey immediately notify the radiation safety officer if a dose rate exceeds an action level.

(5) A licensee shall survey for removable contamination weekly in [~~each day of use all~~] areas where radiopharmaceuticals are routinely prepared for use, [~~or~~] administered, or stored. [~~and each week where radioactive materials are stored.~~]

(6) A licensee shall conduct the contamination surveys [~~so as to be able~~] to detect contamination on each wipe sample of 2000 disintegrations per minute.

(7) A licensee shall establish removable contamination action levels for the surveys, and [~~shall~~] require that the individual performing the survey immediately notify the radiation safety officer if contamination exceeds action levels.

(8) A licensee shall retain a record of each survey [~~required by this section~~] for three (3) years. The record shall [~~must~~] include:

(a) [~~the~~] Date of the survey;

(b) A sketch of each area surveyed;

(c) Action levels established for each area;

(d) [~~the~~] Measured dose rate at several points in each area expressed in millirems per hour or the removable contamination in each area expressed in disintegrations per minute per 100 square centimeters;

(e) [~~the~~] Serial [~~number~~] and [~~the~~] model number of the instrument used to make the survey or analyze the samples; and

(f) [~~the~~] Initials of the individual who performed the survey.

Section 25. Release of Patients Containing Radiopharmaceuticals

or Permanent Implants. (1) A licensee shall not authorize release from confinement for medical care a [any] patient administered a radiopharmaceutical until [either]:

(a) The dose rate from the patient is less than five (5) millirems per hour at a distance of one (1) meter; or

(b) The activity in the patient is less than thirty (30) millicuries.

(2) A licensee shall not authorize release from confinement for medical care a [any] patient administered a permanent implant until the dose rate from the patient is less than five (5) millirems per hour at a distance of one (1) meter.

Section 26. Mobile Nuclear Medicine Service Technical Requirements. A licensee providing mobile nuclear medicine service shall:

(1) Transport to each address of use only syringes or vials containing prepared radiopharmaceuticals or radiopharmaceuticals [that are] intended for reconstitution of radiopharmaceutical kits;

(2) Bring into each address of use [all] radioactive material to be used and, before leaving, remove [all] unused radioactive material and associated radioactive waste;

(3) Secure or keep under constant surveillance and immediate control [all] radioactive material if [when] in transit or at an address of use;

(4) Check survey instruments and dose calibrators as required in Sections 15 and [Section] 16 of this administrative regulation, and check [all] other transported equipment for proper function before medical use at each address of use;

(5) Carry a calibrated survey meter in each vehicle [that is] being used to transport radioactive material and, before leaving a client address of use, survey [all] areas of radiopharmaceutical use with a radiation detection survey instrument to ensure that [all] radiopharmaceuticals and [all] associated radioactive waste have been removed; and

(6) Retain a record of each survey [required by this section] for three (3) years. The record shall [must] include:

(a) [the] Date of the survey;

(b) A sketch of each area [that was] surveyed;

(c) [the] Measured dose rate at several points in each area of use expressed in millirems per hour;

(d) [the] Model and serial number of the instrument used to make the survey; and

(e) [the] Initials of the individual who performed the survey.

Section 27. Storage of Volatiles and Gases. [(1)] A licensee shall store:

(1) Volatile radiopharmaceuticals and radioactive gases in the shippers' radiation shield and container; and

(2) [A licensee shall store and] Use a multidose container in a properly functioning fume hood.

Section 28. Decay-in-storage. (1) A licensee shall hold radioactive material with a physical half-life of less than sixty-five (65) days for decay-in-storage before disposal in ordinary trash, and shall be [is] exempt from the requirements of 902 KAR 100:021, Section 1 [2 of these regulations] if the licensee:

(a) Holds radioactive material for decay a minimum of ten (10) half-lives;

(b) Monitors radioactive material at the container surface before disposal as ordinary trash and determines that its radioactivity cannot be distinguished from the background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding;

(c) Removes or obliterates [all] radiation labels; and

(d) Separates and monitors each generator column individually with [all] radiation shielding removed to ensure that its contents have decayed to background radiation level before disposal.

(2) For radioactive material disposed in accordance with this section, the licensee shall retain a record of each disposal for three (3) years. The record shall [must] include the:

(a) Date of the disposal;

(b) [the] Date on which the radioactive material was placed in storage;

(c) [the] Radionuclides disposed;

(d) [the] Model and serial number of the survey instrument used;

(e) [the] Background dose rate;

(f) [the] Radiation dose rate measured at the surface of each waste container; and

(g) [the] Name of the individual who performed the disposal.

Section 29. Use of Radiopharmaceuticals for Uptake, Dilution, or Excretion Studies. (1) A licensee shall [may] use the following prepared radiopharmaceuticals for diagnostic studies involving the measurement of uptake, dilution, or excretion:

(a) Iodine-131 as sodium iodide, iodinated human serum albumin (IHSA), labeled rose bengal, or sodium iodohippurate;

(b) Iodine-125 as sodium iodide or iodinated human serum albumin (IHSA);

(c) Cobalt-57 as labeled cyanocobalamin;

(d) Cobalt-58 as labeled cyanocobalamin;

(e) Cobalt-60 as labeled cyanocobalamin;

(f) Chromium-51 as sodium chromate or labeled human serum albumin;

(g) Iron-59 as citrate;

(h) Technetium-99m as pertechnetate; or

(i) [Any] Radioactive material in a radiopharmaceutical for a diagnostic use involving measurements of uptake, dilution, or excretion for which the Food and Drug Administration (FDA) has:

1. Accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND); [or]

2. Approved a "New Drug Application" (NDA); or

3. Issued a biological product license.

(2) A licensee using a radiopharmaceutical for a clinical procedure other than one specified in the product label or package insert instructions shall comply with the product label or package insert instructions regarding physical form, route of administration, and dosage range.

Section 30. Possession of Survey Instrument. A licensee authorized to use radioactive material for uptake, dilution, and excretion studies shall possess a portable radiation detection survey instrument capable of detecting dose rates over the range one-tenth (0.1) millirem per hour to fifty (50) millirems per hour. The instrument shall be operable and calibrated in accordance with Section 16 of this administrative regulation.

Section 31. Use of Radiopharmaceuticals, Generators, and Reagent Kits for Imaging and Localization Studies. (1) A licensee shall [may] use one (1) of the following radiopharmaceuticals, generators, and reagent kits for imaging and localization studies:

(a) Molybdenum-99/technetium-99m generators for the elution or extraction of technetium-99m as pertechnetate;

(b) Technetium-99m as pertechnetate;

(c) Prepared radiopharmaceuticals and reagent kits for the preparation of the following technetium-99m labeled radiopharmaceuticals:

1. Sulfur colloid;
2. Pentetate sodium;
3. Human serum albumin microspheres;
4. Polyphosphate;
5. Macroaggregated human serum albumin;
6. Etidronate sodium;
7. Stannous pyrophosphate;
8. Human serum albumin;
9. Medronate sodium;
10. Gluceptate sodium;

11. Oxidronate sodium;
12. Disofenin; and
13. Succimer;

(d) Iodine-131 as sodium iodide, iodinated human serum albumin, macroaggregated iodinated human serum albumin, colloidal (macroaggregated) iodinated human serum albumin, rose bengal, or sodium iodohippurate;

(e) Iodine-125 as sodium iodide or fibrinogen;

(f) Chromium-51 as human serum albumin;

(g) Gold-198 in colloidal form;

(h) Mercury-197 as chlormerodrin;

(i) Selenium-75 as selenomethionine;

(j) Strontium-85 as nitrate;

(k) Ytterbium-169 as pentetate sodium;

(l) Gallium-67 as citrate;

(m) Indium-111 as chloride or DTPA;

(n) Tin-113/indium-113m generators for the elution of indium-113m as chloride;

(o) Yttrium-87/strontium-87m generators for the elution of strontium-87m;

(p) Thallium-201 as chloride;

(q) Iodine-123 as sodium iodide or iodohippurate; or

(r) [Any] Radioactive material in a diagnostic radiopharmaceutical, except aerosol or gaseous form, or a [any] generator or reagent kit for preparation and diagnostic use of a radiopharmaceutical containing radioactive material for which the Food and Drug Administration has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND), [or] approved a "New Drug Application" (NDA), or issued a biological product license.

(2) A licensee using radiopharmaceuticals for clinical procedures shall comply with the product label or package insert regarding physical form, route of administration, and dosage range.

(3) A licensee shall elute generators in compliance with Section 32 of this administrative regulation and prepare radiopharmaceuticals from kits in accordance with the manufacturer's instructions.

(4) Technetium-99m pentetate as an aerosol for lung function studies shall [is] not be subject to the restrictions in subsection (2) of this section.

(5) If [Provided] the conditions of Section 33 of this administrative regulation are met, a licensee shall use radioactive aerosols or gases only if specific application has been [is] made to and approved by the cabinet.

Section 32. Permissible Molybdenum-99 Concentration. (1) A licensee shall not administer to humans a radiopharmaceutical containing more than 0.15 microcurie of molybdenum-99 per millicurie of technetium-99m.

(2) A licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators shall measure the molybdenum-99 concentration in each elute or extract.

(3) This testing shall be conducted according to written procedures and by personnel [who have been] specifically trained to perform the test.

(4) A licensee required to [who must] measure molybdenum concentration shall retain a record of each measurement for three (3) years. The record shall include, for each elution or extraction of technetium-99m, the:

(a) Measured activity of the technetium expressed in millicuries;

(b) [the] Measured activity of molybdenum expressed in microcuries;

(c) [the] Ratio of the measures expressed as microcuries of molybdenum per millicurie of technetium;

(d) [the] Date of the test; and

(e) [the] Initials of the individual who performed the test.

(5) A licensee shall report immediately to the cabinet each occurrence of molybdenum-99 concentration exceeding the limits specified in this section.

Section 33. Control of Aerosols and Gases. (1) A licensee who administers radioactive aerosols or gases shall do so with a system that shall [will] keep airborne concentrations within the limits prescribed by 902 KAR 100:019 [100:020], Section 3 [4 and Section 8 of these regulations].

(2) A [The] system shall [either] be directly vented to the atmosphere through an air exhaust or provide for collection and decay or disposal of the aerosol or gas in a shielded container.

(3) A licensee shall [only] administer radioactive gases only in rooms that are at negative pressure compared to surrounding rooms.

(4) Before receiving, using, or storing a radioactive gas, a [the] licensee shall calculate the amount of time needed after a release to reduce the concentration in the area of use to the occupational limit listed in 902 KAR 100:019 [100:025 of these regulations].

(a) The calculation shall be based on the highest activity of gas handled in a single container and the measured available air exhaust rate.

(b) A copy of the calculations shall be recorded and retained for the duration of the license.

(5) A licensee shall post the time calculated in this section at the area of use and require that, in case of a gas spill, individuals evacuate the room until the posted time has elapsed.

(6) A licensee shall check the operation of collection systems monthly and measure the ventilation rates in areas of use at intervals not to exceed six (6) months. Records [of these checks and measurements] shall be maintained for three (3) years.

[(7) A copy of the calculations required in subsection (4) of this section shall be recorded and retained for the duration of the license.]

Section 34. Possession of Survey Instruments. (1) A licensee authorized to use radioactive material for imaging and localization studies shall possess a portable radiation:

(a) Detection survey instrument capable of detecting dose rates over the range of one-tenth (0.1) millirem per hour to fifty (50) millirems per hour; and

(b) [a portable radiation] Measurement survey instrument capable of measuring dose rates over the range one (1) millirem per hour to 1000 millirems per hour.

(2) [The] Instruments shall be operable and calibrated in accordance with Section 16 of this administrative regulation.

Section 35. Use of Radiopharmaceuticals for Therapy. A licensee shall [may] use one (1) of the following prepared radiopharmaceuticals:

(1) Iodine-131 as iodide for treatment of hyperthyroidism, cardiac dysfunction, and thyroid carcinoma;

(2) Phosphorus-32 as soluble phosphate for treatment of polycythemia vera, leukemia, and bone metastases;

(3) Phosphorus-32 as colloidal chromic phosphate for intracavitary treatment of malignant effusions;

(4) Gold-198 as colloid for intracavitary treatment of malignant effusions; or

(5) [Any] Radioactive material in a radiopharmaceutical and for a therapeutic use for which the Food and Drug Administration has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND), or approved a "New Drug Application" (NDA). The licensee shall comply with the package insert instructions regarding indications and method of administration.

Section 36. Safety Instruction. (1) A licensee shall provide oral and written radiation safety instruction for [all] personnel caring for patients undergoing radiopharmaceutical therapy. Refresher training shall be provided at intervals not to exceed one (1) year.

(2) The instruction shall describe the licensee's procedures for:

(a) Patient control;

(b) Visitor control;

(c) Contamination control;

(d) Waste control; and

(e) Notification of the radiation safety officer or authorized user in case of the patient's death or medical emergency.

(3) A licensee shall keep a record of individuals receiving instruction.

(a) The record shall include:

1. [~~including a~~] Description of the instruction;

2. [~~the~~] Date of instruction; and

3. [~~the~~] Name of the individual who gave the instruction.

(b) The [~~Such~~] record shall be maintained for inspection by the cabinet for three (3) years.

Section 37. Safety Precautions. (1) For each patient receiving radiopharmaceutical therapy and hospitalized for compliance with Section 25 of this administrative regulation, a licensee shall:

(a) Provide a private room with a private sanitary facility;

(b) Post the patient's door with a "Caution: Radioactive Material" sign, and note on the door or on the patient's chart where and how long visitors may stay in the patient's room;

(c) Authorize visits by individuals under eighteen (18) years of age only on a case-by-case basis with the approval of the authorized user after consultation with the radiation safety officer;

(d) Promptly after administration of the dosage, measure the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with the requirements of 902 KAR 100:019 [~~100:020~~], Section 10 [~~7 of these regulations~~] and retain for three (3) years a record of each survey that includes:

1. [~~the~~] Time and date of the survey;

2. [a] Plan of the area or list of points surveyed;

3. [~~the~~] Measured dose rate at several points expressed in millirems per hour;

4. [~~the~~] Model and serial number of the instrument used to make the survey; and

5. [~~the~~] Initials of the individual who made the survey;

(e) [~~Either~~] Monitor material and items removed from the patient's room to determine that [~~any~~] contamination cannot be distinguished from the natural background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle these materials and items as radioactive waste;

(f) Provide the patient with radiation safety guidance that shall [~~will~~] help to keep radiation dose to household members and the public ALARA [~~as low as reasonably achievable~~] before authorizing release of the patient;

(g) Survey the patient's room and private sanitary facility for removable contamination with a radiation detection survey instrument before assigning another patient to the room. The room shall [~~must~~] not be reassigned until removable contamination is less than 200 disintegrations per minute per 100 square centimeters; and

(h) Measure the thyroid burden of each individual who helped prepare or administer a dosage of iodine-131 within three (3) days after administering the dosage, and retain for the period required by 902 KAR 100:019 [~~100:020~~], Section 34(1), [~~15(3) of these regulations~~] a record of:

1. Each thyroid burden measurement;

2. Date of measurement;

3. [~~the~~] Name of the individual whose thyroid burden was measured; and

4. [~~the~~] Initials of the individual who made the measurements.

(2) A licensee shall notify the radiation safety officer or the authorized user immediately if the patient dies or has a medical emergency.

Section 38. Possession of Survey Instruments. A licensee authorized to use radioactive material for radiopharmaceutical therapy shall possess a portable radiation detection survey instrument capable of detecting dose rates over the range one-tenth (0.1) millirem per hour to fifty (50) millirems per hour, and a portable radiation measurement survey instrument capable of measuring dose rates over the range one (1) millirem per hour to 1000 millirems per hour. The instruments shall be operable and calibrated in accordance with Section 16 of this administrative regulation.

Section 39. Use of Sealed Sources for Diagnosis. A licensee shall use the following sealed sources in accordance with the manufacturer's radiation safety and handling instructions:

(1) Iodine-125 as a sealed source in a device for bone mineral analysis;

(2) Americium-241 as a sealed source in a device for bone mineral analysis;

(3) Gadolinium-153 as a sealed source in a device for bone mineral analysis; and

(4) Iodine-125 as a sealed source in a portable device for imaging.

Section 40. Availability of Survey Instrument. A licensee authorized to use radioactive material as a sealed source for diagnostic purposes shall have available for use a portable radiation detection survey instrument capable of detecting dose rates over the range one-tenth (0.1) millirem per hour to fifty (50) millirems per hour, or a portable radiation measurement survey instrument capable of measuring dose rates over the range one (1) millirem per hour to 1000 millirems per hour. The instrument shall be operable and calibrated in accordance with Section 16 of this administrative regulation.

Section 41. Use of Sources for Brachytherapy. A licensee shall use the following sources in accordance with the manufacturer's radiation safety and handling instructions:

(1) Cesium-137 as a sealed source in needles and applicator cells for topical, interstitial, and intracavitary treatment of cancer;

(2) Cobalt-60 as a sealed source in needles and applicator cells for topical, interstitial, and intracavitary treatment of cancer;

(3) Gold-198 as a sealed source in seeds for interstitial treatment of cancer;

(4) Iodine-125 as a sealed source in seeds for interstitial treatment of cancer;

(5) Iridium-192 as seeds encased in nylon ribbon for interstitial treatment of cancer;

(6) Radium-226 as a sealed source in needles or applicator cells for topical, interstitial, and intracavitary treatment of cancer;

(7) Radon-222 as seeds for interstitial treatment of cancer;

(8) Palladium-103 as a sealed source in seeds for interstitial treatment of cancer; and

(9) Strontium-90 as a sealed source in an applicator for treatment of superficial eye conditions.

Section 42. Safety Instruction. (1) A [~~The~~] licensee shall provide oral and written radiation safety instruction to [~~all~~] personnel caring for a patient receiving implant therapy. Refresher training shall be provided at intervals not to exceed one (1) year.

(2) The instruction shall describe:

(a) Size and appearance of the brachytherapy sources;

(b) Safe handling and shielding instructions in case of a dislodged source;

(c) Procedures for patient control;

(d) Procedures for visitor control; and

(e) Procedures for notification of the radiation safety officer or authorized user if the patient dies or has a medical emergency.

(3) A licensee shall maintain for three (3) years a record of individuals receiving instruction. The record shall include:

(a) [~~including, a~~] Description of the instruction;

(b) [~~the~~] Date of instruction; and

(c) [the] Name of the individual who gave the instruction [for three (3) years].

Section 43. Safety Precautions. (1) For each patient receiving implant therapy, a licensee shall:

(a) Not place the patient in the same room with a patient who is not receiving radiation therapy unless the licensee can demonstrate compliance with the requirement of 902 KAR 100:019 [100:020], Section 10, [7(1) of these regulations] at a distance of one (1) meter from the implant;

(b) Post the patient's door with a "Caution: Radioactive Materials" sign, and note on the door or the patient's chart where and how long visitors may stay in the patient's room;

(c) Authorize visits by individuals under eighteen (18) years of age only on a case-by-case basis with the approval of the authorized user after consultation with the radiation safety officer;

(d) Promptly after implanting the sources, survey the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with 902 KAR 100:019 [100:020], Section 10, [7(1) of these regulations] and retain for three (3) years a record of each survey that includes:

1. [the] Time and date of the survey;

2. A sketch of the area or list of points surveyed;

3. [the] Measured dose rate at several points expressed in millirems per hour;

4. [the] Model and serial number of the instrument used to make the survey; and

5. [the] Initials of the individual who made the survey; and

(e) Provide the patient with radiation safety guidance that will help keep the radiation dose to household members and the public ALARA [as low as reasonably achievable] before releasing the patient if the patient was administered a permanent implant.

(2) A licensee shall notify the radiation safety officer or authorized user immediately if the patient dies or has a medical emergency.

Section 44. Brachytherapy Sources Inventory. (1) If [Each time] brachytherapy sources are returned to an area of storage from an area of use, the licensee shall immediately count or otherwise verify the number returned to ensure that [all] sources taken from the storage area have been returned.

(2) A licensee shall make a record of brachytherapy source utilization which includes the:

(a) [The] Names of the individuals permitted to handle the sources;

(b) [The] Number and activity of sources removed from storage including the:

1. Room number of use and patient's name;

2. [the] Time and date sources [they] were removed from storage;

3. [the] Number and activity of sources in storage after the removal;

4. [and the] Initials of the individual who removed the sources from storage; and

(c) [The] Number and activity of sources returned to storage, including the:

1. Room number of use and patient's name;

2. [the] Time and date sources [they] were returned to storage;

3. [the] Number and activity of sources in storage after the return;

4. [and the] Initials of the individual who returned the sources to storage.

(3) Immediately after implanting sources in a patient and immediately after removal of sources from a patient, a [the] licensee shall make a radiation survey of the patient and the area of use to confirm that no sources have been misplaced. The licensee shall make a record of each survey.

(4) A licensee shall maintain the records required in this section for three (3) years.

Section 45. Release of Patients Treated With Temporary Implants. (1) Immediately after removing the last temporary implant source from a patient, a [the] licensee shall make a radiation survey of the patient with a radiation detection survey instrument to confirm that [all] sources have been removed.

(2) A [The] licensee shall not release from confinement for medical care a patient treated by temporary implants until the [all] sources have been removed.

(3) [(2)] A licensee shall maintain a record of patient surveys which demonstrate compliance with this section for three (3) years. The [Each] record shall include the:

(a) Date of the survey;

(b) [the] Name of the patient;

(c) [the] Dose rate from the patient expressed as millirems per hour and measured within one (1) meter from the patient; and

(d) [the] Initials of the individual who made the survey.

Section 46. Possession of Survey Instruments. A licensee authorized to use radioactive material for implant therapy shall possess a portable radiation detection survey instrument capable of detecting dose rates over the range one-tenth (0.1) millirem per hour to fifty (50) millirems per hour, and a portable radiation measurement survey instrument capable of measuring dose rates over the range one (1) millirem per hour to 1000 millirems per hour. The instruments shall be operable and calibrated in accordance with Section 16 of this administrative regulation.

Section 47. Training for Nonexperienced Radiation Safety Officer. Except as provided in Section 48 of this administrative regulation, an individual fulfilling the responsibilities of the radiation safety officer as provided in Section 5 [6] of this administrative regulation shall:

(1) Be certified by the:

(a) American Board of Health Physics in Comprehensive Health Physics;

(b) American Board of Radiology in Radiological Physics, Therapeutic Radiological Physics, or Medical Nuclear Physics;

(c) American Board of Nuclear Medicine;

(d) American Board of Science in Nuclear Medicine; or

(e) Board of Pharmaceutical Specialties in Nuclear Pharmacy or Science; [or]

(2) Have [had] 200 hours of classroom and laboratory training including [as follows]:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity;

(d) Radiation biology;

(e) Radiopharmaceutical chemistry; and

(f) One (1) year of full time experience in radiation safety at a medical institution under the supervision of the individual identified as the radiation safety officer on the cabinet, another agreement state, or U.S. Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

(3) Be an authorized user for those radioactive material uses that come within the radiation safety officer's responsibilities.

Section 48. Training for Experienced Radiation Safety Officer. An individual identified as a radiation safety officer on the cabinet, another agreement state, or U.S. Nuclear Regulatory Commission license before June 27, 1990 [the effective date of this regulation] who oversees only the use of radioactive material for which the licensee was authorized on that date, need not comply with the training requirements of Section 47 of this administrative regulation.

Section 49. Training for Uptake, Dilution, or Excretion Studies. Except as provided in Sections 56 and 57 of this administrative regulation, the licensee shall require the authorized user of a

radiopharmaceutical listed in Section 29 of this administrative regulation to be a physician who:

(1) Is certified in:

(a) Nuclear medicine by the American Board of Nuclear Medicine; [~~or~~]

(b) Diagnostic radiology by the American Board of Radiology; [~~or~~]

(c) Diagnostic radiology or radiology within the previous five (5) years by the American Osteopathic Board of Radiology; or

(d) Nuclear medicine by the American Osteopathic Board of Nuclear Medicine; [~~or~~]

(2) Has completed forty (40) hours of instruction in basic radionuclide handling techniques applicable to the use of prepared radiopharmaceuticals, and twenty (20) hours of supervised clinical experience.

(a) To satisfy the basic instruction requirement, forty (40) hours of classroom and laboratory instruction shall include:

1. Radiation physics and instrumentation;

2. Radiation protection;

3. Mathematics pertaining to the use and measurement of radioactivity;

4. Radiation biology; and

5. Radiopharmaceutical chemistry.

(b) To satisfy the requirement for twenty (20) hours of supervised clinical experience, training shall [~~must~~] be under the supervision of an authorized user at a medical institution, and shall include:

1. Examining patients and reviewing their case histories to determine [~~their~~] suitability for radionuclide diagnosis, limitations, or contraindications;

2. Selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

3. Administering dosages to patients and using syringe radiation shields;

4. Collaborating with the authorized user in the interpretation of radionuclide test results; and

5. Patient follow-up; or

(3) Has successfully completed a six (6) month training program in nuclear medicine as part of a training program [~~that has been~~] approved by the Accreditation Council for Graduate Medical Education [~~and~~] that included:

(a) Classroom and laboratory training;

(b) Work experience; and

(c) Supervised clinical experience in [~~all~~] the topics identified in this section.

Section 50. Training for Imaging and Localization Studies. Except as provided in Sections 56 or 57 of this administrative regulation, the licensee shall require the authorized user of a radiopharmaceutical, generator, or reagent kit specified in Section 31 of this administrative regulation to be a physician who:

(1) Is certified in:

(a) Nuclear medicine by the American Board of Nuclear Medicine; [~~or~~]

(b) Diagnostic radiology by the American Board of Radiology; [~~or~~]

(c) Diagnostic radiology or radiology within the previous five (5) years by the American Osteopathic Board of Radiology; or

(d) Nuclear medicine by the American Osteopathic Board of Nuclear Medicine; [~~or~~]

(2)(a) Has completed:

1. 200 hours of instruction in basic radionuclide handling techniques applicable to the use of prepared radiopharmaceuticals, generators, and reagent kits;

2. 500 hours of supervised work experience; and

3. 500 hours of supervised clinical experience.

(b) [~~(a)~~] To satisfy the basic instruction requirement, 200 hours of classroom and laboratory training shall include:

1. Radiation physics and instrumentation;

2. Radiation protection;

3. Mathematics pertaining to the use and measurement of radioactivity;

4. Radiopharmaceutical chemistry; and

5. Radiation biology.

(c) [~~(b)~~] To satisfy the requirement for 500 hours of supervised work experience, training shall be under the supervision of an authorized user at a medical institution, and shall include:

1. Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

2. Calibrating dose calibrators and diagnostic instruments and performing checks for proper operation of survey meters;

3. Calculating and safely preparing patient dosages;

4. Using administrative controls to prevent the misadministration of radioactive material;

5. Using emergency procedures to contain spilled radioactive material safely and using proper decontamination procedures; and

6. Eluting technetium-99m from generator systems, assaying and testing the elute for molybdenum-99 and alumina contamination, and processing the elute with reagent kits to prepare technetium-99m labeled radiopharmaceuticals.

(d) [~~(c)~~] To satisfy the requirement for 500 hours of supervised clinical experience, training shall be under the supervision of an authorized user at a medical institution, and shall include:

1. Examining patients and reviewing their case histories to determine [~~their~~] suitability for radionuclide diagnosis, limitations, or contraindications;

2. Selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

3. Administering dosages to patients and using syringe radiation shields;

4. Collaborating with the authorized user in the interpretation of radionuclide test results; and

5. Patient follow-up; or

(3) Has successfully completed a six (6) month training program in nuclear medicine [~~that has been~~] approved by the Accreditation Council for Graduate Medical Education [~~and~~] that included:

(a) Classroom and laboratory training;

(b) Work experience; and

(c) Supervised clinical experience in [~~all~~] the topics identified in this section.

Section 51. Training for Therapeutic Use of Radiopharmaceuticals. Except as provided in Section 56 of this administrative regulation, the licensee shall require the authorized user of a radiopharmaceutical listed in Section 35 of this administrative regulation for therapy to be a physician who:

(1) Is certified by:

(a) The American Board of Nuclear Medicine; or

(b) The American Board of Radiology in radiology, therapeutic radiology or radiation oncology; or

(2) Has completed eighty (80) hours of instruction in basic radionuclide handling techniques applicable to the use of therapeutic radiopharmaceuticals, and has [~~had~~] supervised clinical experience.

(a) To satisfy the requirement for instruction, eighty (80) hours of classroom and laboratory training shall include:

1. Radiation physics and instrumentation;

2. Radiation protection;

3. Mathematics pertaining to the use and measurement of radioactivity; and

4. Radiation biology.

(b) To satisfy the requirement for supervised clinical experience, training shall be under the supervision of an authorized user at a medical institution, and shall include use of:

1. [~~Use of~~] Iodine-131 for diagnosis of thyroid function and the treatment of hyperthyroidism or cardiac dysfunction in ten (10) individuals;

2. [~~Use of~~] Soluble phosphorus-32 for the treatment of ascites,

polycythemia vera, leukemia, or bone metastases in three (3) individuals;

3. [~~Use of~~] Iodine-131 for treatment of thyroid carcinoma in three (3) individuals; and

4. [~~Use of~~] Colloidal chromic phosphorus-32 or of colloidal gold-198 for intracavitary treatment of malignant effusions in three (3) individuals.

Section 52. Training for Therapeutic Use of Brachytherapy Sources. Except as provided in Section 56 of this administrative regulation, the licensee shall require the authorized user using a brachytherapy source specified in Section 41 of this administrative regulation for therapy to be a physician who:

(1) Is certified in:

(a) Radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; [~~or~~]

(b) Radiation oncology by the American Osteopathic Board of Radiology; [~~or~~]

(c) Radiology, with a specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

(d) Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

(2)(a) Is in the active practice of therapeutic radiology, and has completed:

1. 200 hours of instruction in basic radionuclide handling techniques applicable to the therapeutic use of brachytherapy sources; [~~and~~]

2. 500 hours of supervised work experience; and

3. A minimum of three (3) years of supervised clinical experience.

(b) [~~(a)~~] To satisfy the requirement for instruction, 200 hours of classroom and laboratory training shall include:

1. Radiation physics and instrumentation;

2. Radiation protection;

3. Mathematics pertaining to the use and measurement of radioactivity; and

4. Radiation biology.

(c) [~~(b)~~] To satisfy the requirement for 500 hours of supervised work experience, training shall be under the supervision of an authorized user at a medical institution, and shall include:

1. Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

2. Checking survey meters for proper operation;

3. Preparing, implanting, and removing sealed sources;

4. Using administrative controls to prevent the misadministration of radioactive material; and

5. Using emergency procedures to control radioactive material.

(d) [~~(c)~~] To satisfy the requirement for a period of supervised clinical experience, training shall include one (1) year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association, and an additional two (2) years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience shall include:

1. Examining individuals and reviewing their case histories to determine [~~their~~] suitability for brachytherapy treatment, and [~~any~~] limitations or contraindications;

2. Selecting the proper brachytherapy sources, dose, and method of administration;

3. Calculating the dose; and

4. Postadministration follow-up and review of case histories in collaboration with the authorized user.

Section 53. Training for Teletherapy. Except as provided in Section 56 of this administrative regulation, the licensee shall require the authorized user of a sealed source specified in 902 KAR 100:017, Section 2, in a teletherapy unit to be a physician who:

(1) Is certified in:

(a) Radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; [~~or~~]

(b) Radiation oncology by the American Osteopathic Board of Radiology; [~~or~~]

(c) Radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

(d) Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

(2)(a) Is in the active practice of therapeutic radiology, and has completed:

1. 200 hours of instruction in basic radionuclide techniques applicable to the use of a sealed source in a teletherapy unit;

2. 500 hours of supervised work experience; and

3. A minimum of three (3) years of supervised clinical experience.

(b) [~~(a)~~] To satisfy the requirement for instruction, the classroom and laboratory training shall include:

1. Radiation physics and instrumentation;

2. Radiation protection;

3. Mathematics pertaining to the use and measurement of radioactivity; and

4. Radiation biology.

(c) [~~(b)~~] To satisfy the requirement for supervised work experience, training shall be under the supervision of an authorized user at an institution, and shall include:

1. Review of the full calibration measurements and periodic spot checks;

2. Preparing treatment plans and calculating treatment times;

3. Using administrative controls to prevent misadministrations;

4. Implementing emergency procedures to be followed in the event of the abnormal operation of a teletherapy unit or console; and

5. Checking and using survey meters.

(d) [~~(c)~~] To satisfy the requirement for a period of supervised clinical experience, training shall include:

1. One (1) year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association; and

2. An additional two (2) years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience shall include:

a. [~~1.~~] Examining individuals and reviewing their case histories to determine [~~their~~] suitability for teletherapy treatment, and [~~any~~] limitations or contraindications;

b. [~~2.~~] Selecting the proper dose and how it is to be administered;

c. [~~3.~~] Calculating the teletherapy doses and collaborating with the authorized user in the review of patients' progress and consideration of the need to modify originally prescribed doses as warranted by patients' reaction to radiation; and

d. [~~4.~~] Postadministration follow-up and review of case histories.

Section 54. Training for Ophthalmic Use of Strontium-90. Except as provided in Section 56 of this administrative regulation, the licensee shall require the authorized user using only strontium-90 for ophthalmic radiotherapy to be a physician who is:

(1) [~~Is~~] Certified in radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; or

(2) [~~Is~~] In the active practice of therapeutic radiology or ophthalmology, and has completed twenty-four (24) hours of instruction in basic radionuclide handling techniques applicable to the use of strontium-90 for ophthalmic radiotherapy and a period of supervised clinical training in ophthalmic radiotherapy.

(a) To satisfy the requirement for instruction, the classroom and laboratory training shall include:

1. Radiation physics and instrumentation;
2. Radiation protection;
3. Mathematics pertaining to the use and measurement of radioactivity; and
4. Radiation biology.

(b) To satisfy the requirement for a period of supervised clinical training in ophthalmic radiotherapy, training shall be under the supervision of an authorized user at a medical institution and shall include the use of strontium-90 for the ophthalmic treatment of five (5) individuals that includes:

1. Examination of each individual to be treated;
2. Calculation of the dose to be administered;
3. Administration of the dose; and
4. Follow-up and review of each individual's case history.

Section 55. Training for Use of Sealed Sources for Diagnosis. Except as provided in Section 56 of this administrative regulation, the licensee shall require the authorized user, using a sealed source in a device specified in Section 39 of this administrative regulation, to be a physician, dentist; or podiatrist who:

(1) Is certified in:

(a) Radiology, diagnostic radiology with special competence in nuclear radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; [~~or~~]

(b) Nuclear medicine by the American Board of Nuclear Medicine; [~~or~~]

(c) Diagnostic radiology or radiology by the American Osteopathic Board of Radiology; or

(2) Has completed eight (8) hours of classroom and laboratory instruction in basic radionuclide handling techniques specifically applicable to the use of the device. To satisfy the requirement for instruction, the training shall include:

(a) Radiation physics, mathematics pertaining to the use and measurement of radioactivity, and instrumentation;

(b) Radiation biology; and

(c) Radiation protection and training in the use of the device for the purposes authorized by the license.

Section 56. Training for Experienced Authorized Users. Practitioners of the healing arts identified as authorized users for the human use of radioactive material on the cabinet, another agreement state, or U. S. Nuclear Regulatory Commission license, before June 27, 1990, [~~the effective date of this regulation,~~] who perform only those methods of use for which they were authorized on that date, need not comply with the training requirements of Section 47 through Section 55 of this administrative regulation.

Section 57. Physician Training in a Three (3) Month Program. A physician who, before July 1, 1984, began a three (3) month nuclear medicine training program approved by the Accreditation Council for Graduate Medical Education and has successfully completed the program, shall be [~~is~~] exempted from the requirements of Section 49 or [~~Section~~] 50 of this administrative regulation.

Section 58. Recentness of Training. The training and experience specified in Sections 47 through [~~Section~~] 55 of this administrative regulation shall have been obtained within the five (5) years preceding the date of application or the individual shall have had continuing applicable experience since the required training and experience was completed.

RICE C. LEACH, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 9, 1993
FILED WITH LRC: January 14, 1994 at 11 a.m.

CABINET FOR HUMAN RESOURCES
Department for Social Services
Division of Family Services
(As Amended)

905 KAR 1:180. DSS policy and procedures manual.

RELATES TO: KRS 194.060, 199.420 to 199.990, 200.080 to 200.120, 205.201 to 205.204, 205.455 to 205.465, Chapters 208, 209, and 600 to 645

STATUTORY AUTHORITY: KRS 194.050, 199.420, 200.080, 209.030, 605.150, 615.050, 620.180, 625.120, 630.140, 635.100, 640.120, 645.250

NECESSITY AND FUNCTION: 42 USC 9901-9912, "Block Grants for Social Services - Title XX," authorizes grants to states for social services. KRS 194.050 authorizes the Cabinet for Human Resources to adopt regulations as are necessary to implement programs mandated by federal law, or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. This administrative regulation is amended to incorporate into regulatory form, by reference, materials used by the cabinet in the implementation of a statewide social service program. [~~The function of this manual is to implement a statewide social services program. This administrative regulation is amended in order to comply with KRS 13A.221, that requires a separate administrative regulation for each topic of general subject matter. Material related to child protective services, adult protective services, and fair hearings is deleted from this regulation. New administrative regulations have been promulgated 905 KAR 1:330, Child protective services; 905 KAR 5:070, Adult protective services; 905 KAR 1:320, Fair hearings that shall contain provisions relating to child protection, adult protection and fair hearings respectively.~~]

Section 1. Incorporation by Reference. (1) The Department for Social Services Policy and Procedures Manual as revised December, 1993, is incorporated by reference.

(2) Copies of the Department for Social Services Policy and Procedures Manual may be inspected, copied or obtained in any department field office in each of the 120 counties or at the Office of the Commissioner, Department for Social Services, 275 East Main, 6 Floor West, Frankfort, Kentucky 40621, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

[~~Section 1. DSS Policies and Procedures Manual. For the purpose of implementing and enforcing those sections of the Kentucky Revised Statutes relating to social service programs for children and adults that apply to the Department for Social Services, the Secretary of the Cabinet for Human Resources hereby adopts, by reference, the Department for Social Services' Policy and Procedural Manual as revised December, 1993 [March, 1991], as the current policies and procedures of that department. The manual contains policies and procedures relating to management procedures, adult services, support services, family and children's services, and youth services. The Department for Social Services' Policy and Procedures Manual may be reviewed in any departmental field office located in each of the 120 counties or at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, during regular working hours.~~

~~Section 2. Material Incorporated by Reference. In Chapter I, Management Procedures, delete the entire chapter dated July 1987, refer to revised Department for Social Services policy nine (9) Higher Level of Care revised March, 1993, policy ten (10) Voluntary Psychiatric Placement revised September, 1990, policy twelve (12) Preventative Assistance revised April, 1990, policy thirteen (13) Life Support Systems revised April, 1990, policy fifteen (15) Abortion or~~

~~Sterilization Information revised April, 1990, policy eighteen (18) Child Custody Investigations revised April, 1990, policy twenty (20) HIV or Aids revised September, 1993, policy twenty one (21) Intensive Family Based Services revised January, 1990, policy eighty (80) through eighty six (86) Children's Benefits Section revised July, 1992. In Chapter II, Adult Services delete the entire chapter and refer to policy 190 through 193 Alternate Care section revised October, 1990. In Chapter III, Support Services, delete the entire chapter and refer to policy 110 Paraprofessional Section revised April, 1990, policy 120 through 122 Services for Expectant Parents, revised September, 1990, policy 140 through 141 Refugee Assistance Section, revised March, 1990, policy 145 New Eyes for the Needy, revised March, 1990. In Chapter IV, Family and Children Services, delete the entire chapter and refer to policy ninety (90) Title IV E, revised November, 1992, policies 254 through 264 Commitment Section, revised March, 1990, policies 300 through 319 Termination of Parental Rights Section, revised October, 1991, policies 350 through 392 Out of Home Care Section, revised January, 1993, policies 400 through 432 Adoption Section, revised August, 1991. In Chapter V, Youth Services, delete the entire chapter and refer to policies 500 through 530 Youth Services General Administration Section, revised August, 1991, policies 550 through 556 Admissions Section, revised August, 1991, policies 576 through 586 Treatment Section, revised February, 1992, policies 600 through 626 Health and Safety Services Section, revised January, 1993 and policies 750 through 796 Juvenile Services in the Community Section, revised January, 1993.]~~ ~~[Summary of Amendment. In Chapter I, Management Procedures, delete in their entirety Section A.5., Fair Hearings, dated November, 1987, refer to 905 KAR 1:320. In Chapter II, Adult Services, delete in their entirety Section A. Adult Protection, Spouse Abuse, General Adult Services, dated July, 1987, refer to 905 KAR 5:070. In Chapter IV, Family and Children's Services, delete in their entirety Section a., Child Protective Services, dated January, 1988, refer to 905 KAR 1:330, Child protective services.]~~

PEGGY WALLACE, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 27, 1993
FILED WITH LRC: January 14, 1994 at 11 a.m.

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

905 KAR 1:320. Fair hearing.

RELATES TO: 45 CFR 205.10 [~~210~~], 29 USC 794, 42 USC 12101 et seq., 2000a et seq. [~~Social Security Act, Civil Rights Act~~]
STATUTORY AUTHORITY: KRS 194.050
NECESSITY AND FUNCTION: Under Titles IV-A, IV-B, IV-C, IV-E and Title XX of the Social Security Act, the single state agency responsible for the program shall be required by federal regulation, 45 CFR 205.10, to provide a hearing to an applicant or recipient who is aggrieved by an agency action resulting in denial, suspension, reduction, discrimination, exclusion or termination of services. The Department for Social Services has assured various federal agencies that it shall comply with the provisions of 29 USC 794, 42 USC 12101 et seq., 42 USC 2000a et seq., [~~the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973 as amended~~] and with 45 CFR 205.10.

Section 1. Definitions. (1) "Applicant for services" means a person who has applied for services from the Department for Social Services by means of signing an application.

(2) "Client" means a recipient or a person who has been determined to be eligible to receive services from the Department for Social Services and has been registered in a case to receive ongoing services or a person who has been ordered by a court to receive services from the Department for Social Services.

(3) "Complain**ant**" means the applicant for services, client, foster parent or adoptive parent who after submitting their written complaint, is entitled to a fair hearing.

(4) "Hearing officer" means a person who is trained in administrative hearing procedures designated by the Commission for Social Services or designee to conduct fair hearings.

(5) "Local resolution process guidelines" means the local resolution conference consisting of an informal process that gives the complainant the opportunity to discuss his complaint and clarify issues and attempt to resolve those issues. The complainant shall be afforded the opportunity to decide whether he continues to desire a formal hearing following the local resolution process.

(6) [~~(2)~~] "Timely" means that a notice is mailed at least ten (10) days before the date of the action, except that adequate written notice shall be given no later than the date of the action if staff determines that delaying the action endangers the health or well-being of the children or that the health or well-being of children may be endangered if prior notice is given.

Section 2. Right to a Fair Hearing. (1) The department shall not on the basis of race, color, national origin, sex, age, religion or disability [~~handicap~~]:

(a) Deny an individual aid, care, services or other benefits of the department, either directly or through contractual or other agreements.

(b) Provide aid, care, services, or other benefits to an individual which is different or is provided in a different manner from that provided to others.

(c) Subject an individual to segregation or separate treatment in a matter related to his receipt of aid, care, services or other benefits.

(d) Restrict an individual in the enjoyment of an advantage or privilege enjoyed by others receiving aid, care, services or other benefits.

(e) Treat an individual differently from others in determining whether he satisfies eligibility or other requirements or conditions which individuals shall meet to receive aid, care, services or other benefits.

(f) Deny an individual an opportunity to participate in the program through the provision of services or afford him an opportunity to do so which is different from that afforded others.

(2) A notice of the client's right to a hearing shall be displayed prominently in each Department for Social Services residential treatment facility, clinical programs, day treatment center, group home, and in each Department for Social Services office in a location easily accessible to clients. The notice of right to a hearing shall state:

(a) If you are dissatisfied with the action taken, you may request a fair hearing within thirty (30) days from the date of the action by filing a written request or a DSS-154, Request for Fair Hearing form, incorporated by reference herein, with the Quality Assurance Branch, Department for Social Services, 404 Ann Street, Frankfort, Kentucky 40601.

(b) You may be represented by an attorney or other spokesman.

(3) Staff of the Department for Social Services, shall have the responsibility of advising applicants, clients, foster parents and subsidized adoptive parents in writing of their right to a fair hearing:

(a) During intake or [~~at~~] the initial treatment planning conference, using the DSS-154, Request for Fair Hearing form.

(b) During any action affecting services or assistance:

1. Staff shall give the applicant, client or subsidized adoptive parent timely and adequate notice [~~thereof~~] and an opportunity to object, using the DSS-154A, Notice of Intended Action form, incorporated by reference herein.

2. If a request for a hearing is made within ten (10) days of the notice of an action affecting services, services shall be continued until

a decision is rendered after a hearing, unless staff determines that continuation of the services or delay of the action endangers the health or well-being of a child; and

(c) Staff shall give new foster parents, upon [~~at the time of~~] approval a written notice of their right to a fair hearing when:

1. A foster home is closed;

2. A child is removed from one (1) foster home to another foster home; and

3. [~~When~~] Training provided by the department is denied.

(4) Hearing entitlement.

(a) An applicant or client [~~or subsidized adoptive parent~~] shall be entitled to a hearing on the following actions:

1. A denial, reduction, material modification, suspension, discontinuance, exclusion from or termination of a service;

2. Dissatisfaction with a service received, inappropriate or inadequate treatment, placement or visitation;

3. Failure of the department to act upon a request for service with reasonable promptness;

4. Failure of the department to take into account a client's choice of service or a determination that the individual shall participate in a service program against his wishes[~~, except where required by law~~]; or

5. Discrimination against a client by department staff on account of age, sex, race, national origin, disability [~~handicap~~] or religion.

(b) A foster parent shall be entitled to a hearing on the following decisions:

1. To remove [~~of~~] a foster child from one foster home to another foster home except if the child has been the subject of a substantiated report of abuse or neglect by the foster parents;

2. To deny foster parents foster parent training provided and scheduled by the department.

3. To close the foster home;

4. Foster parents are not entitled to a fair hearing if [~~, except when~~]:

a. Sexual abuse or sexual exploitation by the foster parents is substantiated;

b. Substantiation of physical abuse of a child or spouse warranting the removal of the victim;

c. There is presence of a serious physical or mental illness which impairs or precludes adequate care of the child by the foster parents;

d. Foster parents are convicted of a felony offense; or [~~and~~]

e. Foster parents have not had a placement within five (5) years of the approval date.

(c) Subsidized adoptive parents shall be entitled to a hearing on the decision to deny or reduce adoptive assistance for a special needs child. Adoptive parents eligible for a Title IV-E adoption subsidy for a special needs child are entitled to a hearing for:

1. Failure of the department to advise the adoptive parents of the availability of the adoption assistance for special needs children; and

2. Failure to provide the Title IV-E eligible adoptive parents known relevant facts regarding the child, biological family and child's background prior to finalization.

(5) [~~(4)~~] The following issues shall not be considered through the hearing procedure described herein:

(a) Complaints related to legal issues, for example [~~i.e.~~], actions involved in court cases or the interpretation of any statute or regulation;

(b) A complaint that has not been filed in writing with the Quality Assurance Branch;

(c) A complaint that has been abandoned by failure of the complainant to carry forward with their complaint, to furnish information requested by the hearing officer or to appear at a scheduled hearing;

(d) A complaint of a provider of services under contract or memorandum of agreement, that is day treatment, group homes, [~~e.g.~~] private child care facilities or area development districts. Refer to 905 KAR 8:140, Hearing procedures for area agency on aging, contract selector actions, for formal complaint procedure for area agencies on aging;

(e) A client complaint involving services or discrimination against a contract agency;

(f) [~~(e)~~] Discrimination practices in relation to departmental personnel policies and procedures. These grievances shall be handled per instructions in the personnel manual; and

(g) [~~(f)~~] A report of child abuse or neglect and adult abuse or neglect.

Section 3. Request for Hearing. (1) The complainant or legal guardian shall sign the request and submit it to the Quality Assurance Branch. Upon request, departmental staff shall assist individuals in preparation and submission of a request for hearing. Staff shall not assume responsibility for mailing the request. Requests for hearing shall be in writing or filed on the DSS-154, Request for Hearing form and contain:

(a) Specific allegations or complaints against the department;

(b) Name of the staff person, or persons involved if known; [~~responsible for the act or decision upon which the complaint is based;~~]

(c) Circumstances under which the alleged act occurred; and

(d) Date and place of alleged act.

(2) Requests shall be filed in writing within thirty (30) days after the alleged act or notice of a decision affecting services. If the notice is mailed, the date of the notice shall be the date mailed; otherwise it shall be the date of delivery. If the request is filed after the thirty (30) day period, a decision as to acceptance or denial of the complaint for action shall be made by the Commissioner of the Department for Social Services, or designee.

(a) Within five (5) working days of the receipt of the complaint, the Quality Assurance Branch shall notify the complainant of the receipt of the request and the department's policy of attempts at local resolution before a hearing is scheduled.

1. The appropriate family services district manager or designee shall also be notified of the receipt of the request and asked to set a meeting with the complainant to attempt to resolve the issues that led to the complaint.

2. The juvenile services specialist shall arrange a meeting with the complainant to attempt to resolve the issues that led to the complaint if received from youth in residential treatment facilities, Reed [~~clinical~~] programs, group homes or day treatment programs.

(b) The local resolution facilitator contacts the complainant to:

1. Clarify the issues of the complaint; [~~and~~]

2. Determine if the complainant wishes to participate in the local resolution process; and

3. Determine if [~~whether~~] the complainant is a client or a person filing on behalf of a client. If the complainant is not a client, notify the Quality Assurance Branch Manager immediately.

(c) The complainant may refuse to participate in the local resolution efforts and shall sign an acknowledgement to be forwarded to the Quality Assurance Branch Manager and choose:

1. To request that the complaint be withdrawn; or

2. That the complaint be referred for a formal fair hearing.

(d) If the complainant chooses to be involved in the local resolution process, the local resolution facilitator shall solicit information from the involved parties in an attempt to resolve the complaint in a manner that is acceptable to the complainant. The solicitation of information may include:

1. Interviews with the complainant and named DSS staff:

2. Interviews with other involved parties; and

3. A review of relevant case materials.

(e) Other issues identified as a result of the local resolution conference shall be brought to the attention of appropriate management and supervisory staff.

(4) The family services district manager or his designee or the juvenile services specialist shall forward to the Quality Assurance

Branch, in writing, the results of their efforts to achieve local resolution of the complaint not more than thirty (30) days after the filing of the request for hearing. The report shall contain:

(a) Nature of the complaint;

(b) Date of resolution conference;

(c) Persons present at the conference; and

(d) A specific statement of any issues not resolved.

(5) If the complaint is resolved, the complainant shall sign an acknowledgment to be attached to the report. A copy of the local resolution report shall be sent to the complainant and involved staff.

Section 4. Hearing Before the State Agency. (1) If a complaint is not resolved within thirty (30) days after filing, it shall be referred to a hearing officer of the Quality Assurance Branch to conduct a hearing. The hearing shall be held within thirty (30) days after referral. If the complainant agrees to an extension of time, the time for final administrative action shall be correspondingly extended.

(2) The hearing shall be conducted at a reasonable location selected by the hearing officer.

(3) The complainant and representatives, as appropriate, the DSS staff involved [~~named~~] in the complaint and their representatives, and CHR Department of Law [~~Office of Counsel~~] shall be given [~~at least~~] seven (7) working days written notice prior to the hearing. The following information shall be contained in the hearing officer's notice to the complainant and his representative:

(a) The specific complaint issues [~~allegations~~] to be heard at the hearing. The complainant shall be asked to notify the hearing officer in writing within five (5) working days of the receipt of the notice if the complaint issues [~~allegations~~] have not been correctly stated. The hearing officer shall then make a determination as to whether to modify the complaint issues; [~~allegations.~~]

(b) Individuals to be present at the hearing;

(c) The complainant's option of presenting his case himself or with the aid of an authorized representative, for example, [~~i.e.,~~] legal counsel, relative, friend or other spokesman;

(d) That the department shall not be responsible for any legal fees incurred by the complainant related to the hearing;

(e) The nature and conduct of the hearing, shall be held in an [~~e.g.,~~] orderly but informal manner, with an opportunity to present witnesses and to cross examine opposing witnesses; and [~~etc.~~]

(f) The complainant's right to examine the contents of his case file and **all** [~~all~~] documents and records to be used by the agency at the hearing at a reasonable time before the date of the hearing and instructions on how to access the material under the open records law as governed by KRS 61.870 to 61.884.

(4) The following information shall be contained in the hearing officer's notice to staff named in the complaint:

(a) The specific complaint issues [~~allegations~~] to be heard at the hearing;

(b) Individuals to be present at the hearing;

(c) The nature and conduct of the hearing, shall be held in an [~~e.g.,~~] orderly but informal manner, with an opportunity to present witnesses and to cross examine opposing witnesses; [~~etc.~~]

(d) The Department of Law shall represent the Department for Social Services in fair hearings; and [~~Staff's option of presenting the case themselves or with representative, or with the aid of an attorney from the office of counsel. Staff shall be responsible for making arrangements for representation at the hearing.~~]

(e) The involved staff may present evidence in defense of their actions either on their own or through a representative of their choosing. An attorney from the Department of Law may represent the involved staff provided there is not a conflict of interest. If staff obtain private legal representation, the Department of Social Services shall not be responsible for legal fees incurred.

(5) Attendance at the hearing shall be limited to:

(a) The complainant and representatives;

(b) Staff involved [~~named~~] in the complaint and their representatives;

(c) The department's attorney;

(d) A representative of the department;

(e) A person to operate the recording equipment;

(f) Witnesses [~~Any witness~~] called by either the complainant or staff; and

(g) The hearing officer.

(6) The hearing shall be conducted in an orderly but informal manner, following the rules of procedure applicable to administrative hearings. Facts relevant to the issue shall be received.

(a) The hearing officer shall open the hearing by:

1. Describing the purpose of the hearing;

2. Explaining the role of the hearing officer; and

3. Introducing parties to the hearing.

4. The hearing officer may direct or grant a continuance for good cause shown.

5. The hearing officer shall carefully clarify the complaint issues [~~allegations~~] to be heard with the parties to the hearing. The complaint issues [~~allegations~~] shall be the same as those in the written notification of the hearing.

(b) Before receipt of testimony, the hearing officer shall [~~assemble all witnesses in the hearing room, and~~] administer the [~~an~~] oath pursuant to KRS 194.025.

(c) The hearing officer shall arrange for the separation of witnesses. Only the client and representatives; staff involved [~~named~~] in the complaint and their representatives; the department's attorney; a representative of the department; the hearing officer; and a person to operate the recording equipment are entitled to be in the hearing room throughout the entire hearing. The hearing officer may permit others to remain throughout the entire hearing if circumstances dictate.

(d) A [~~Each~~] witness shall complete direct testimony and then shall answer questions on cross examination by the adverse party.

(e) The complainant shall have the burden of proof and shall testify first and may present pertinent evidence, including testimony of witnesses and documents.

(f) Upon completion of the case for the complainant, the respondents may testify and present other evidence including testimony of witnesses and documents.

(g) Upon completion of the case for the respondents, the complainant may present additional evidence in strict rebuttal of the evidence presented by respondents. Additional evidence may be presented by either complainant or respondents at the discretion of the hearing officer.

(h) The hearing officer may, if necessary to secure full information on the issue:

1. Postpone the hearing;

2. Examine each party who appears, and his witnesses; and

3. Take any additional evidence which he deems necessary including excerpts from the case record.

(i) After both parties to the hearing have been given ample opportunity to present their testimony and evidence, the hearing officer shall give each party an opportunity to summarize the salient points of their cases.

(j) Upon completion of the hearing, the hearing record shall be closed unless the hearing officer grants an exception under proper motion.

(k) The hearing officer shall advise the parties that a decision shall be rendered within twenty (20) days from the close of the hearing.

(l) Ex parte communications with the hearing officer shall be **prohibited. Ex parte communications with the hearing officers shall be** shared with the parties to the hearing and become a part of the official record.

Section 5. Hearing Officer's Report and Decision. (1) Within ten (10) days after the close of the hearing, the hearing officer shall file

a written report with the Quality Assurance Branch. The report shall contain:

(a) Statement of the complaint;

(b) Persons present at the hearing, including witness;

(c) Findings of fact based solely on the evidence introduced at the hearing;

(d) Conclusions as to whether or not the findings support the complaint, citing appropriate policy, [and] procedures and practices in a recommended decision on the issues; [and]

(e) Recommendations as to action to be taken[, if any,] on the complaint; and

(f) Other issues identified by the hearing officer shall be addressed in a separate memorandum to the branch manager who shall forward them to the commissioner.

(2) Within ten (10) days after receipt of the hearing officer's report by the Quality Assurance Branch, the commissioner, or designee, shall render a written decision on the complaint. The written decision shall be sent to the complainant by certified mail, return receipt requested, and to the staff involved, and shall contain the following information:

(a) Statement of the complaint;

(b) Findings of fact and conclusion with applicable statutes, policies, procedures and practices in regard to the complaint; and

(c) Decision and action to be taken based on findings of fact.

Section 6. Corrective Action. After reviewing the findings of fact and conclusions and recommendations of the hearing officer, if the commissioner or the commissioner's designee feels that corrective action is warranted, a memorandum shall be forwarded to the appropriate assistant director for family services or residential services requesting that corrective action be initiated. Corrective actions deemed necessary shall be initiated within ten (10) days.

Section 7. Record. The transcript or recording of testimony and exhibits, or an official report containing the substance of the testimony introduced at the hearing, together with **all** [all] exhibits, papers and requests filed in the proceeding, ex parte communications and the report of the hearing officer shall constitute the exclusive record and shall be available at the Frankfort office of the Quality Assurance Branch at any reasonable time in accordance with open records. The record of the fair hearing shall be maintained in a locked file separate from the case record of the complainant.

Section 8. Contract Agencies. (1) Contract agencies of the department shall follow procedures outlined in this manual section if [when] a client has a complaint related to civil rights, discrimination or service delivery. If the complainant is dissatisfied with the written decision rendered by the contract agency, the client has ten (10) days from the date of the agency's decision to appeal. The agency, if requested, shall assist the complainant in filing an appeal of the decision. An appeal shall be [is] mailed to the office of the commissioner.

(2) The commissioner shall forward the appeal of the decision to the Quality Assurance Branch to be reviewed by a hearing officer [specialist]. After reviewing the decision made by the contract agency, the hearing officer [specialist] shall file a written report with the commissioner which shall contain:

(a) Conclusions as to whether the contract agency's finding support the complaint, citing appropriate policy and procedure; and

(b) Recommendations as to action to be taken on the complaint.

(3) After receipt of the hearing officer's [quality assurance specialist's] report, the commissioner or the commissioner's designee shall render a written decision on the complaint. The written decision shall be sent to the complainant by certified mail, return receipt requested, and shall contain the following:

(a) Statement of the appeal [complaint]; and

(b) Decision and action to be taken.

Section 9. Material Incorporated by Reference. (1) The DSS-154, Request for Hearing, revised December, 1992 and the DSS-154A, Notice of Intended Action, revised October, 1993 shall be incorporated by reference. [Forms necessary for the implementation of the fair hearing process shall be 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
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 27, 1993
FILED WITH LRC: January 13, 1994 at 2 p.m.

CABINET FOR HUMAN RESOURCES
Department for Social Services
Division of Program Management
(As Amended)

905 KAR 3:030. Matching requirements.

RELATES TO: KRS 45.350-359, 199.420, 205.204, 209.030, 45 CFR 74 Subpart G, 96 Subpart A-I, 42 USC 1397, 9901-9912
STATUTORY AUTHORITY: KRS 194.050
NECESSITY AND FUNCTION: 42 USC 9901-9912 [The Omnibus Budget Reconciliation Act of 1981] substantially reduced the amount of federal funds the Commonwealth receives through the Title XX "Social Services Block Grant" and the "Community Services Block Grant" established under 42 USC 9901-9912 [the Reconciliation Act of 1981]. Matching requirements were [are being] established to encourage and assure local support and sharing in service provision; and to reduce, to the extent possible, the full impact of federal reductions in funds.

Section 1. Definitions. (1) "Certified expenditures" means cash expenditure incurred by the local provider of services through the Social Services or Community Services block grant funds if [when] expenditures are determined to be allowable, reasonable, and necessary as governed by KRS 45.350 through 45.359, 42 USC 9901-9912, and 45 CFR 96 subpart A-I [under applicable laws and procedures of the Commonwealth and federal laws and regulations for the block grants]. Certified expenditures may be incurred by the provider of service whether public or private nonprofit, or may be certified on behalf of the provider by a third party which may also be a public or private nonprofit organization.

(2) "In-kind contributions" means property or services which directly benefit the service purchased, [;] which are contributed by the provider or a nonfederal third party without expenditure by the local provider, [;] and **which** would have been an allowable, reasonable and necessary cost in accordance with applicable laws and procedures of the Commonwealth and federal laws and administrative regulations for the block grants if purchased by the provider.

(3) "Local matching funds" means cash received from a local organization or individual, local taxes, state funds received by local agencies, or federal general revenue sharing funds received for use by local governments. Other federal funds shall be allowed as matching and other funds identified in this administrative regulation for match shall satisfy this requirement if used to match other state or federal funds.

Section 2. Contractors who provide social services funded by Title XX - Social Services Block Grant, 42 USC 1397 [PL 97-35], shall be required to provide matching on a seventy-five (75) percent to twenty-five (25) percent ratio. Local match may be cash, certified expenditures, or in-kind contributions. If it is advantageous to the

state to provide the local match to obtain a needed service, the state may provide the local match on behalf of the local agency. The local match shall consist of one (1) dollar for every three (3) dollars in federal funds expended for in-kind in the same ratio.

Section 3. Community Services Block Grant. Contractors utilizing Community Services Block Grant funds, 42 USC 1397 [~~PL 97-35~~], shall meet the same requirements set forth in Section 2 of this regulation, except that the matching ratio shall be eighty (80) percent federal and twenty (20) percent local matching funds, and in-kind contributions may be used for CSBG contracts.

Section 4. (1) Certified expenditures for local match shall require documentation sufficient to determine that the requirements of this administrative regulation are met by the provider or a third party if [~~when~~] certified by a third party. Third party entities shall enter a contractual agreement with the provider as to the type of expenses and methods of documentation to be used for the certified expenditures. The contractual agreement shall include at least a requirement to make records available for audit by the provider, Cabinet for Human Resources, or entities authorized by the Cabinet for Human Resources. The provider may be subject to disallowances and reimbursement to the Commonwealth if expenditures are not documented by the provider or the third party.

(2) In-kind contributions for local match shall require documentation sufficient to determine that the requirements of this administrative regulation are met by the provider or third party. Values placed on in-kind contributions shall be based on 45 CFR [~~Part~~] 74, Subpart G, Cost Sharing or Matching, as printed June 9, 1981 and as subsequently amended, except as otherwise authorized in this administrative regulation.

(3) State fund cash match may be interaccounted to the Cabinet for Human Resources' Department for Social Services for disbursement with the federal funds matched. Interaccounted funds shall require documentation sufficient to determine that the requirements of this administrative regulation are met.

PEGGY WALLACE, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 27, 1993
FILED WITH LRC: January 13, 1994 at 2 p.m.

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

905 KAR 3:040. Allocation formula.

RELATES TO: KRS 273.446
STATUTORY AUTHORITY: KRS 194.050, 273.446(2)
NECESSITY AND FUNCTION: This administrative regulation establishes the [~~Pursuant to KRS 273.446(2), the Cabinet for Human Resources is to devise a~~] formula for [~~the~~] allocation of community service block grant funds to applicant agencies as required by KRS 273.446(2) [~~to be set forth in the form of an administrative regulation. This regulation is designed to set forth the formula~~].

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Human Resources.

(2) "Service area" as used in this administrative regulation means the land lying within the geographic boundary of the community action agency submitting an application.

Section 2. The formula for allocation of community service block grant funds for federal fiscal year 1984 and subsequent years shall be based upon the following:

(1) Twenty-five (25) percent of funds shall be based upon the 1981 federal fiscal year federal community services administration grantee base allocation received by the applicant.

(2) The remaining seventy-five (75) percent of funds to be distributed **shall be** based upon the incidence and severity of poverty, as determined by the cabinet to exist within the service area of the applicant agency.

PEGGY WALLACE, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 14, 1993
FILED WITH LRC: January 13, 1994 at 2 p.m.

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

905 KAR 5:040. Standards for state funded spouse abuse shelters.

RELATES TO: KRS 209.030(7), 209.160
STATUTORY AUTHORITY: KRS 194.050, 209.030(1)
NECESSITY AND FUNCTION: KRS 209.030(1) authorizes the Cabinet for Human Resources to adopt administrative [~~rules,~~] regulations, procedures, guidelines and policies to provide for the protection of adults. KRS 209.160 authorizes additional funds from marriage licenses to be used for spouse abuse shelters. [~~Since there are no licensing requirements for spouse abuse shelters,~~] This administrative regulation establishes reasonable performance standards for qualifying applicants for state funds related to spouse abuse shelters.

Section 1. Definitions. (1) "Advisory board" means a [~~any~~] designated group to whom the governing board may delegate responsibility for study and recommendation of [~~any~~] function of the governing board. **The advisory board** [~~but~~] shall not delegate final approval, responsibility, accountability, or direction of agency policy as these shall remain the ultimate responsibility of the governing board.

(2) "Agency" means any private or public nonprofit incorporated organization that has the capacity to provide spouse abuse shelter services, and with whom the cabinet contracts for [~~such~~] services.

(3) "Cabinet" means Cabinet for Human Resources.

(4) "Client" means a victim of spouse abuse and their dependent children.

(5) "Department" means Department for Social Services.

(6) [(~~5~~)] "Director" means the individual responsible for the administration of the spouse abuse shelter and [~~all~~] related services.

(7) [(~~6~~)] "Governing board" means a legally constituted group of individuals whose function is to oversee operations of spouse abuse shelter and related services and with whom the state contracts for spouse abuse [~~such~~] services.

(8) [(~~7~~)] "Spouse abuse shelter" means a program which provides victims of spouse abuse and their dependent children a safe place to stay, and related services including:

(a) [~~such as~~] Counseling;

(b) Advocacy;

(c) Food; and

(d) Information and referral services [~~for victims of spouse abuse and their dependent children~~].

(9) [(~~8~~)] "Volunteer" means a person:

(a) Who is either third party funded or who is donating free service time; and

(b) [~~either~~] Works directly in the spouse abuse shelter or is performing a related service at the request of the director.

Section 2. Management. (1) Each agency shall be managed by

a governing board constituted [~~so as~~] to allow broad community participation in its activities. The governing board shall be responsible for agency compliance with a [~~all~~] applicable federal, state and local administrative regulations. The board shall:

(a) Develop written personnel policy and procedures including:

1. Job classifications;
2. Specifications;
3. A compensation plan;
4. Attendance and leave policies;
5. Fringe benefits;
6. Affirmative action;
7. Personnel grievance procedures; and
8. Hiring and firing practices, including lay-off and disciplinary procedures;

(b) [~~rules and regulations,~~] Adopt written bylaws, including:

1. The purpose of the agency;
2. Number of members;
3. Qualifications for board memberships;
4. Composition;
5. The method of selecting members;
6. Terms of members;
7. Officers and duties;
8. Method of election officers and chairpersons;
9. Standing committees;
10. Provision for approval of programs and budgets;
11. The frequency of board meetings and attendance requirements; and
12. Provision for official record of meetings and action taken; and

(c) [~~and shall~~] Be responsible to submit [~~all~~] necessary reports, records, or information deemed necessary to determine fiscal, administrative and programmatic effectiveness.

(2) Board meetings shall be conducted in compliance with the provisions of the Open Meeting Law, KRS 61.805-61.820. The most current version of "Roberts Rules of Order" shall be applicable to board meetings.

[~~(3)(a) The governing board shall develop written personnel rules and regulations including, but not limited to:~~

~~1. Job classifications;~~
~~2. Specifications;~~
~~3. A compensation plan;~~
~~4. Attendance and leave policies;~~
~~5. Fringe benefits;~~
~~6. Affirmative action;~~
~~7. Personnel grievance procedures; and~~
~~8. Hiring and firing practices, including layoff and disciplinary procedures.~~]

(3) [~~(b)~~] A copy of the personnel policy and procedures [~~rules and regulations~~] shall be available to [~~all~~] staff, volunteers and the department.

[~~(c) The governing board shall adopt written bylaws. The bylaws shall include, but not be limited to:~~

~~1. The purpose of the agency;~~
~~2. Number of members;~~
~~3. Qualifications for board memberships;~~
~~4. Composition;~~
~~5. The method of selecting members;~~
~~6. Terms of members;~~
~~7. Officers and duties;~~
~~8. Method of election of officers and chairpersons;~~
~~9. Standing committees;~~
~~10. Provision for approval of all programs and budgets;~~
~~11. The frequency of board meetings and attendance requirements; and~~
~~12. Provision for official record of meetings and action taken.~~]

(4) The official minutes of each meeting of a governing board of each agency shall be forwarded within thirty (30) days to each member of the board(s) and to the department and shall contain:

(a) The date and place of the meeting;
(b) Names of members present;
(c) The subject matter discussed and actions taken;
(d) The name of the reporter[~~, and shall be forwarded within thirty (30) days to each member of the board(s) and to the department~~].

(5) If [~~In the event~~] the agency is a subsidiary of a larger entity, the provisions of subsection (1), (2), (3) and (4) of this section shall apply to the larger entity.

Section 3. Staff. (1) [~~In all agencies~~] The agency's governing board shall appoint one (1) staff person as spouse abuse shelter director. The director shall:

(a) Have [~~the overall~~] responsibility for supervision of the duties and activities of [~~all~~] staff and volunteers;
(b) Shall coordinate [~~all~~] spouse abuse shelter and related services;
(c) Fulfill the [~~all~~] duties as required by the governing board; and
(d) [~~shall~~] Report directly to the board on [~~all~~] spouse abuse program activities.

(2) The agency shall maintain and assure the provision of competent staff to provide services at the spouse abuse shelter. Volunteers shall be under the control and direction of the director even though they are not considered paid staff. Staff shall:

(a) Be at least eighteen (18) years of age;
(b) [~~shall~~] Have education, training or experience to perform their particular job; and
(c) Have a willingness to work with others, including clients under stress. [~~Volunteers must at all times be under the overall control and direction of the director even though they are not considered paid staff.~~]

(3) The agency shall submit to the department a staffing pattern indicating:

(a) [~~and indicate~~] Areas of responsibility; and
(b) [~~as well as~~] Lines of authority and supervision.

(4) The agency shall provide and maintain a record of [~~for~~] orientation and in-service training for staff and volunteers responsible for service delivery [~~and shall maintain a record of the training provided~~].

(5) Each agency shall:

(a) Implement a system to assure compliance with affirmative action standards, and equal opportunity employment standards; and
(b) [~~shall~~] Provide a system for hearing and resolving grievances of staff and volunteers.

Section 4. Physical Facilities. (1) The spouse abuse shelter shall comply with applicable local, state and federal building, fire, safety and health codes.

(2) The spouse abuse shelter shall be of sound construction and suitable for residential use.

(3) The spouse abuse shelter shall:

(a) Be dry;
(b) Be adequately heated, ventilated, and lighted;
(c) Have windows, doors, stoves, heaters, furnaces, pipes, and ventilating fans [~~shall be~~] protected;
(d) Have screening [~~shall be~~] provided for windows and doors unless air-conditioned; [~~and~~]
(e) Have floors [~~shall be~~] free from splinters and easily cleaned; and
(f) Have[~~. All types of~~] gas heaters and stoves [~~shall be~~] properly ventilated.

(4) A recreation area with comfortable furnishings in sufficient quantity to accommodate the number of children and adults using it [~~at any one time~~] shall be provided.

(5) Bedrooms shall:

(a) Be equipped with a bed for each client, of adequate size, with suitable springs, mattress, pillow, and bedding; and [~~as well as~~]
(b) Have adequate closet space and individual drawer space.

(6) The spouse abuse shelter and grounds shall be well maintained.

(7) Each spouse abuse shelter shall maintain a security system to provide for the physical safety of the client.

Section 5. Medical and Dental. The spouse abuse shelter shall assure that access to emergency medical and dental services are available within the community or within close proximity.

Section 6. Meals. The spouse abuse shelter shall provide [~~all~~] clients with three (3) meals per day, each including foods from at least three (3) of the four (4) basic food groups.

Section 7. Services. (1) The spouse abuse shelter shall maintain and provide services on a continuing basis and for as many hours as are necessary to meet the needs of eligible persons.

(2) Staff of the spouse abuse shelter are to apprise clients of resources available from the spouse abuse shelter or by referral which may assist them in the solution of their problems.

(3) Upon entrance into the spouse abuse shelter, or if [~~when~~] receiving a [~~any~~] spouse abuse related service, the following minimal information shall be obtained and recorded in a permanent record:

(a) Name, date of birth, sex, address, marital status;

(b) Names and date of birth of [~~any~~] accompanying dependents;

(c) Identification of reason for intake;

(d) Identification of [~~any~~] physical injury;

(e) [~~Any~~] Medical attention provided;

(f) Identification of [~~any~~] physical condition or ailment which may impact upon services to be offered the client; and

(g) [~~Any~~] Prior contacts with a [~~any~~] spouse abuse shelter.

(4) Immediately following gathering the information required in subsection (3) of this section, the information shall be reported to the offices of the department located within the county where the spouse abuse shelter exists [~~in accordance with the department's spouse abuse reporting policy~~]. This report shall constitute compliance with the provisions of KRS 620.030(2) and 209.030(2).

(5) Upon completion of the gathering of information as required in subsection (3) of this section, a service plan shall be developed for each individual and accompanying dependents setting forth a summary of services needed by the individual and available within the spouse abuse shelter and community.

(6) Referral of the client for services outside the spouse abuse shelter shall be documented and maintained in the client's permanent case record. Service coordination with [~~all~~] other agencies shall also be documented in the case record.

(7) Daily program activities shall be offered with emphasis upon each client's physical, intellectual and social needs.

(8) The spouse abuse shelter shall have and enforce a policy which prohibits possession of [~~any~~] weapons, alcohol or nonprescribed drugs while in the shelter.

(9) The spouse abuse shelter shall keep [~~all~~] client medication in a locked cabinet. Spouse abuse shelter staff shall not dispense nor administer [~~any~~] medication but allow each client to take their own medication as prescribed. Shelter staff shall also keep a record of [~~any~~] medication taken by a client during their stay at the spouse abuse shelter.

(10) [~~In no instance shall~~] Cruel or unusual punishment shall not be used.

(11) Each spouse abuse shelter shall develop and implement procedures to provide for the movement to more appropriate accommodations for those clients:

(a) Who present a danger to self or others; or [~~those clients~~]

(b) Who refuse to comply with spouse abuse shelter rules.

(12) Each spouse abuse shelter shall establish written procedures to be given to each client upon initial contact describing the services to be rendered and a method for handling client complaints. The complaint procedure shall include an opportunity for the client to have access to the department's grievance procedure for review. The department shall have access to [~~all~~] client records in the possession of [~~each~~] spouse abuse shelter for review upon the filing of a service complaint by the client.

(13) Each spouse abuse shelter shall assure that services are available to [~~all~~] residents in the area development district in which the agency is located. A spouse abuse shelter may accept referrals on a statewide basis so long as space is available. Each spouse abuse shelter shall cooperate with other spouse abuse agencies on a statewide basis.

(14) Each spouse abuse shelter shall develop and implement procedures for emergency and temporary shelter closure.

(15) Each spouse abuse shelter shall maintain a record of [~~any~~] unusual incidents involving a client or clients and shall forward a copy of the incident report to the department.

(16) Each spouse abuse shelter shall develop and implement a plan for the provision of outreach services in [~~all~~] counties of the area development district in which it is located.

Section 8. Records. (1) Client case records shall be maintained on each individual or family unit served by the spouse abuse shelter during the time that the client or family unit is receiving services.

(2) Client case records of each agency shall be maintained as confidential and shall not be shared with [~~any~~] persons outside the cabinet. [~~Any~~] Records of the Cabinet for Human Resources, Department for Social Services, in the possession of an [~~any~~] agency are strictly confidential and shall be shared with other individuals or organizations only as provided in KRS 209.140, 194.060, and 620.050 and with the prior written permission of the department.

(3) The department shall have access to the agency property and to records of [~~all~~] services provided, including but not limited to agency financial and client case records for the purpose of auditing and monitoring.

PEGGY WALLACE, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 27, 1993
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CABINET FOR HUMAN RESOURCES
Department for Social Services
(As Amended)

905 KAR 5:050. Funding requirements for spouse abuse shelters.

RELATES TO: KRS 209.030(7), 209.160
STATUTORY AUTHORITY: KRS 194.050, 209.030(1)
NECESSITY AND FUNCTION: KRS 209.030(7) requires the Cabinet for Human Resources to provide protective services for adults except in cases where the adult refuses [~~such~~] services. KRS 209.160 creates a trust and agency account to receive funds from the issuance of marriage licenses, and requires [~~charges~~] the cabinet to use [~~with the responsibility of using~~] these funds to provide [~~for the purpose of providing~~] protective shelter services for spouse abuse victims. KRS 209.030(1) authorizes the cabinet to promulgate administrative [~~adopt such rules,~~] regulations[~~, procedures, guidelines or policies~~] necessary to protect adults. The function of this administrative regulation is to set forth the requirements necessary for spouse abuse shelters to receive funding.

Section 1. Definitions. (1) "Agency" means a [~~any~~] private or public nonprofit incorporated organization that has the capacity to provide spouse abuse shelter services, and with whom the cabinet contracts for [~~such~~] services.

(2) "Annual plan and budget" means the annual application for

funding submitted by each spouse abuse shelter.

(3) "Cabinet" means Cabinet for Human Resources.

(4) "Cash" means [~~any~~] nonstate money or funds given to the agency for use in the spouse abuse shelter program and which is not used to match [~~any~~] other grants or contracts.

(5) "Certified expenditure**s**" mean[**s**] [~~any~~] nonstate cash expenditures incurred by the agency if [~~when such~~] expenditures are determined to be allowable, reasonable and necessary under applicable state laws and administrative regulations and are not used to match [~~any~~] other grants or contracts. [~~Such~~] Certified expenditures may be incurred by the agency whether public or private nonprofit, or may be certified on behalf of the provider by a third party which may also be a public or private nonprofit organization.

(6) "In-kind contribution" means property or services which directly benefit the services purchased, which are contributed by the agency or a third party without expenditure by the agency, and **which** would have been an allowable, reasonable and necessary cost in accordance with state laws and administrative regulations, if purchased by the agency.

(7) "Match" means locally generated funds or expenditures as required to obtain state funding in the form of:

(a) Certified expenditures;

(b) In-kind contributions; or

(c) Cash provided by a contract agency [~~as required to obtain state funding~~].

(8) "Primary service provider" means the agency within each area development district, (ADD), designated by the cabinet as the primary contractee and focal point of service delivery for spouse abuse shelter and related services. The primary service provider's area of jurisdiction is limited to those counties contained in each ADD.

(9) "Secondary service provider" means an agency within an ADD other than the primary service provider, which through contract with the primary service provider or the cabinet provides spouse abuse shelter and related services to victims of spouse abuse and their dependent children. The secondary service provider's area of jurisdiction is limited to those counties contained in each ADD.

(10) "Service area" means the counties located within the ADD within which a primary service provider or a secondary service provider is located.

Section 2. General Funds. (1) [~~Method of~~] Allocation. [~~Of the amount of~~] General funds that are appropriated to the cabinet for spouse abuse shelters for each fiscal year[~~, ninety-eight (98) percent~~] shall be allocated annually for the operation of these services by the designated primary service providers[~~, and two (2) percent shall be retained by the cabinet for a six (6) month period to be used for the operation of supportive services by secondary service providers, and for emergency needs of one (1) or more primary service providers. After the first six (6) months of each fiscal year, the remaining unobligated funds shall be available for distribution among the designated primary service providers, based on validated need for increased funding~~].

(2) Primary service provider.

(a) Eligibility criteria. The cabinet shall designate one (1) primary service provider for each ADD to receive an allocation of general funds. This [~~Such~~] designation shall be in effect unless rescinded following a review of the agency's performance and its annual plan and budget proposal for the upcoming year. [~~The agencies which will be initially designated as primary service providers by the cabinet shall be those receiving state general funds under contract as of the effective date of these regulations.~~]

(b) Selection process. Each primary service provider shall be selected according to the cabinet's predesigned contract review and selection process. Each selected agency shall submit a properly executed annual plan and budget proposal which shall indicate each agency's capacity to provide spouse abuse shelter and other related services for abused spouses and their dependent children. The application for funding shall:

1. Be in the form and format prescribed by the department;

2. Specify the type and kind of services it proposes to perform, either as a provider or under subcontract;

3. Detail fiscal considerations;

4. Assure that the agency and subcontractors shall comply with applicable federal and state administrative regulations; and

5. Include a commitment to provide outreach services in counties of the ADD in which it is located. [~~be in the form and format prescribed by the department. Each agency's application for funding shall specify the type and kind of services it proposes to perform, either as a provider or under subcontract, detailed fiscal considerations, and assurances that the agency and all subcontractors will comply with all applicable federal and state regulations. Each agency's proposal shall include a commitment to provide outreach services in all counties of the ADD in which it is located.~~]

(c) Match. Each primary service provider shall provide funds at the rate of twenty-five (25) percent local match to seventy-five (75) percent state general fund dollars. Of the required local match, five (5) percent shall be cash and the remainder may be provided in a [~~any~~] combination of cash, certified expenditures, or in-kind contributions. A [~~No~~] match shall not be provided by a [~~any~~] state funded spouse abuse program to or on behalf of another spouse abuse contractor.

(d) Service areas. The cabinet shall allocate general funds to primary service providers in each of the ADDs.

(3) Secondary service provider.

(a) Eligibility criteria. An agency that is properly organized and has the capacity to provide spouse abuse shelter or related services in accordance with federal and state laws and administrative regulations may enter into a written subcontract agreement with the primary service provider. If after negotiations, the primary service provider and the applying agency find they cannot agree on a subcontract, and the applying agency can document the need for its services, the applying agency may then request that the department consider them for funding under the following conditions:

1. The applying agency shall [~~can~~] submit proof that the service is needed by both the primary service provider and the ADD community.

2. The applying agency shall [~~can~~] document its willingness to cooperate with other major service providers in the same ADD.

3. The applying agency shall [~~can~~] document its efforts to subcontract and the basis for failure to effect a subcontract with the primary service provider.

4. The applying agency shall submit [~~submits~~] a request that the department review [~~all~~] existing [~~and necessary~~] information and [~~that the department~~] render a final funding decision.

(b) Selection process. After the department has received [~~all of~~] the required information from the applying agency, meetings shall [~~will~~] be scheduled with the applying agency and the primary service provider to determine if the submitted information justifies the need for funding before rendering one (1) of the following decisions:

1. If the service is not needed **or** [~~nor~~] properly justified, a [~~no~~] contract shall not [~~will~~] be awarded.

2. If the service is needed by the primary service provider and the applying agency cannot agree to subcontract, a contract may be awarded in accordance with the cabinet's predesigned contract and review processes. The applying agency shall coordinate their service programs with the primary service provider in order to avoid duplication of services. A local agreement shall [~~must~~] be executed between the primary and secondary service provider and submitted to the department for final approval. Secondary service providers shall subcontract with the primary service provider to obtain second year funding. The local service agreement shall [~~must~~] outline:

a. The services to be provided;

b. The coordination of these services; and

c. A willingness to cooperate in the provision of services. [~~It shall~~

~~be department policy that all secondary service providers subcontract with the primary service provider to obtain second year funding.~~]

3. If the service is needed and the department decides to provide funding [~~determines that it must be funded~~] through the primary service provider for the current fiscal year, then the applying agency shall [~~will~~] be referred back to the primary service provider to resume subcontract negotiations.

(c) Match. Secondary service providers shall provide matching funds as described in Section 1(7) [~~(5)~~] of this administrative regulation and subsection (2)(c) of this section. A [~~No~~] match **shall** [~~may~~] not be provided by a [~~any~~] state funded spouse abuse program to or on behalf of another spouse abuse contractor.

(d) Documentation. [~~All~~] Primary and secondary service providers shall maintain documentation of the local match that is sufficient to determine compliance with [~~that all requirements of~~] this administrative regulation [~~are met~~]. Records documenting local match, regardless of the type or source, shall be available to the cabinet and authorized entities for the purpose of audit.

(e) Disallowance. [~~All~~] Primary and secondary service providers may be subject to disallowances and reimbursement to the Commonwealth if **the** required local match is not documented by the provider or third party.

Section 3. Trust and Agency Funds. (1) Eligibility criteria. [~~In order to be able~~] To receive trust and agency funds, an agency shall [~~must~~] be designated as a primary service provider.

(2) Method of allocation. [~~Of~~] The trust and agency spouse abuse funds received by [~~coming to~~] the cabinet[~~, ninety (90) percent~~] shall be equally allocated among the designated primary service providers at the amount allocated to each provider in that agency's approved plan and budget. [~~and ten (10) percent shall be retained by the cabinet to be used as emergency funds for primary service providers during the fiscal year on an as needed basis. If any balance remains in the emergency funds at the end of the fiscal year this shall be added back to current year trust and agency funds.~~]

(3) Unexpended funds.

(a) If [~~all of~~] the trust and agency funds allocated to a primary service provider at the beginning of each fiscal year are not expended, [~~then~~] they may be held by the cabinet to be expended by the same primary service provider the following year in accordance with the approved annual plan and budget; or

(b) [~~,~~] If the designated primary service provider changes and a new primary service provider has been selected by the cabinet, the [~~then all~~] remaining unencumbered funds allocated to that original agency shall return to the cabinet. The cabinet may at its option assign these funds to the new primary service provider [~~or designate them to the emergency fund for distribution as established in subsection (2) of this section~~].

PEGGY WALLACE, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 27, 1993
FILED WITH LRC: January 13, 1994 at 2 p.m.

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

905 KAR 6:040. Termination of funding and hearing procedures.

RELATES TO: KRS 273.451
STATUTORY AUTHORITY: KRS 194.050, 273.448, 42 USC 9901-9912, Title 45 CFR 96.1
NECESSITY AND FUNCTION: This administrative regulation establishes the conditions by which the cabinet may [~~can~~] terminate Community Services Block Grant (CSBG) funding to a grantee. This administrative regulation also addresses the grantee's right to request and receive a hearing before a qualified hearing officer. [~~Definitions for this regulation are the same as listed in the rest of this regulation.~~]

Section 1. Grantee Termination. For the purpose of this part, administrative requirements specified in 42 USC 9901-9912 and KRS 273.451 are applicable.

(1) A [~~Any~~] community action agency (CAA), either established with [~~(i.e.,~~] local designation or [~~and~~] state recognition[~~)~~] under the Community Services Block Grant Act (the Act) or under the Kentucky CSBG program in accordance with the Act and the Community Action Law in KRS Chapter 273 shall be awarded continuing CSBG program administering responsibilities in its established jurisdiction unless the following shall occur:

(a) The CAA submits written communication to the Department for Social Services stating its desire to discontinue operation of the program;

(b) Material failure by the CAA to comply with 42 USC 9901-9912, [~~Sections 673, 675, 677, or 680 of the Act;~~] or 45 CFR 96.30, 96.51, 96.90, or 96.91 [~~(1986)~~]; the provisions of the state CSBG plan or [~~any~~] provisions of KRS 273.405-273.453; or 905 KAR 6:010. Material failure includes[~~, but is not limited to~~]:

1. Fraud;
2. Disallowance of costs which could render a CAA insolvent; or
3. Denial of access to records of grant-related transactions.

(c) The CAA lacks [~~does not have~~] the authority or capability to receive, administer, and account for funds in a manner that conforms with applicable federal or state requirements or with generally accepted accounting principles;

(d) The CAA is not capable of effectively planning, conducting, administering, or evaluating CSBG funded programs or projects;

(e) The CAA fails to conform in one (1) or more ways to the assurances relating to the structure and operation of CSBG program contractors that the Commonwealth of Kentucky has provided the United Stated Department of Health and Human Services, including prohibitions regarding partisan political activities, voter registration, and transportation of voters to the polls; or

(f) The CAA is structured and functions in a manner inconsistent with state or federal laws or administrative regulations.

(2) Upon discovery of one (1) or more of the conditions noted in paragraphs (b) through (f) of this subsection, the cabinet shall notify the CAA in writing of its initiation of the termination process and the reasons for termination. The notice shall [~~will~~] advise the CAA that, in accordance with this section and 42 USC 9901-9912 [~~Section 675(c)(11) of the Act~~], it is entitled to an informal hearing.

Section 2. Hearing Procedures. The CAA shall [~~will~~] be given fifteen (15) days from receipt of [~~such~~] notification to inform the cabinet in writing that it wishes to exercise its right to a hearing. The hearing **shall** [~~will~~] be conducted within thirty (30) days of the original notification of initiation of the termination process. The notification shall also include:

(1) A requirement that the CAA, [~~in order~~] to receive continued CSBG funding, shall agree to cooperate with the cabinet appointed hearing officer throughout the termination process.

(2) If [~~In the event~~] the CAA does not agree to submit to the cabinet review specified in Section 1 of this administrative regulation, the cabinet shall send to the CAA a notice of funding suspension, pending termination, pursuant to this administrative regulation [~~these regulations~~] and as governed by KRS 273.451. Simultaneous with suspension notice to the CAA's, the cabinet shall [~~will~~] notify the U.S. Department of Health and Human Services [~~of same~~] and the department shall [~~will~~] advise the suspended CAA of its right to seek direct funding from the U.S. Department of Health and Human Services.

(3) The services of an impartial hearing officer shall [~~will~~] be obtained by the cabinet. Notice of the hearing time and date shall

[~~will~~] be provided, with proof of receipt of notice, to both the CAA or appropriate public officials at least ten (10) days prior to the hearing. The cost for the hearing officer and the services of the certified reporter and the original transcript of the proceedings shall be borne by the Cabinet for Human Resources. The CAA shall bear the cost of its copy of the transcript of proceedings.

(4) The hearing shall be conducted in accordance with due process before a qualified hearing officer. The report of the hearing officer shall [~~will~~] be sent by [~~via~~] registered mail to both parties within thirty (30) days of the completion of the hearing.

(5) The cabinet shall [~~will~~] review the hearing officer's recommendation and shall [~~will~~] base its decision on findings of fact and conclusions of law[**s**] that substantiate grant termination pursuant to this administrative regulation. The cabinet shall [~~will~~] notify the CAA of the cabinet's final determination within thirty (30) days.

(6) If the cabinet's decision is to suspend or terminate funding to the CAA, the cabinet shall also, with its notice to the CAA, advise the CAA of the provisions for review of the termination proceedings to the Secretary of the U.S. Department of Health and Human Services pursuant to Section 676(a) of the Act.

PEGGY WALLACE, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: December 27, 1993
FILED WITH LRC: January 13, 1994 at 2 p.m.

ADMINISTRATIVE REGULATIONS AMENDED AFTER HEARING OR WRITTEN COMMENTS RECEIVED

EDUCATION, ARTS AND HUMANITIES CABINET
Department of Education
Bureau for Learning Results Services
(Amended After Hearing)

703 KAR 4:070. Statewide assessment and accountability program; code of ethics.

RELATES TO: KRS 158.6451, 158.6453, 158.6455
STATUTORY AUTHORITY: KRS 158.6453, 158.6455
NECESSITY AND FUNCTION: KRS 158.6453 gives the State Board for Elementary and Secondary Education the authority to issue administrative regulations to establish and implement a statewide, primarily performance-based assessment program to ensure school accountability for student achievement of the goals set forth in KRS 158.645. This administrative regulation establishes guidelines for the administration of the statewide assessment program required by KRS 158.6453.

Section 1. Local school district employees shall comply with the "Statewide Assessment and Accountability Program Code of Ethics," **March 9, 1994** **[~~December 1, 1993~~]**, a copy of which is incorporated by reference and which may be inspected, copied, and obtained from the Office of Curriculum, Assessment and Accountability, 19th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. through 4:30 p.m.

THOMAS C. BOYSEN, Commissioner
JOSEPH W. KELLY, Chairman
APPROVED BY AGENCY: March 9, 1994
FILED WITH LRC: March 9, 1994 at noon

PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
(Amended After Hearing)

805 KAR 5:040. Imposition of civil penalties for violation of mine safety standards; appeals and hearings.

RELATES TO: KRS 351.990, 352.990
STATUTORY AUTHORITY: KRS Chapter 13A, 351.070(13)
NECESSITY AND FUNCTION: KRS 351.990 and 352.990 establish penalties for violations of specific mine safety standards. This administrative regulation creates the forms and procedures to be employed in documenting alleged violations and assessing civil penalties, establishes a point system for calculating the amount of penalties, and provides the standards applicable to hearings called to consider appeals of determinations as to violations and penalties.

Section 1. Issuance of Notice of Noncompliance; Determination as to Violation and Imposition of Penalty by Assessment Officer. (1) If a mine inspector or mine safety analyst observes or otherwise **verifies** **[~~becomes aware of~~]** a condition which appears to be in violation of the mine safety standards established in KRS Chapters 351 and 352 or of the administrative regulations promulgated pursuant thereto, he shall issue a Notice of Noncompliance/Closure Order and Order for Remedial Measures to the individual or operation which he reasonably believes to be responsible for that violation. Such Notice of Noncompliance/Closure Order and Order for Remedial Measures is identified as Form EB-16, a copy of which is incorporated by reference in Section 5 of this administrative regulation.

(2) Unless a violation is identified as a part of the department's investigation of a mining fatality, the mine inspector or mine safety analyst shall require the immediate or otherwise timely abatement of the conditions described in Form EB-16, which abatement shall be documented by that mine inspector or mine safety analyst in Form EB-17, entitled "Abatement of Noncompliance/Closure Order No. _____," a copy of which is incorporated by reference in Section 5 of this administrative regulation.

(3) Notwithstanding the abatement of any noncompliance issued in the manner described above, the mine inspector or mine safety analyst who issues Form EB-16 shall forward a copy of it to the district office to which he is assigned. The supervisor of that district office shall forward the subject Form EB-16 to an assessment officer, whose office is located at the department's Lexington office, who shall be responsible for reviewing the nature of the noncompliance/closure noted in Form EB-16 and the manner in which it was abated, as described in Form EB-17. Prior to his appointment, an assessment officer shall demonstrate to the department's satisfaction that he possesses a thorough knowledge of the procedures and techniques of inspecting coal mines and shall hold a valid mine inspector's certificate, the standards for such certification being set out in KRS 351.090(2).

(4) Following an assessment officer's review of Forms EB-16 and EB-17, he shall determine whether a substantive basis appears to exist for a finding that a violation occurred and for the assessment of a monetary penalty.

Section 2. Point System for Penalties. An assessment officer shall use the point system described below in exercising his discretion to establish the amount of any penalty, that amount being determined by multiplying by five (5) dollars the net number of points determined by an assessment officer to be applicable to a specific violation, plus $100, the minimum amount of civil penalty established in KRS 352.990.

(1) Likelihood of injury or fatality. An assessment officer shall assign up to sixty (60) points based upon the likelihood of injury or fatality in the circumstances described in Form EB-16, in accordance with the following classifications:

(a) Zero to fifteen (15) points shall be assigned if there is little or no likelihood that the failure to comply would cause injury or fatality.

(b) Sixteen (16) to thirty (30) points shall be assigned if it is unlikely that the failure to comply would cause injury or fatality.

(c) Thirty-one (31) to forty-five (45) points shall be assigned if it is likely that the failure to comply would cause injury or fatality.

(d) Forty-six (46) to sixty (60) points shall be assigned if it is highly likely that the failure to comply would cause injury or fatality.

(2) Degree of negligence. An assessment officer shall assign up to sixty (60) points based upon the degree of negligence which he determines to have contributed to the violation alleged in Form EB-16, in accordance with the following classifications:

(a) Zero to fifteen (15) points shall be assigned if there is little or no negligence apparent in the alleged violation.

(b) Sixteen (16) to thirty (30) points shall be assigned if the negligence apparent in the alleged violation exists to a moderate degree.

(c) Thirty-one (31) to forty-five (45) points shall be assigned if a high degree of negligence appears to have contributed to the alleged violation, in that the condition should not have been permitted to exist or should have been corrected **in a timely manner** **[~~immediately upon discovery~~]**.

(d) Forty-six (46) to sixty (60) points shall be assigned if there appears to have been a careless disregard for the health and safety of the persons prospectively affected by the alleged violation, in that the condition was either deliberately created, easily detectable, or

willfully not corrected upon discovery.

(3) History of previous violations. An assessment officer shall assign up to sixty (60) points based upon a history of previous violations. For purposes of assigning these points, an assessment officer shall determine the number of similar or identical violations which have been found to have occurred at the mine or to have been committed by the individual miner within the twelve (12) months preceding the violation alleged in Form EB-16; **provided, however, that no alleged violation shall be considered as a previous similar or identical violation for purposes of the assignment of points pursuant to this subsection unless and until it has been finally adjudicated**. In assigning points pursuant to the history of violation classifications described below, an assessment officer shall assign a higher number of points based upon the degree of similarity between a previous violation and that alleged in Form EB-16.

(a) One (1) to fifteen (15) points shall be assigned if there has been one (1) similar or identical violation within the twelve (12) months preceding the date of the violation alleged in Form EB-16.

(b) Sixteen (16) to thirty (30) points shall be assigned if there have been two (2) similar or identical violations within the twelve (12) months preceding the date of the violation alleged in Form EB-16.

(c) Thirty-one (31) to forty-five (45) points shall be assigned if there have been three (3) similar or identical violations within the twelve (12) months preceding the date of the violation alleged in Form EB-16.

(d) Forty-six (46) to sixty (60) points shall be assigned if there have been four (4) or more similar or identical violations within the twelve (12) months preceding the date of the violation alleged in Form EB-16.

(4) Good faith or appropriateness of response. An assessment officer shall deduct up to sixty (60) points for the good faith demonstrated by a person in abating or attempting to abate the violation alleged in Form EB-16, together with the appropriateness, including timeliness, of that abatement, if any, as described in EB-Form 17, in accordance with the following classifications:

(a) One (1) to twenty (20) points may be deducted in consideration of the extent to which a person charged with a violation demonstrates a willingness to abate it.

(b) One (1) to twenty (20) points may be deducted in consideration of the extent to which a person charged with a violation demonstrates the ability to abate it, as in having and making readily available the equipment, supplies or personnel necessary for abatement.

(c) One (1) to twenty (20) points may be deducted in consideration of the extent to which a person charged with a violation abates it in a timely manner.

Section 3. Service of Notice of Assessment; Notice of Appeal. (1) After an assessment officer has determined whether the violation alleged in Form EB-16 occurred and established the amount of civil penalty, if any, in accordance with the point system established in Section 2 of this administrative regulation, he shall cause to be served, by certified mail, upon the individual miner or operator identified in Form EB-16, a Notice of Finding as to Violation and Imposition of Monetary Penalty, identified as Form EB-18, a copy of which is incorporated by reference in Section 5 of this administrative regulation.

(2) Upon the receipt of Form EB-18 from an assessment officer, the individual miner or operator to whom it is directed shall, within thirty (30) days, pay any required civil penalty to the department, in the manner required by it, or file with the department a notice of appeal either of the finding of violation or of the civil penalty proposed for imposition in Form EB-18, or both, which notice shall be in writing and served upon the commissioner.

(3) Upon his timely receipt of a notice of appeal in the manner described above, the commissioner shall direct such notice of appeal to the department's appeals and hearings section, which shall docket the appeal and cause a notice of hearing to be sent, by certified mail, to the person filing it. The notice of hearing shall set out the date, time, and place of the hearing and shall advise the person to whom it is directed of his right to be represented by counsel **or authorized representative**, provide evidence on his behalf, and cross-examine any evidence which may be introduced against him, and contain any additional information which the department deems necessary or appropriate. **Any person who receives a notice of hearing may, within twenty (20) days of his receipt of that notice, request a prehearing conference with the hearing officer, in which all parties shall be provided an opportunity to participate. The hearing officer may on his own motion schedule a prehearing conference. The prehearing conference shall serve as a forum for the stipulation of facts, clarification of issues, and for the identification or disposition of any other appropriate matters intended to facilitate the conduct of the formal adjudicatory proceeding.**

Section 4. Hearings. (1) The commissioner or a hearing officer appointed by him shall preside at all hearings conducted by the department pursuant to this administrative regulation. Insofar as is possible, the Rules of Civil Procedure shall be applicable to the conduct of such hearings, which shall be conducted at a location prescribed by the department **in the district where the alleged violation occurred** and which shall be recorded by a court reporter.

(2) Within thirty (30) working days from the conclusion of a hearing, the commissioner or hearing officer who presided at that hearing shall prepare and cause to be served upon all parties, findings of fact, conclusions of law and an order which shall address the circumstances alleged in Form EB-16 and either affirm, modify, or dismiss any finding of violation or monetary penalty proposed by the assessment officer in Form EB-18. Such order shall also advise all parties that they may request a transcript of the hearing from the court reporter, at the expense of the requesting party.

(3) Any person who considers himself aggrieved by that order may appeal it in the manner established in KRS 351.040.

Section 5. Forms Incorporated by Reference. (1) The following forms, whose effective date is January 14, 1994, are incorporated by reference:

(a) Form EB-16, "Notice of Noncompliance/Closure Order and Order for Remedial Measures";

(b) Form EB-17, "Abatement of Noncompliance/Closure Order No. _____"; and

(c) Form EB-18, "Notice of Finding as to Violation and Imposition of Monetary Penalty".

(2) The forms identified above may be inspected and copies of them obtained at any office of the Department of Mines and Minerals during the hours of 8 a.m. to 4:30 p.m., Monday-Friday, excepting holidays. The addresses of the offices of the Department of Mines and Minerals are as follows:

Department of Mines and Minerals
3572 Iron Works Pike
Lexington, Kentucky 40511

Harlan District Office
2nd & Central Street
Harlan, Kentucky 40831

Hazard District Office
Hazard Village Shopping Center
556 Village Lane
Hazard, Kentucky 41701

London District Office
94 State Police Road
London, Kentucky 40741

Martin District Office
Coal Building
Junction of Rts. 80 & 122
Martin, Kentucky 41649

Pikeville District Office
441 Chloe Road
Pikeville, Kentucky 41501

West Kentucky District Office
625 Hospital Drive
Madisonville, Kentucky 42431

EDWARD J. HOLMES, Secretary
BURL SCOTT, Commissioner
APPROVED BY AGENCY: March 9, 1994
FILED WITH LRC: March 9, 1994 at 11 a.m.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Environmental Health & Community Safety
(Amended After Hearing)

902 KAR 100:021. Disposal of radioactive material.

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

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

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

Section 1. Applicability. This regulation applies to all] persons disposing of radioactive material or waste [licensed pursuant to the cabinet's radiation regulations]. **This administrative regulation is not intended to establish standards governing naturally occurring radioactive material (NORM) and waste.**

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

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

(b) By decay in storage;

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

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

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

(a) Treatment prior to disposal;

(b) Treatment or disposal by incineration;

(c) Decay in storage; or

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

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

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

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

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

(b) Proposed manner and conditions of waste disposal.

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

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

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

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

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

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

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

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

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

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

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

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

2. The sum of the fractions for each radionuclide required by

subsection (1)(c)1 of this section does not exceed unity; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Classes of waste.

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

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

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

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

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

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

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

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

TABLE 1

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

*Units are nanocuries per gram.

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

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

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

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

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

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

TABLE 2

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

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

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

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

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

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

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

(a) [~~, it is necessary to determine~~] The sum of fractions shall be determined by dividing each radionuclide's concentration by the appropriate limit and adding the resulting values.

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

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

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

(8) Determination of concentrations in waste.

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

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

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

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

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

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

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

(e) Waste shall not be readily capable of:

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

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

3. Explosive reaction with water.

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

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

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

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

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

(a) Waste shall have structural stability.

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

a. Weight of overburden and compaction equipment;

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

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

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

a. The waste form itself;

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

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

(b) Unless otherwise exempted [~~Notwithstanding the provisions~~] in subsection (1)(c) and (d) of this section, liquid waste, or waste containing liquid, shall be converted into a form that contains as little free standing and noncorrosive liquid as is reasonably achievable. [~~,~~

~~but in no case shall~~] The liquid shall not exceed one (1) percent of the volume of the waste if [~~when~~] the waste is in a disposal container designed to ensure stability, or five-tenths (0.5) percent of the volume of the waste for waste processed to a stable form.

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

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

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

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

(b) Establish a manifest tracking system; and

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

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

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

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

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

(a) The shipment manifest shall contain:

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

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

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

1. A physical description of the waste;

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

3. Radionuclide identity and quantity;

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

5. [~~the~~] Principal chemical form.

(c) The solidification agent shall be specified.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Include the new manifest with the shipment.

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

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

(7) The land disposal facility operator shall:

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

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

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

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

(a) [~~Be~~] Investigated by the shipper if the shipper has not received notification of receipt within twenty (20) days after transfer; and

(b) [~~Be~~] Traced and reported.

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

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

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

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

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

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

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

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

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

RICE C. LEACH, Commissioner
FONTAINE BANKS, JR., Secretary
APPROVED BY AGENCY: February 23, 1994
FILED WITH LRC: March 8, 1994 at 11 a.m.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, MARCH 15, 1994

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 15:040. Statute of limitations; assessments and refunds.

RELATES TO: KRS 141.210, 141.235
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: This regulation summarizes and explains provisions of income tax law pertaining to time limitations on assessments of additional taxes and the granting of tax refunds.

Section 1. Assessments. Additional income tax may be assessed within four (4) years from the due date of return, the extended due date, or the filing date of a late return. Exceptions are provided in this section and in Section 2 of this regulation. If returns are not filed, or if fraudulent returns are filed, additional tax may be assessed at any time.

(1) Individuals. Additional tax may be assessed within six (6) years after the return was due or filed if an individual understates net income by twenty-five (25) percent, or omits from net income at least twenty-five (25) percent of net income reported.

(2) Corporations. Additional tax may be assessed within six (6) years after the return was due or filed if the corporation understates its taxable net income by twenty-five (25) percent, or omits from taxable net income at least twenty-five (25) percent of taxable net income reported.

Section 2. Agreements. The period for assessment and refund may be extended by written agreement between the cabinet and the taxpayer before the statutory limitation expires, and may be further extended by additional agreements. Any agreement extending the time for assessment specifically extends the time for refund or credit notwithstanding the limitation in Section 3 of this regulation.

Section 3. Refunds. (1) Limitation. The cabinet may authorize refunds or credits within three (3) years from the due date of the return or the date the tax was paid, whichever is later, on payments received before January 1, 1966. Payments received on or after January 1, 1966 may be refunded or credited within four (4) years from the due date of the return or the date the tax was paid, whichever is later. Interest [~~at eight (8) percent per annum~~] is paid on refunds for taxable years ended July 1, 1982 and thereafter in accordance with KRS 131.183 [~~only if the refund results from a clerical error by the cabinet~~].

(2) Claim. A refund claim may be filed by letter or Revenue Form 40A713. A claim must contain:

(a) The taxpayer's name, address, and form of organization whether individual, corporation, or fiduciary;

(b) The calendar or fiscal year of the taxpayer;

(c) Amount paid and date of payment;

(d) The validation number if available;

(e) The amount of refund requested;

(f) A certification that taxpayer is not indebted to the Commonwealth for any taxes; and

(g) The basis for the claim.

(3) A separate claim must be filed for each year, and an amended return may be required to support any claim. If any claim is denied, a protest may be filed with the cabinet [~~Income Tax Division~~] within forty-five (45) [~~thirty (30)~~] days from notice of disallowance.

Section 4. Statutory Date. A return filed before the due date is considered filed on the due date for purposes of this regulation.

KIM BURSE, Secretary
APPROVED BY AGENCY: March 14, 1994
FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 21, 1994 at 9 a.m., in Room 127 at the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Jennifer C. Hays, Kentucky Revenue Cabinet, Division of Tax Policy and Research, 200 Fair Oaks Drive, Frankfort, Kentucky 40620, (502) 564-6843.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Hays

(1) Type and number of entities affected: This income tax general administration regulation affects all taxpayers, both corporate and individual. The proposed amendment corrects the references to interest paid on refunds and the length of time allowed for filing a protest to income tax adjustments. Changes in the Kentucky Revised Statutes have necessitated this proposed amendment.

(a) Direct and indirect costs or savings to those affected: There will be no additional costs or savings to those taxpayers affected by the regulation.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No additional requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: There will be no additional costs or savings.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No additional requirements.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods are allowed by statute.

(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:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. This regulation will be applied equally to all taxpayers paying income tax.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 16:010. Taxable income; coal royalty.

RELATES TO: KRS 141.010
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: This regulation explains the special income tax deduction provided for corporations in KRS 141.010(12)(d) [~~(e)~~] for certain income from the disposal of coal.

Section 1. Taxable income from disposal of coal (including lignite) held by the owner for more than six (6) months before disposal, under any contract by which the owner retains an economic interest in such coal, shall be fifty (50) percent of the gross royalty income less "deductions allowed by Section 63(a), Internal Revenue Code, to the extent that these deductions are not excluded by Section 272, Internal Revenue Code."

Section 2. Taxpayers reporting income under KRS 141.010(12)(d) [~~(e)~~] cannot deduct percentage depletion on such income; however, cost depletion is deductible. This subsection does not preclude a mining company from taking percentage depletion on its production.

KIM BURSE, Secretary
APPROVED BY AGENCY: March 14, 1994
FILED WITH LRC: March 15, 1994 at 11 a.m.
PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 21, 1994 at 9 a.m., in Room 127 at the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.
Contact person: Jennifer C. Hays, Kentucky Revenue Cabinet, Division of Tax Policy and Research, 200 Fair Oaks Drive, Frankfort, Kentucky 40620, (502) 564-6843.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Hays
(1) Type and number of entities affected: This income tax regulation affects only those corporations which specifically elect the special income tax deduction related to coal royalty income. The proposed amendment corrects references to the realigned Kentucky Revised Statutes.
(a) Direct and indirect costs or savings to those affected: There will be no additional costs or savings to those taxpayers affected by the regulation.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No additional requirements.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: There will be no additional costs or savings.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No additional requirements.
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods are allowed by statute.
(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:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Is tiering applied? No. This regulation will be applied equally to all affected taxpayers.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 16:100. Apportionment and allocation; telephone and telegraph companies.

RELATES TO: KRS 141.120
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: This regulation, under authority of KRS 141.120(10)(b), specifies how the factors for apportioning the income of interstate telephone and telegraph companies are to be determined.

Section 1. General. (1) Business income of multistate telephone and telegraph companies shall be apportioned to Kentucky by multiplying the income by a weighted fraction, the numerator of which is the weighted sales factor (fifty (50) percent) plus the weighted property factor (twenty-five (25) percent) plus the weighted payroll factor (twenty-five (25) percent) and the denominator of which is four (4).
(2) Nonbusiness income shall be allocated to Kentucky by KRS 141.120(3) [~~(4)~~] through (7) and 103 KAR 16:060.

Section 2. Sales Factor. Sales means total gross receipts excluding gross receipts allocated as nonbusiness income under subsections (3) [~~(4)~~] through (7) of KRS 141.120. The sales factor is a fraction, the numerator of which shall be sales which are assigned to Kentucky and the denominator of which is total sales. Sales are assigned to Kentucky as follows:
(1) Gross receipts from sales or services billed to customers in Kentucky;
(2) Access fees from long distance carriers for services rendered by the local company in Kentucky; and
(3) Gross receipts [~~from~~] other than those from sales or services and access fees, shall be assigned to Kentucky pursuant to KRS 141.120(8)(c)(3) [~~Section 6(5) of 103 KAR 16:070~~].
Gross receipts from sales or services includes, but is not limited to, the following accounts or charges: local service, toll revenue, access fees, or any other charges billed directly or indirectly to a customer.

Section 3. Property Factor. The property factor shall be determined under the provisions of KRS 141.120(8)(a) [~~and 103 KAR 16:080~~] except that owned or leased property in outer space shall be excluded from the factor.

Section 4. Payroll Factor. The payroll factor shall be determined under the provisions of KRS 141.120(8)(b) [~~and 103 KAR 16:090~~].

Section 5. The provisions of this regulation are effective for taxable years beginning on or after January 1, 1985 except that Section 1 of this regulation shall be effective for taxable years beginning after July 31, 1985. For taxable years beginning before August 1, 1985, the business income shall be apportioned by a fraction consisting of a sales factor, property factor and payroll factor and a denominator of three (3).

KIM BURSE, Secretary
APPROVED BY AGENCY: March 14, 1994
FILED WITH LRC: March 15, 1994 at 11 a.m.
PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 21, 1994 at 9 a.m., in Room 127 at the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.
Contact person: Jennifer C. Hays, Kentucky Revenue Cabinet, Division of Tax Policy and Research, 200 Fair Oaks Drive, Frankfort, Kentucky 40620, (502) 564-6843.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Hays
(1) Type and number of entities affected: This corporation income tax apportionment and allocation regulation affects multistate taxpayers engaged in interstate telecommunications. The proposed amendment eliminates references to other expired regulations.
(a) Direct and indirect costs or savings to those affected: There will be no additional costs or savings to those taxpayers affected by the regulation.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No additional requirements.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: There will be no additional costs or savings.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No additional requirements.
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 141.120(10) requires the property and sales factors of the apportionment formula to be prescribed by regulation for public service companies.
(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:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Is tiering applied? No. This regulation will be applied equally to all telephone and telegraph companies.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 16:110. Apportionment and allocation; pipeline companies.

RELATES TO: KRS 141.120
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: This regulation, under authority of KRS 141.120(10)(b), specifies how the factors for apportioning the income of interstate pipeline companies are to be determined.

Section 1. General. (1) Business income of multistate pipeline companies shall be apportioned to Kentucky by multiplying the income by a weighted fraction, the numerator of which is the weighted sales factor (fifty (50) percent) plus the weighted property factor (twenty-five (25) percent) plus the weighted payroll factor (twenty-five (25) percent), and the denominator of which is four (4).
(2) Nonbusiness income shall be allocated to Kentucky pursuant to KRS 141.120(3) [~~(4)~~] through (7) and 103 KAR 16:060.

Section 2. Sales Factor. (1) Gas transmission pipelines. Sales means operating revenues as defined by the Federal Energy Regulatory Commission. Sales are assigned under the provisions of KRS 141.120(8)(c).
(2) Crude oil pipelines. Sales means operating income as defined by the Federal Energy Regulatory Commission. The sales factor is a fraction, the numerator of which is operating income assigned to Kentucky, and the denominator of which is total operating income. Kentucky operating income is determined as follows: total operating income shall be multiplied by a fraction the numerator of which is barrel miles in Kentucky and the denominator of which is total barrel miles. A "barrel mile" means one (1) barrel of liquid transported one (1) mile.

Section 3. Property Factor. The property factor of gas transmission pipelines and crude oil pipelines shall be determined under the provisions of KRS 141.120(8)(a) [~~and 103 KAR 16:090~~].

Section 4. Payroll Factor. The payroll factor of gas transmission pipelines and crude oil pipelines shall be determined under the provisions of KRS 141.120(8)(b) [~~and 103 KAR 16:090~~].

KIM BURSE, Secretary
APPROVED BY AGENCY: March 14, 1994
FILED WITH LRC: March 15, 1994 at 11 a.m.
PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 21, 1994 at 9 a.m., in Room 127 at the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the

public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Jennifer C. Hays, Kentucky Revenue Cabinet, Division of Tax Policy and Research, 200 Fair Oaks Drive, Frankfort, Kentucky 40620, (502) 564-6843.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Hays

(1) Type and number of entities affected: This corporation income tax apportionment and allocation regulation affects multistate taxpayers engaged in the interstate transportation of gas and crude oil. The proposed amendment eliminates references to other expired regulations.

(a) Direct and indirect costs or savings to those affected: There will be no additional costs or savings to those taxpayers affected by the regulation.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No additional requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: There will be no additional costs or savings.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No additional requirements.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 141.120(10) requires the property and sales factors of the apportionment formula to be prescribed by regulation for public service companies.

(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:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. This regulation will be applied equally to all pipeline companies.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 16:120. Apportionment and allocation; trucklines, buslines; airlines.

RELATES TO: KRS 141.120

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: This regulation, under authority of KRS 141.120(10)(b), specifies how the factors for apportioning the income of interstate truckline, bus line, and airline companies are to be determined.

Section 1. General. (1) Business income of multistate corporate truckline, bus line, or airline, shall be apportioned to Kentucky by multiplying the income by a weighted fraction, the numerator of which is the weighted sales factor (fifty (50) percent) plus the weighted property factor (twenty-five (25) percent) plus the weighted payroll factor (twenty-five (25) percent), and the denominator of which is four (4) [~~three (3)~~].

(2) Nonbusiness income shall be allocated to Kentucky by KRS 141.120(3) to (7) and 103 KAR 16:060.

Section 2. Sales Factor. "Sales" means operating income as defined by the Interstate Commerce Commission (Civil Aeronautics Board for airlines). The sales factor is a fraction, the numerator of which is operating income assigned to Kentucky and the denominator of which is total operating income. Kentucky operating income is determined as follows: Total operating income shall be multiplied by a fraction the numerator of which is miles operated in Kentucky and the denominator of which is total miles operated.

Section 3. Property Factor. The property factor is a fraction, the numerator of which is the average value of tangible property situsedin Kentucky that is owned and used, and/or leased and used. The denominator is the average value of all tangible situsedproperty that is owned and used and/or leased and used. The average value of tangible situsedproperty during the tax period shall be determined under the provisions of KRS 141.120(8)(a) [~~103 KAR 16:080~~]. The value of over-the-road equipment and of aircraft shall be excluded in determining the average value of both Kentucky and total property.

Section 4. Payroll Factor. The payroll factor shall be determined under the provisions of KRS 141.120(8)(b) [~~and 103 KAR 16:090~~].

KIM BURSE, Secretary

APPROVED BY AGENCY: March 14, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 21, 1994 at 9 a.m., in Room 127 at the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Jennifer C. Hays, Kentucky Revenue Cabinet, Division of Tax Policy and Research, 200 Fair Oaks Drive, Frankfort, Kentucky 40620, (502) 564-6843.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Hays

(1) Type and number of entities affected: This corporation income tax apportionment and allocation regulation affects multistate taxpayers engaged in the interstate transportation of property or persons. The proposed amendment eliminates references to other expired regulations and conforms to the Kentucky Revised Statutes regarding the weighted apportionment formula.

(a) Direct and indirect costs or savings to those affected: There will be no additional costs or savings to those taxpayers affected by the regulation.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No additional requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: There will be no additional costs or savings.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No additional requirements.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 141.120(10) requires the property and sales factors of the apportionment formula to be prescribed by regulation for public service companies.

(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:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. This regulation will be applied equally to all truckline, bus line and airline companies.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 16:130. Apportionment and allocation; railroad companies.

RELATES TO: KRS 141.120

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: This regulation, under authority of KRS 141.120(10)(b), specifies how the factors for apportioning the income of interstate railroad companies are to be determined.

Section 1. Definitions. (1) "Equipment property" means property recorded in the primary accounts designed to show the cost of the classes of equipment owned by the carrier, or held under equipment trust agreements or other contractual obligations for purchase of the property.

(2) "Road property" means property recorded in the primary accounts designed to show the cost of land and road property owned by the carrier and devoted to transportation service.

(3) Other accounting terms and account titles in this regulation shall have those definitions assigned by the Interstate Commerce Commission.

Section 2. General. (1) Business income of multistate railroad companies shall be apportioned to Kentucky by multiplying the business income by a weighted fraction, the numerator of which is the weighted sales factor (fifty (50) percent) plus the weighted property factor (twenty-five (25) percent) plus the payroll factor (twenty-five (25) percent) and the denominator of which is four (4).

(2) Nonbusiness income shall be allocated to Kentucky pursuant to KRS 141.120(3) through (7) and 103 KAR 16:060.

Section 3. [~~2.~~] Sales Factor. Sales means railway operating revenue as defined by the Interstate Commerce Commission (I.C.C.) plus all other business income. The sales factor is a fraction, the numerator of which is railway operating revenue plus other business income assigned to Kentucky and the denominator of which is total railway operating revenues plus total other business income. Railway operating revenue and other business income shall be assigned to Kentucky as follows:

(1) Railway operating revenue shall be assigned to Kentucky by the use of the ratio of revenue car miles in Kentucky to total revenue car miles of the railway carrier everywhere. The term "revenue car mile" shall mean the movement of a loaded car one (1) mile.

(2) All other gross receipts classified as business income shall be assigned to Kentucky pursuant to KRS 141.120(8)(c)3 [~~103 KAR 16:070~~].

Section 4. [~~3.~~] Property Factor. (1) The property factor shall be a fraction, the numerator of which is the average value of road property owned or leased in Kentucky plus the average value of equipment property owned or leased in Kentucky, plus the average value of all other real or tangible business property owned or leased in Kentucky and the denominator of which is the average value of the total owned or leased road property, equipment property and other real or tangible business property. The average value of all property during the taxable period shall be determined under the provisions of KRS 141.120(8)(a) [~~103 KAR 16:080~~]. The value of owned road property, equipment property and other business property shall be its original cost reported for I.C.C. purposes plus capitalized improvements. The value of leased property shall be determined in accordance with the provisions of KRS 141.120(8) [~~and 103 KAR 16:080(6)~~]. The value of leased equipment property and road property shall exclude joint facility and joint trackage rentals.

(2) Property shall be assigned to Kentucky (numerator) as follows:

(a) Equipment property owned or leased shall be assigned on the ratio that the locomotive and respective classes of car miles in Kentucky bears to the total locomotive and respective classes of car miles everywhere; [~~.~~]

(b) Road property owned or leased shall be assigned if its situs is in Kentucky; and [~~.~~]

(c) Other business property, real or tangible, shall be assigned if its situs is in Kentucky.

Section 5. [~~4.~~] Payroll Factor. Payroll shall be assigned to Kentucky under the provisions of KRS 141.120(8)(b) [~~and 103 KAR 16:090~~].

[~~Section 5. Definitions. (1) Equipment Property means "the several primary accounts designed to show the cost of the several classes of equipment owned by the carrier, or held under equipment trust agreements or other contractual obligations for purchase of the property."~~

~~(2) Road property means "the several primary accounts designed to show the cost of land and road property owned by the carrier and devoted to transportation service."~~

~~(3) Other accounting terms and account titles in this regulation shall have those definitions assigned to them by the Interstate Commerce Commission.~~]

KIM BURSE, Secretary

APPROVED BY AGENCY: March 14, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 21, 1994 at 9 a.m., in Room 127 at the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative

regulation to the contact person.

Contact person: Jennifer C. Hays, Kentucky Revenue Cabinet, Division of Tax Policy and Research, 200 Fair Oaks Drive, Frankfort, Kentucky 40620, (502) 564-6843.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Hays

(1) Type and number of entities affected: This corporation income tax apportionment and allocation regulation affects multistate taxpayers engaged in the interstate transportation of property or persons. The proposed amendment eliminates references to other expired regulations.

(a) Direct and indirect costs or savings to those affected: There will be no additional costs or savings to those taxpayers affected by the regulation.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No additional requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: There will be no additional costs or savings.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No additional requirements.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 141.120(10) requires the property and sales factors of the apportionment formula to be prescribed by regulation.

(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:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. This regulation will be applied equally to all railroad companies.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 16:145. Apportionment and allocation; barge line companies.

RELATES TO: KRS 141.120

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: This regulation, under authority of KRS 141.120(10)(b), specifies how the factors for apportioning the income of interstate barge lines are to be determined.

Section 1. General. (1) For taxable years beginning before August 1, 1985, business income of a multistate corporate barge line shall be apportioned to Kentucky by multiplying the income by a fraction, the numerator of which is the sales factor plus the property factor plus the payroll factor, and the denominator of which is three (3). For taxable years beginning after July 31, 1985, business income of a multistate corporate barge line shall be apportioned to Kentucky by multiplying the income by a weighted fraction, the numerator of which is the weighted sales factor (fifty (50) percent) plus the weighted property factor (twenty-five (25) percent) plus the weighted payroll factor (twenty-five (25) percent), and the denominator of which is four (4).

(2) Nonbusiness income shall be allocated to Kentucky pursuant to KRS 141.120(3) [~~(4)~~] through (7) and 103 KAR 16:060.

Section 2. Sales Factor. Sales means all gross receipts of the taxpayer not allocated as nonbusiness income. The sales factor is a fraction, the numerator of which is operating income assigned to Kentucky plus receipts assigned to Kentucky under KRS 141.010(8)(c) [~~103 KAR 16:070~~] and the denominator of which is total operating income plus total receipts assigned under 141.010(8)(c) [~~103 KAR 16:070~~]. Operating income is assigned to Kentucky as follows: total operating income shall be multiplied by a fraction, the numerator of which is the miles operated in Kentucky and the denominator of which is total miles operated. Miles operated in Kentucky shall be (fifty (50) percent) of the miles operated on the Ohio River, the Big Sandy River and Mississippi River adjacent to Kentucky shoreline plus all miles operated on other inland waterways within Kentucky. "Mile operated" means each barge, tug or other watercraft moved one (1) mile.

Section 3. Property Factor. The property factor is a fraction, the numerator of which is the average value of real or tangible property situsedin Kentucky that is owned and used and/or leased and used. The denominator is the average value of all real or tangible situsedproperty that is owned and used and/or leased and used everywhere. The average value of tangible situsedproperty shall be determined under the provisions of KRS 141.010(8)(a) [~~103 KAR 16:080~~]. The value of watercraft and other floating property shall be excluded from the property factor.

Section 4. Payroll Factor. The payroll factor shall be determined under the provisions of KRS 141.120(8)(b) [~~and 103 KAR 16:090~~].

KIM BURSE, Secretary

APPROVED BY AGENCY: March 14, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 21, 1994 at 9 a.m., in Room 127 at the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Jennifer C. Hays, Kentucky Revenue Cabinet, Division of Tax Policy and Research, 200 Fair Oaks Drive, Frankfort, Kentucky 40620, (502) 564-6843.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Hays

(1) Type and number of entities affected: This corporation income tax apportionment and allocation regulation affects multistate taxpayers engaged in the interstate transportation of property or persons. The proposed amendment eliminates references to other expired regulations.

(a) Direct and indirect costs or savings to those affected: There will be no additional costs or savings to those taxpayers affected by

the regulation.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No additional requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: There will be no additional costs or savings.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No additional requirements.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 141.120(10) requires the property and sales factors of the apportionment formula to be prescribed by regulation for public service companies.

(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:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. This regulation will be applied equally to all barge line companies.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 16:150. Apportionment and allocation; loan companies.

RELATES TO: KRS 141.120

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 141.120 provides for the division of income of interstate business for tax purposes. This regulation interprets this statute as it applies to the apportionment and allocation of the income of interstate loan companies.

Section 1. General. If the primary business of the corporation is making loans, the business income earned within Kentucky shall be determined by a weighted fraction, the numerator of which is the weighted sales factor (fifty (50) percent) plus the weighted outstanding loan balance factor (twenty-five (25) percent) plus the weighted payroll factor (twenty-five (25) percent), and the denominator of which is four (4) [~~three (3)~~].

Section 2. Sales Factor. The sales factor is a fraction, the numerator of which is all receipts derived from loans or other sources negotiated through offices located in Kentucky, and the denominator of which is total business receipts.

Section 3. Outstanding Loan Balance Factor. The outstanding loan balance factor is a fraction, the numerator of which is the average balance of outstanding loans negotiated from offices in Kentucky. The denominator is the average balance of all outstanding loans. The average outstanding loan balance is determined at the beginning and end of the taxable period. However, if the yearly beginning and ending balance results in an inequitable factor, the average outstanding loan balance may be computed on a monthly average basis.

Section 4. Payroll Factor. The payroll factor shall be determined under the provisions of KRS 141.120(8)(b) [~~and 103 KAR 16:090~~].

KIM BURSE, Secretary

APPROVED BY AGENCY: March 14, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 21, 1994 at 9 a.m., in Room 127 at the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Jennifer C. Hays, Kentucky Revenue Cabinet, Division of Tax Policy and Research, 200 Fair Oaks Drive, Frankfort, Kentucky 40620, (502) 564-6843.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Hays

(1) Type and number of entities affected: This corporation income tax apportionment and allocation regulation affects multistate taxpayers whose primary business is making loans. The proposed amendment eliminates references to other expired regulations and conforms to the Kentucky Revised Statutes regarding the weighted apportionment formula.

(a) Direct and indirect costs or savings to those affected: There will be no additional costs or savings to those taxpayers affected by the regulation.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No additional requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: There will be no additional costs or savings.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No additional requirements.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 141.120(10) requires the property and sales factors of the apportionment formula to be prescribed by regulation for public service companies.

(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:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. This regulation will be applied

equally to all loan companies.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 17:060. Income subject to taxation; portions.

RELATES TO: KRS 141.010, 141.020
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: This regulation prescribes methods of determining the Kentucky portion of certain income tax deductions of nonresidents and part-year residents.

Section 1. Residents. The entire net income of a full-year resident individual is subject to Kentucky income tax regardless of its source. Income from out-of-state sources is not exempt. The [~~federal income tax and~~] itemized deductions of a full-year resident are not limited to those paid in Kentucky.

Section 2. Persons Becoming Residents During the Year. (1) Persons who become Kentucky residents during the year are subject to Kentucky individual income tax upon their entire net income from any source after becoming a Kentucky resident, and upon their income from Kentucky sources prior to becoming a Kentucky resident.

(2) Taxpayers who become residents during the year are limited to either [~~federal income tax and~~] itemized deductions paid after becoming a Kentucky resident or that portion of total [~~federal income tax and total~~] itemized deductions that Kentucky income bears to total income.

Section 3. Persons Becoming Nonresidents During the Year. (1) Persons who are Kentucky residents, but become nonresidents during the year, are subject to Kentucky individual income tax upon their entire net income from all sources while they are a Kentucky resident, and upon their income from Kentucky sources after becoming a nonresident.

(2) Persons who become nonresidents during the year are generally limited to that portion of total [~~federal income tax and~~] itemized deductions that [~~their~~] Kentucky income bears to [~~their~~] total income.

Section 4. Nonresidents. Any net income of a nonresident is subject to Kentucky income tax if it is derived from services performed in Kentucky or from property located in Kentucky. Income from sources outside Kentucky is not subject to Kentucky income tax nor are losses incurred outside Kentucky deductible in computing Kentucky adjusted gross income. The [~~federal income tax and~~] itemized deductions are limited to that portion [~~percent~~] of [~~the~~] total itemized deductions that [~~their~~] Kentucky income bears to [~~their~~] total income.

KIM BURSE, Secretary
APPROVED BY AGENCY: March 14, 1994
FILED WITH LRC: March 15, 1994 at 11 a.m.
PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 21, 1994 at 9 a.m., in Room 127 at the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Jennifer C. Hays, Kentucky Revenue Cabinet, Division of Tax Policy and Research, 200 Fair Oaks Drive, Frankfort, Kentucky 40620, (502) 564-6843.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Hays
(1) Type and number of entities affected: This individual income regulation affects nonresident and part-year resident taxpayers who have certain income tax deductions. The proposed amendment eliminates references to those deductions no longer allowed by the Kentucky Revised Statutes.
(a) Direct and indirect costs or savings to those affected: There will be no additional costs or savings to those taxpayers affected by the regulation.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No additional requirements.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: There will be no additional costs or savings.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No additional requirements.
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues. All effects have been previously realized due the revocation of the deductions.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods are allowed by the Kentucky Revised Statutes.
(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:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Is tiering applied? No. This regulation will be applied equally to all taxpayers affected.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 18:120. Security for compliance; bonds.

RELATES TO: KRS 141.310
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: This regulation implements KRS 141.310(12) [~~(9)~~] which authorizes the cabinet to require certain employers to post withholding performance bonds.

Section 1. Enforcement of Trusteeship. Additional means of enabling the Revenue Cabinet to collect withholding taxes has been provided in KRS 141.310(12) [~~(9)~~] which authorizes the cabinet to fix the amount of and demand the posting of a corporate surety bond or cash not to exceed $50,000 by any employer required under KRS

Chapter 141, or the regulations promulgated thereunder, to withhold Kentucky income taxes from wages of employees.

Section 2. The Definition of the Word "Person." The word "person" has the meaning as defined in Section 7701(a)(1) of the Internal Revenue Code, and for convenience in the context of this regulation. it shall be construed to include but not be limited to an individual, a trust, estate, partnership, association, company or corporation, joint stock company and insurance company.

Section 3. Definition of "Employer." The word "employer" has the meaning as defined in Section 3401(d) of the Internal Revenue Code, and for convenience in the context of this regulation, it shall be construed to include but not be limited to the persons for whom an individual performs or performed any services, of whatever nature, as the employee of such person and shall be construed as used in KRS 141.310(12) [~~(9)~~] as a person from whom the department is authorized to require a withholding tax security bond and those persons from whom a security bond may be required includes but is not limited to the following:

(1) An employer who is delinquent in either filing withholding tax returns required by law or is delinquent in submitting to the cabinet any tax withheld from an employee, or both, or

(2) An employer, whom for any reason, the cabinet determines is or may become an insecure risk for which there is a need to insure compliance with the law, including every out-of-state employer during the employer's first year of operation in this state or any employer engaged under one (1) or more contracts the total of which is to be performed within one (1) year.

Section 4. Bond Procedures. The cabinet, after determining that a bond is necessary to insure compliance of reporting and paying withholding taxes, shall demand the posting of such a security bond by written notice transmitted by certified mail and shall include therein instructions and forms for the convenience of the employer.

Section 5. Enforcement of Bond Requirement. (1) Failure to post the bond in the amount the cabinet demanded from the employer within twenty (20) days from the date of the written notification by certified mail will, by such failure, authorize the cabinet to invoke forthwith, and without further delay, its statutory authority to seek a court order requiring cessation of all business or activities of such an employer failing to post the bonds; provided, that the employer may accompany the bond with, and simultaneously file with the cabinet, a written protest or appeal from the cabinet's demand for the bond; provided further, that any such protest or appeal shall be supported by a written memorandum advancing the employer's reasons and proposed justifications why such employer should be relieved from posting the bond or the objections to the amount of the bond.

(2) Within sixty (60) days after receipt of any bond posted under protest or appeal, the cabinet shall furnish the employer by certified mail a final ruling or order and notice of any change as to, or in the amount of the bond that may be necessary to be made by the cabinet in accordance with such final ruling or order in response to the protest or appeal.

Section 6. Change in Amount of Bond. The cabinet has authority at any time to increase or decrease the amount of any bond that has been posted.

Section 7. Monthly Returns and Payment. Notwithstanding the provisions of 103 KAR 18:040 any out-of-state or delinquent employer may be required to file monthly withholding tax returns and to accompany such monthly returns with a complete payment of all taxes withheld during the month covered by the return.

Section 8. Court Jurisdiction. The cabinet may initiate action seeking a court order, requiring cessation of all business operation or activity of any employer failing to comply with this regulation, in the Franklin Circuit Court or in any other circuit court which may have jurisdiction over the area in which the employer resides, or in which some or all of the employer's business is conducted, or having jurisdiction of the area in which property of the employer is located. The cabinet may institute any such legal action in accordance with any provision of this regulation.

KIM BURSE, Secretary

APPROVED BY AGENCY: March 14, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 21, 1994 at 9 a.m., in Room 127 at the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Jennifer C. Hays, Kentucky Revenue Cabinet, Division of Tax Policy and Research, 200 Fair Oaks Drive, Frankfort, Kentucky 40620, (502) 564-6843.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Hays

(1) Type and number of entities affected: This withholding income tax regulation affects certain employers who are required to post withholding performance bonds. The proposed amendment eliminates discrepancies when referencing the realigned Kentucky Revised Statutes.

(a) Direct and indirect costs or savings to those affected: There will be no additional costs or savings to those taxpayers affected by the regulation.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No additional requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: There will be no additional costs or savings.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No additional requirements.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods are allowed by the Kentucky Revised Statutes.

(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:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. this regulation will be applied equally to all affected employers.

GENERAL GOVERNMENT CABINET
State Board of Examiners & Registration of Architects
(Proposed Amendment)

201 KAR 19:035. Qualifications for examination.

RELATES TO: KRS 323.050, 323.060
STATUTORY AUTHORITY: KRS 323.210
NECESSITY AND FUNCTION: To further define eligibility of applicants for admission to the examinations.

Section 1. Eligibility to Take the State Board Examination. Any person who possesses the qualifications prescribed in KRS 323.050, and as further defined in other sections of these regulations, shall be eligible to take the examinations.

Section 2. General Requirements [~~for Examination~~]. Applicants for examination must meet the following requirements:

(1) [~~Hold a first professional degree in architecture from a degree program that has been accredited by the National Architectural Accrediting Board not later than two (2) years after termination of enrollment; or have satisfied the education requirements as specified in the National Council of Architectural Registration Boards (NCARB) "Circular of Information No. 3" 1990 edition, with such additional experience as the board may prescribe and approve. A copy of "circular of Information No. 3" may be obtained from the board office: 3302 Brookhill Circle, Lexington, Kentucky 40502. Office hours 9 a.m. to 5 p.m. An applicant meeting all other requirements but does not hold a professional degree in architecture may be admitted to the examination if the applicant holds a high school diploma or equivalent and has accumulated, as of June 1, 1992, at least five (5) education credits as determined from the "Table of Equivalence" in Section 3 of this regulation.~~

~~(2)~~] Be a legal resident of the Commonwealth of Kentucky unless specifically exempted by the board therefrom for a justifiable reason.

(2) [~~(3)~~] Be of good moral character, as verified by employers and registered architects. One (1) or more of the following may be sufficient to prevent an applicant from being considered to be of "good moral character:"

(a) Conviction of a felony.

(b) Chronic alcoholism, persistent drug abuse, or any such acts of behavior which would, if applicant were licensed, jeopardize or impair his judgment to meet professional responsibility as an architect to the public welfare and safety.

(c) Submitting a misstatement or misrepresentation of facts in an application or in supplementary information.

(d) Violating any provision of KRS Chapter 323 or board administrative [~~rules and~~] regulations either before or after admission to examination.

(e) Violating the registration law of any other state, territory, or country.

(3) To be eligible for examination an applicant must present authentic evidence, by means of college transcripts and verification from employers, architects and others that he has met all the requirements noted in other sections and has had well diversified and satisfactory training in the many areas of architectural practice. The documentation shall be as verified, compiled and transmitted in bound record form by the National Council of Architectural Registration Boards (NCARB).

[~~(4) The board will review and evaluate the applicant's record of education, employment, experience, personal character, professional affiliations, and civic activities.~~]

(4) [~~(5)~~] The applicant may, at the board's discretion, be asked to appear for a personal audience so that the board may have the opportunity to judge his general qualifications for admission to the examinations.

(5) [~~(6)~~] The applicant must demonstrate to the board that his qualifications and preparation for examination are adequate.

Section 3. Education Requirements. (1) An applicant who has met the requirements of Section 2 of this administrative regulation shall in addition:

(a) Hold a first professional degree in architecture from a degree program that has been accredited by the National Architectural Accrediting Board (NAAB) not later than two (2) years after termination of enrollment; or

(b) Have satisfied the education standards as specified in the National Council of Architectural Registration Boards (NCARB) "Circular of Information No. 3", 1993-1994 edition, by earning five (5) years of equivalent education credits by the experience and education definitions of Table A and the footnotes thereto. The minimum five (5) years equivalent education credits shall be accumulated prior to June 1, 1992.

Section 4. Training Requirements. [~~3. Experience Required and Equivalencies Allowed.~~] (1) An applicant who has met the requirements of Section 2 of this regulation shall, in addition [~~thereto, have at least three (3) years of training credits satisfactory to the board, or~~] have satisfied the Intern Development Program (IDP) training requirements in accordance with Appendix B and pertinent references of the National Council of Architectural Registration Boards (NCARB) "Circular of Information No. 1", 1993-1994 [~~1990-1991~~] edition, as verified by NCARB evaluation. [~~A copy of "Circular of Information No. 1" may be obtained at the board office: 3302 Brookhill Circle, Lexington, Kentucky 40502. Office hours 9 a.m. to 5 p.m. Beginning June 1, 1986, applicants who have completed required education and who have less than six (6) months acceptable training shall be required to enroll in and satisfy the Intern Development Program Training requirements as verified by NCARB evaluation.~~

~~(2) To be eligible for examination an applicant must present authentic evidence, by means of college transcripts and verification from employers, architects and other that he has met all the requirements noted in other sections and has had well diversified and satisfactory training in the many areas of architectural practice.~~

~~(3) The following "Table of Equivalents" sets forth the ways in which education and training credits can be acquired:~~

~~TABLE OF EQUIVALENTS~~

~~Experience Description~~	~~Education Credits~~			~~Training Credits~~	
	~~First 2 Years~~	~~Succeeding Years~~	~~Max. Credit Allowed~~	~~Credit Allowed~~	~~Max. Credit Allowed~~
~~3.1 First professional degree in architecture, or credits toward the first professional degree,~~	~~75%~~	~~100%~~	~~5 years~~		

~~where the degree program has been accredited by the National Architectural Accrediting Board ("NAAB") not later than two (2) years after termination of enrollment~~					
~~3.2 First professional degree in architecture, or credits toward that degree, where the degree program has not been accredited by NAAB~~	~~75%~~	~~75%~~	~~4 years~~		
~~3.3 Bachelor degree, or credits toward that degree, in architectural engineering, architectural technology, or in civil, mechanical, or electrical engineering, in a degree program accredited by the Engineers' Council for Professional Development or the Accreditation Board for Engineering and Technology, or in interior architecture, accredited by the Foundation for Interior Design Education Research~~	~~50%~~	~~75%~~	~~3 years~~		
~~3.4 Any other bachelor degree~~			~~2 years~~		
~~3.5 Experience in architecture, as an employee in the offices of registered architects~~	~~50%~~	~~50%~~	~~5 years~~	~~100%~~	~~no limit~~
~~3.6 Experience in architecture as an employee of an organization (other than offices of registered architects) when the experience is under the direct supervision of a registered architect~~	~~50%~~	~~50%~~	~~4 years~~	~~100%~~	~~2 years~~
~~3.7 Experience directly related to architecture under the direct supervision of a professional engineer, landscape architect, interior designer, or planner~~	~~0~~	~~0~~		~~50%~~	~~1 year~~
~~3.8 Experience, other than 3.5, 3.6 or 3.7 experience, directly related to on-site building construction operations or experience involving physical analyses of existing buildings~~	~~0~~	~~0~~		~~50%~~	~~6 months~~
~~3.9 A post professional in architecture~~	~~0~~	~~0~~		~~100%~~	~~1 year~~

~~3.10 Teaching or research in an NAAB accredited architectural program — 0 — 0 — 100% — 1 year~~

~~(4) For purposes of interpreting the "Table of Equivalents," Education Credits shall be subject to the following conditions:~~

~~(a) Applicants with the degree specified in 3.1 through 3.4 will be allowed the credit shown in the Maximum Credit Allowed column, regardless of the length of the degree program. Applicants without the degree specified in 3.1 or 3.2 may not accumulate more than three (3) years of education credits in the aggregate from all degree programs.~~

~~(b) Thirty two (32) semester credit hours or forty eight (48) quarter credit hours are considered to be one (1) year. Fractions of a year of one half (1/2) or greater will be considered one half (1/2) year, and smaller fractions will not be counted.~~

~~(c) Foreign education credits will be granted only under classifications 3.2 and 3.4. Foreign educated applicants are required to meet requirements of NCARB Circular of Information No. 3.~~

~~(5) For purposes of interpreting the "Table of Equivalents," Training Credits shall be subject to the following conditions:~~

~~(a) For applicants who have completed education under 3.1, no training credits may be earned prior to completion of three (3) years under that classification.~~

~~(b) Every applicant must earn at least one (1) year of training credit under 3.5 and must earn it after earning five (5) years of education credits.~~

~~(c) To earn credit under 3.9 or 3.10, an applicant's credit hours must be in subjects evaluated by NCARB as directly related to architecture. Twenty (20) semester credit hours or thirty (30) quarter credit hours of teaching or equivalent time in research will equal one (1) year.~~

~~(d) No credit used as an education credit may be used as a training credit.~~

~~(6) For purposes of interpreting the "Table of Equivalents" the following general evaluation criteria shall apply:~~

~~(a) Organizations will be considered to be "offices of registered architects" if:~~

~~1. The architectural practice of the organization in which the applicant works is in the charge of a person practicing as a principal and the applicant works under the direct supervision of a registered architect; and~~

~~2. The organization is not engaged in construction; and~~

~~3. The organization has no affiliate engaged in construction which has a substantial economic impact upon the person or persons in the organization practicing as a principal; and~~

~~4. The architectural practice of the organization encompasses the comprehensive process of the practice of architecture including each of the categories composing such practices set forth in the NCARB requirements for the Intern Development Program (IDP).~~

~~(b) An organization (or an affiliate) is engaging in construction if it customarily engages in either of the following activities:~~

~~1. Undertakes to provide labor and/or material for all or any significant portion of a construction project, whether on lump sum, cost plus or other basis of compensation; or~~

~~2. Agrees to guarantee to an owner the maximum construction cost for all or any significant portion of a construction project.~~

~~(c) A person practices as a "principal" by being:~~

~~1. A registered architect; and~~

~~2. The person in charge of the organization's architectural practice, either alone or with other registered architects.~~

~~(d) To earn full education or training credits under 3.5, 3.6, 3.7, and 3.8 an applicant must work at least thirty five (35) hours per week for a minimum period of ten (10) consecutive weeks under 3.5 or six (6) consecutive months under 3.6, 3.7, or 3.8. An applicant may earn one half (1/2) the credit specified under 3.5 for work of at least twenty (20) hours per week in periods of six (6) or more consecutive months; no credit will be given for part time work in any category other than 3.5.~~

~~(e) Other education and training may be substituted for the requirements outlined above, only insofar as the board considers them to be equivalent to the required qualifications.~~

~~(f) In evaluating credits, the board requires substantiation of the quality and character of the applicant's experience, notwithstanding the fact that the applicant has complied with the technical education and training requirements set forth above.~~

~~(7) Training and experience acquired up to one (1) month prior to the month of the examinations if supported by supplementary documentation may be counted as credit.~~]

Section 5. Incorporation [~~4. Incorporate herewith~~] by Reference; National Council of Architectural Registration Boards (NCARB) Circular of Information No. 1, 1993-1994 [~~1990-1991~~] Edition and Circular of Information No. 3, 1993-1994 [~~1990~~] Edition. A copy of these circulars may be obtained at the board office, 3302 Brookhill Circle, Lexington, Kentucky 40502. Office hours are 9 a.m. to 5 p.m.

JOHN B. GARTNER, JR., President

APPROVED BY AGENCY: November 19, 1993

FILED WITH LRC: February 25, 1994 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1994, at 1 p.m. at 3302 Brookhill Circle, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the meeting, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for at transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: L. Wayne Tune, Executive Director, State Board of Examiners & Registration of Architects, P.O. Box 22097, Lexington, Kentucky 40522, (606) 277-3312.

REGULATORY IMPACT ANALYSIS

Contact person: L. Wayne Tune

(1) Type and number of entities affected: 30 new applicants annually; varies.

(a) Direct and indirect costs or savings to those affected:

1. First year: $100 initial fee to apply for Intern Development Program NCARB.

2. Continuing costs or savings: $95 upon completion and transmittal of record, NCARB.

3. Additional factors increasing or decreasing costs (note any effects upon competition): $30 annual file maintenance, NCARB

(b) Reporting and paperwork requirements: Applicant must gather and submit required references and employment verifications to support application.

(2) Effects on the promulgating administrative body: Routine review of applications and supplemental information. Maintain file.

(a) Direct and indirect costs or savings: None additional to ongoing administrative staff.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Review of applicants records and supplemental information. Maintain file.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None appropriate.

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This regulation being amended to simplify and organize the requirements in logical order and eliminate duplication.

TIERING: Is tiering applied? No. There is only one class of person to qualify and apply for the examinations.

GENERAL GOVERNMENT CABINET
State Board of Examiners & Registration of Architects
(Proposed Amendment)

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

RELATES TO: KRS 323.095, 323.120

STATUTORY AUTHORITY: KRS 323.210

NECESSITY AND FUNCTION: To define basis for board to proceed against architects for unprofessional practice.

Section 1. Penalties for Unprofessional Practice. (1) The board may refuse to issue, reissue, or renew or may issue a private or public reprimand or may probate, suspend for a period or revoke the license of any architect to practice architecture for any of the following reasons:

(a) Gross incompetency or gross negligence.

(b) Unprofessional conduct or conduct tending to bring the profession into disrepute.

(c) Conviction of a felony.

(d) Fraudulent or dishonest architectural practice.

(e) Use of false evidence, or misrepresentation in an application for licensing.

(f) Signing or affixing his seal to any plans, prints, specifications for buildings, or reports which have not been prepared personally or by employees under his supervision.

(2) The procedure for this [~~such~~] action shall be in accordance with the provisions of KRS 323.130 and 323.140.

Section 2. Gross Incompetence and Gross Negligence Defined. The following acts or omissions by an architect shall be deemed to be gross incompetence or gross negligence within the meaning of the law:

(1) Willfully failing to use reasonable care and diligence in his professional practice, resulting in a building or structure being improperly constructed to the detriment of the occupants.

(2) Willfully failing to use reasonable care and diligence in preparing drawings, specifications, and other documents relating to the design and construction of buildings for the protection of a client in all relationships as agent of the client.

Section 3. Unprofessional Conduct Defined. [~~Any of~~] The following acts by an architect shall be deemed to be "unprofessional conduct":

(1) Accepting compensation for architectural services from any entity other than his client or employer.

(2) Offering or making a [~~any~~] payment or gift to a government official (whether elected or appointed) with the intent to influence [~~of influencing~~] the official judgment in connection with a prospective or existing project in which the architect has an interest in providing architectural services. [~~is interested.~~]

(3)(a) Offering or making a payment or gift, as an individual architect or as a participating member of a partnership or corporation, to an elected governmental official, candidate for governmental office, or the campaign of a candidate for governmental office, when the payment or gift is a violation of federal or state campaign finance laws or administrative regulations.

(b) Entering a plea of guilty or an "Alford" plea to, or having been found guilty of, or having been convicted of, a felony or misdemeanor involving the violation of federal or state campaign finance laws, and the time for appeal has lapsed or the judgement or conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction, suspending imposition of sentence shall be conclusive proof of a violation of this section, and a certified copy of said judgement or order shall constitute sufficient proof of such a violation.

(4) Offering or making any gifts, except gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent to influence [~~of influencing~~] the judgment of an existing or prospective client in connection with a project in which the architect has an interest. [~~is interested.~~]

(5) [~~(4)~~] Having a financial interest in the manufacture, sale or installation of any component or process used in a project for which he is the architect unless the client has been [~~so~~] advised and has waived any objection [~~he may have had thereto~~].

(6) [~~(5)~~] Publicly endorsing a product, system, or service, or permitting the use of his name or photograph to imply [~~such~~] endorsement of a [~~. However, he may be identified with any~~] product, system, or service not designed or developed by him; or [.]

(7)(a) [~~(6)~~] Using paid advertising on behalf of himself, his partner, associate, or any other architect affiliated with him or his firm, that contains [~~containing~~] a statement or claim which is false or tends to be misleading, deceptive, or unfair, or which makes material claims of superiority which cannot be substantiated rather than being designed to inform the public.

(b) [~~(a)~~] Advertising may include the name of the architect or firm, address, telephone number, a statement of the fields of practice, and a statement of the geographical area where services are rendered, and cost of services.

(c) [~~(b)~~] An architect or architectural firm which advertises a fee for specific services and accepts such employment shall perform such services for the amount stated, and a statement to that effect shall be included in every advertisement.

(d) [~~(c)~~] Advertisements may be by newspaper or magazine advertisements, radio or television announcements, or display advertisements in the city or telephone directories.

Section 4. Conviction of a Felony. Entering a plea of guilty or an "Alford" plea to, or having been found guilty of, or having been convicted of a felony, and the time for appeal has lapsed or the judgement or conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction, suspending imposition of sentence shall be conclusive proof of a violation of this section, and a certified copy of said judgment or order shall constitute sufficient proof of such a violation. [~~Any conviction of a felony within the United States of America or its possessions is prima facie evidence of misconduct.~~]

Section 5. Fraudulent or Dishonest Practice Defined. The following practices by an architect shall be deemed to be "fraudulent or dishonest practice" within the meaning of the law:

(1) Making untrue or deceitful statements in an application for examination or registration, or in an application for license renewal or in any other statements or representations to the board.

(2) Affixing his seal to any drawings other than those for which he

is the author. All plans shall be sealed by the author or authors thereof. "Authors" is defined as those in responsible charge of the preparation of plans which are made by them personally or under their supervision.

(3) Bribing any person or persons who may influence the selection of an architect.

(4) Willfully misleading or defrauding any person or persons employing him as an architect.

(5) Willfully violating the laws of Kentucky or any other state, where such are applicable, relating to the practice of architecture; or willfully violating any rule or regulation of this board made in pursuance to law.

(6) Using, or attempting to use, or practicing under, a license that has been suspended or revoked or which has not been renewed as required by law and the regulations of the board.

Section 6. Registration While Working for Others. (1) An architect may work as the employee of another architect without affecting the status of his registration.

(2) Or he may work as an employee for any firm in which his duties are not those of any architect, without affecting the status of registration. But if he works as an architect for, or with, an individual not an architect, or a firm or corporation not under the control of architects, then he shall maintain free and unbiased judgment and unrestrained use of his professional prerogatives and services to clients; and the terms of his employment or agreement shall [~~be compatible therewith, and such as to~~] permit full compliance with the "obligations of practice," and these administrative regulations.

Section 7. Office Staffing. Each office maintained for the preparation of drawings, specifications, reports and other professional work shall have a regularly employed architect duly registered with this board, in full authority and responsible charge, having direct knowledge and supervisory control of such work.

JOHN B. GARTNER, JR., President

APPROVED BY AGENCY: November 19, 1993

FILED WITH LRC: February 25, 1994 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1994, at 1 p.m. at 3302 Brookhill Circle, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the meeting, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for at transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: L. Wayne Tune, Executive Director, State Board of Examiners & Registration of Architects, P.O. Box 22097, Lexington, Kentucky 40522, (606) 277-3312.

REGULATORY IMPACT ANALYSIS

Contact person: L. Wayne Tune

(1) Type and number of entities affected: 2200± registered architects.

(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: Costs of investigations and hearing of possible violations are variable and indeterminate.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None applicable.

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This regulation being amended to simplify language and to add the provision that violation of campaign finance laws to be unprofessional conduct.

TIERING: Is tiering applied? No. Standards apply equally to all architects.

GENERAL GOVERNMENT CABINET
State Board of Examiners & Registration of Architects
(Proposed Amendment)

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

RELATES TO: KRS 323.095

STATUTORY AUTHORITY: KRS 323.210

NECESSITY AND FUNCTION: To describe the required seal acceptable to the board.

Section 1. Individual Seals Required. Each architect registered for practice within the Commonwealth of Kentucky shall sign, date and imprint with his seal all documents prepared by him or under his supervision, and shall secure and use for this purpose a seal of the following design:

(1) [~~To consist of~~] Two (2) concentric circles;

(a) The outer circle to be one and nine-sixteenths (1 9/16) inches in diameter and the inner circle to one (1) inch in diameter.

(b) The upper portion of the annular space between the two (2) circles shall bear the name of the registrant.

(c) The lower portion of the annular space shall bear the word "Architect."

(d) The space enclosed by the inner circle shall be divided into an upper and lower half.

1. The upper portion shall consist of three (3) lines, the word "Registered," then the abbreviation "No.," and then the number of the certificate of the registrant.

2. The lower portion shall contain, in three (3) lines, the words "Commonwealth of Kentucky."

(2) It shall be permissible to combine the names and registration numbers of two (2) or more registered architects from the same office on one (1) seal. The names of any persons who are not registered architects on any such combination shall not be permitted.

(3) It shall be made clear, by proper use of seal that only those who are licensed architects in Kentucky are in charge and fully responsible for the work involved.

[~~(4) The seal used on a cover sheet or page should be emboss-~~

~~ing type. A duplicate, rubber stamp type, may be used on all other sheets or pages and added to the cover if desired.~~]

Section 2. Office and Firm Names. (1) Title blocks and firm names used in connection with the practice of architecture in this state shall not be misleading nor infer that unlicensed persons are architects, and only those registered to practice in Kentucky shall be so designated as architects.

(2) A firm name may be used without all members being registered if those architects who are licensed in Kentucky have the title "architect" applied only to them in subheadings or subtitles in defining the practice of the firm. Examples:

(a) SMITH, JONES, MILLER & MOORE
Albert Smith, Architect

(Where Smith and Jones are both architects in their own state but only Albert Smith is licensed in Kentucky and is fully responsible for work in this state); or

(b) SMITH, JONES, MILLER & MOORE, Inc.
Architects and Engineers
Albert Smith, Architect Carl Miller, Mech. Engr.
Robert Jones, Architect John Moore, Struct. Engr.

(Where all are licensed in Kentucky in the professions indicated); or

(c) STATEWIDE STUDIOS, Inc.
Roy Jones, Architect John Davis, Mech. Engr.
Carl Smith, Architect Alan Moore, Manager

(Where Jones and Smith are both licensed in Kentucky and the firm has other members they wish to include in their office title).

Section 3. Sample forms of the prescribed seal are incorporated [~~filed herein~~] by reference and may be obtained from the State Board of Examiners and Registration of Architects, 3302 Brookhill Circle, Lexington, Kentucky 40502. Office hours 9 a.m. to 5 p.m.

JOHN B. GARTNER, JR., President

APPROVED BY AGENCY: November 19, 1993

FILED WITH LRC: February 25, 1994 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1994, at 1 p.m. at 3302 Brookhill Circle, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the meeting, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for at transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: L. Wayne Tune, Executive Director, State Board of Examiners & Registration of Architects, P.O. Box 22097, Lexington, Kentucky 40522, (606) 277-3312.

REGULATORY IMPACT ANALYSIS

Contact person: L. Wayne Tune

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: $50± to purchase seal.
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None applicable.

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: Regulation being amended to agree with modern technical methods and to agree with code enforcement methods.

TIERING: Is tiering applied? No. Applies to all architects equally.

DEPARTMENT OF CORRECTIONS
(Proposed Amendment)

501 KAR 6:030. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the commissioner to adopt, amend or rescind administrative regulations necessary and suitable for the proper administration of the cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. These administrative regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Department of Corrections the following policies and procedures, revised March [~~February~~] 15, 1994, are incorporated by reference and shall be referred to as Kentucky State Reformatory Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Department of Corrections, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

KSR 01-00-09	Public Information and News Media Relations
KSR 01-00-10	Entry Authorization for All Cameras and Tape Recorders Brought into the Institution
KSR 01-00-15	Cooperation and Coordination with Oldham County Court
KSR 01-00-19	Personal Service Contract Personnel
KSR 01-00-20	Consent Decree Notification to Inmates
KSR 02-00-01	Inmate Canteen
KSR 02-00-03	Screening Disbursements from Inmate Personal Accounts
KSR 02-00-11	Inmate Personal Accounts
KSR 02-00-12	Institutional Funds and Issuance of Checks
KSR 04-00-02	Staff Training and Development
KSR 05-00-01	Officers' Daily Housing Security and Safety Log
KSR 05-00-02	Research Activities
KSR 05-00-03	Management Information Systems
KSR 06-00-01	Inmate Master File
KSR 06-00-02	Records Audit

KSR 06-00-03	Kentucky Open Records Law and Release of Psychological/ Psychiatric Information
KSR 07-00-02	Institutional Tower Room Regulations
KSR 07-00-04	Handling of PCB Articles and Containers
KSR 07-00-05	Proper Removal of Transformers
KSR 07-00-06	Asbestos Abatement
KSR 07-00-07	Discharge Monitoring Report (DMR)
KSR 07-00-08	Control of Hazardous Energy (Lockout or Tagout)
KSR 07-00-09	Inventory Control of Underground Storage Tanks
KSR 08-00-07	Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family
KSR 08-00-08	Death of an Inmate/Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery or Death [~~(Amended 2/15/94)~~]
KSR 08-00-10	Hazardous Chemicals and Material Safety Data Sheet
KSR 09-00-04	Horizontal Gates/Box 1 Entry and Exit Procedure
KSR 09-00-05	Gate I Entrance and Exit Procedure Limited Issue
KSR 09-00-09	Contraband, Dangerous Contraband and Search Policy
KSR 09-00-21	Crime Scene Camera
KSR 09-00-22	Collection, Preservation, and Identification of Physical Evidence
KSR 09-00-23	Drug Abuse Testing
KSR 09-00-25	Inmate Motor Vehicle Operator's License
KSR 09-00-26	Contraband Outside Institutional Perimeter
KSR 09-00-27	Construction Crew Entry/Exit
KSR 09-00-28	Restricted Areas
KSR 09-00-29	Transportation of Inmates
KSR 09-00-30	Parole Board
KSR 09-00-31	Forced Cell Move in Medium or Maximum Area
KSR 10-00-10	Unit D - and Unit E - Special Management Inmate Legal Access
KSR 10-00-11	Unit D - Behavior Problem Control
KSR 10-00-13	Unit D - Property Room Access
KSR 10-01-01	Unit D - Staffing Pattern, Staff Allocation, Position Description, Staff Selection, Training and Evaluation, Time and Attendance, and Unit Personnel Records
KSR 10-01-02	Unit D - General Operational Procedures
KSR 10-01-03	Unit D - Inmate Tracking System and Records System
KSR 10-01-04	Unit D - Administrative Segregation
KSR 10-01-05	Unit D - Disciplinary Segregation
KSR 10-01-06	Unit D - Protective Custody
KSR 10-01-07	Unit D - Geriatrics
KSR 10-01-08	Unit D - Safekeepers and Pretrial Contract Hold Status Inmates
KSR 10-01-09	Unit D - Hold Ticket Residents
KSR 10-02-01	Mental Health Staffing Pattern
KSR 10-02-02	Unit E Designated Staff Visits
KSR 10-02-03	Unit E-1 Convalescent Care
KRS 10-02-04	Unit E-General Operating Procedures
KSR 11-00-01	Meal Planning for the General Population
KSR 11-00-02	Special Diets
KSR 11-00-03	Food Service Inspections
KSR 11-00-04	Dining Room Rules and Dress Code for Inmates
KSR 11-00-06	Health Standards/Regulations for Food Service Employees
KSR 11-00-07	Early Chow Line Passes for Medically Designated Inmates
KSR 12-00-01	Inmate Summer Dress Regulations
KSR 12-00-03	State Items Issued to Inmates
KSR 12-00-07	Regulations for Inmate Barbershop
KSR 12-00-09	Treatment of Inmates with Body Lice
KSR 13-00-02	Hospital Operations, Rules and Regulations
KSR 13-00-03	Medication for Inmates Leaving Institution Grounds
KSR 13-00-04	Medical and Dental Care
KSR 13-00-05	Medical Records
KSR 13-00-08	Institutional Laboratory Procedures
KSR 13-00-09	Institutional Pharmacy Procedures
KSR 13-00-10	Requirements for Medical Personnel
KSR 13-00-11	Health Evaluation
KSR 13-00-12	Vision Care/Optometry Services
KSR 13-00-14	Periodic Health Examinations for Inmates
KSR 13-00-15	Medical Alert System
KSR 13-00-16	Suicide Prevention and Intervention Program
KSR 13-00-17	Special Care
KSR 13-02-01	Mental Health Services
KSR 13-02-02	Mentally Retarded Inmates
KSR 13-02-03	Suicide Prevention and Intervention Program
KSR 13-02-04	Division of Mental Health's Residential Services
KSR 14-00-01	Inmate Rights
KSR 14-00-04	Inmate Grievance Procedure
KSR 15-00-02	Regulations Prohibiting Inmate Control or Authority Over Other Inmate(s)
KSR 15-00-05	Differential Status for SU (QUIT) Inmates
KSR 15-00-06	Inmate I.D. Cards
KSR 15-00-07	Inmate Rules and Discipline - Adjustment Committee Procedures
KSR 15-00-08	Firehouse Living Area
KSR 15-00-09	Smoking and No Smoking Areas for Inmates and Staff
KSR 15-00-10	Program Services for Special Housing Placement
KSR 15-01-01	Operational Procedures and Rules and Regulations for Unit A, B & C: Functions of Assigned Personnel
KSR 15-01-02	Operational Procedures and Rules and Regulations for Unit A, B, & C: Staff Operational Procedures
KSR 15-01-03	Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate Rules and Regulations
KSR 15-01-04	Institutional Medical and Fire Safety Service: Unit Application
KSR 15-01-05	Operational Procedures Rules and Regulations for Unit A, B, & C: Institutional Inmate Services
KSR 15-01-06	Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate Honor Housing Criteria and Regulations
KSR 16-00-02	Inmate Correspondence and Mailroom Operations
KSR 16-00-03	Inmate Access to Telephones
KSR 16-01-01	Visiting Regulations
KSR 16-01-02	Lawn Visit Procedure and Regulations
KSR 16-01-03	Night Visit Regulations
KSR 17-00-05	Dormitory 10 Operations
KSR 17-00-06	Identification Department Admission and Discharge Procedures
KSR 17-00-07	Inmate Personal Property
KSR 17-00-08	Repair of Inmate Owned Appliances by Outside Dealers
KSR 18-00-04	Returns from Other Institutions
KSR 18-00-05	Transfer of Residents to Kentucky Correctional Psychiatric Center, and Referral Procedure for Residents Adjudicated Guilty but Mentally Ill
KSR 18-00-06	Classification and Special Notice Form
KSR 18-00-07	Kentucky State Reformatory Placement Committee [~~(Amended 2/15/94)~~]
KSR 19-00-01	Inmate Work Incentives
KSR 19-00-02	On-the-job Training Program
KSR 19-00-03	Safety Inspections of Inmate Work Assignment Locations
KSR 19-00-05	Food Service On-The-Job Training and Workers Rules
KSR 20-00-01	Technical and Adult Basic Level Learning Center Programs
KSR 20-00-04	Criteria for Participation in A College Program

KSR 20-00-06	English as a Second Language (Added 3/15/94)
KSR 21-00-01	Legal Aide Office and Inmate Law Library Services and Supervision
KSR 21-00-02	Inmate Library Services
KSR 21-00-03	Library Services for Unit D
KSR 22-00-03	Inmate Organizations
KSR 22-00-07	Inmate Magazine
KSR 22-00-08	Privilege Trips
KSR 23-00-02	Chaplain's Responsibility and Inmate Access to Religious Representatives
KSR 23-00-03	Religious Programming
KSR 25-00-01	Discharge of Inmates to Hospital or Nursing Home
KSR 25-00-02	Violations of Law or Code of Conduct by Inmates on Parole Furlough
KSR 25-00-03	Preparole Progress Report

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: March 15, 1994

FILED WITH LRC: March 15, 1994 at 9 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for April 25, 1994 at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack Damron and William Seabold, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack Damron

(1) Type and number of entities affected: 544 employees of the Kentucky State Reformatory, 1315 inmates, and all visitors to state correctional institutions.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.

2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing costs: Same as 2(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

DEPARTMENT OF CORRECTIONS
(Proposed Amendment)

501 KAR 6:040. Kentucky State Penitentiary.

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 administrative regulations necessary and suitable for the proper administration of the cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. These administrative regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Department of Corrections, the following policies and procedures, revised March 15, 1994 [~~November 15, 1993~~] are incorporated by reference and shall be referred to as Kentucky State Penitentiary Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Department of Corrections, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

KSP 000000-06	Administrative Regulations
[~~KSP 010000-04~~	~~Public Information and Media Communication (Deleted 3/15/94)~~]
KSP 01-02-01	Public Information and Media Communications (Amended 3/15/94) (Renumbered from 010000-04)
KSP 020000-15	Legal Assistance
KSP 02-01-01	Inmate Commissary Program
KSP 02-08-01	Inventory Records and Control
KSP 02-11-01	Requisition and Purchase of Supplies and Equipment
KSP 02-12-01	Inmate Personal Funds
KSP 05-02-01	Management Information System
KSP 06-01-01	Inmate Records
KSP 070000-20	Menu Preparation and Planning
KSP 070000-24	Food Service, General Sanitation, Safety, and Protection Standards and Requirements
KSP 070000-25	Food Service Inspections
KSP 090000-01	Inmate Work Programs/Safety Inspections of Inmate Work Locations
KSP 09-08-01	Searches and Preservation of Evidence
KSP 10-02-01	Special Management Units: Assignment, Classification Review and Release [(~~Added 11/15/93~~)]
KSP 10-02-05	Special Security Unit
KSP 10-04-01	Special Needs Inmates
KSP 100000-03	Disposition of Unauthorized Property
KSP 100000-05	Procedures for Providing Clothing, Linens and Other Personal Items
KSP 100000-08	Behavioral Counseling Record
KSP 100000-14	Property Room: Clothing Storage and Inventory
KSP 100000-20	Legal Services Program
KSP 100000-21	Photocopies for Nonindigent Inmates with Special Court Deadlines
KSP 11-03-01	Therapeutic Diets [(~~Amended 11/15/93) (Renumbered from 070000-30~~)]
KSP 110000-04	Preparole Progress Report
KSP 110000-06	General Guidelines of the Classification Committee
KSP 110000-12	Unit Classification Committee - Inmate Work Assignments
KSP 110000-13	Classification Document

KSP 110000-15	Transfers to Kentucky Correctional Psychiatric Center (KCPC)
KSP 110000-18	Functions of the Classification Committee
KSP 120000-08	Inmate Furloughs
KSP 120000-11	Religious Services - Staffing
KSP 120000-18	Religious Services - Religious Programming
KSP 120000-20	Marriage of Inmates
KSP 120000-31	Extended Furloughs
KSP 13-01-01	Pharmacy Procedures
KSP 13-02-01	Hospital Services
KSP 13-02-02	Sick Call
KSP 13-02-03	Health Evaluations
KSP 13-02-04	Emergency Medical Procedure
KSP 13-02-05	Consultations
KSP 13-02-08	Medical Records
KSP 13-02-09	Psychiatric and Psychological Services
KSP 13-02-11	Psychological/Psychiatric Treatment Upon Release
KSP 13-02-12	Dental Services for Special Management Units
KSP 13-02-13	Optometric Services
KSP 130000-10	Execution Plan
KSP 14-03-01	Marriage of Inmates
KSP 14-06-01	Inmate Grievance Procedure
KSP 15-01-01	Inmate Grooming and Dress Code
KSP 15-03-01	Award of Meritorious Good Time
KSP 15-06-01	Due Process/Disciplinary Procedures (Amended 3/15/94)
KSP 15-10-01	Discharge of Inmates by Shock Probation
KSP 16-01-01	Visiting Program [~~(Amended 11/15/93)~~]
KSP 16-02-01	Inmate Correspondence
KSP 16-03-02	Inmate Telephone Access
KSP 16-04-01	Inmate Packages
KSP 17-01-01	Inmate Personal Property
KSP 18-15-01	Protective Custody Unit
KSP 19-05-01	Correctional Industries
KSP 20-04-01	Educational Programs

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: March 15, 1994

FILED WITH LRC: March 15, 1994 at 9 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for April 25, 1994 at 9 a.m., in the Auditorium of the State Office Building. Those interested in attending this hearing shall notify in writing: Jack Damron and William Seabold, 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: 313 employees of the Kentucky State Penitentiary, 818 inmates, and all visitors to state correctional institutions.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.

2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing costs: Same as 2(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

DEPARTMENT OF CORRECTIONS
(Proposed Amendment)

501 KAR 6:130. Western Kentucky 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 authorizes the commissioner to adopt, amend or rescind administrative regulations necessary and suitable for the proper administration of the department 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. This administrative regulation is in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Department of Corrections the following policies and procedures, revised March 15, 1994 [~~October 15, 1993~~], are incorporated by reference and shall be referred to as Western Kentucky Correctional Complex Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Department of Corrections, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

WKCC 02-01-01	Inmate Funds
WKCC 02-01-02	Inmate Canteen
WKCC 02-00-03	Invoice and Voucher Processing
WKCC 02-00-04	Monetary Receipts During Nonbusiness Hours
WKCC 02-00-06	Purchasing Procedures (Amended 3/15/94)
WKCC 02-01-01	Inmate Funds
WKCC 02-02-01	Agency Funds and Accounting Procedures
WKCC 02-08-01	Property Receipt and Inventory Procedures (Amended 3/15/94)
WKCC 04-01-01	Travel Reimbursement for Official Business in Attendance at Professional Meetings
WKCC 04-02-01	Employee Training and Development
WKCC 04-04-01	Educational Assistance Program
WKCC 05-01-01	Research, Consultants, and Student Interns
WKCC 06-00-01	Offender Records and Information Access
WKCC 06-00-02	Court Orders, Orders of Appearance, Warrants, Detainers, Etc.
WKCC 09-00-01	Drug Abuse and Alcohol Testing
WKCC 10-02-01	Special Management Inmates (Amended 3/15/94)
WKCC 11-00-02	Food Service Inmate Work Responsibilities,

	Evaluations, and Health Requirements
WKCC 11-00-03	Food Service Inspections, Sanitation, Purchasing, and Storage of Food (Amended 3/15/94)
WKCC 11-00-04	Food Service Security
WKCC 11-00-05	Food Service General Guidelines
WKCC 11-03-01	Food Service Meals, Menus, Nutrition and Special Diets
WKCC 12-01-01	Inmate Clothing
WKCC 13-00-01	Special Health Programs
WKCC 13-01-01	Use of Pharmaceutical Products [(~~Amended 10/15/93~~)]
WKCC 13-02-01	Health Care Services
WKCC 14-04-01	Legal Services Program
WKCC 14-06-01	Inmate Grievance Procedure
WKCC 15-01-01	Hair and Grooming Standards (Amended 3/15/94)
WKCC 15-03-01	Meritorious Good Time
WKCC 15-05-01	Restoration of Forfeited Good Time
WKCC 16-01-01	Visiting Policy and Procedures (Amended 3/15/94)
WKCC 16-02-01	Inmate Correspondence
WKCC 16-03-01	Inmate Access to Telephones
WKCC 16-04-01	Inmate Packages
WKCC 17-01-01	Inmate Personal Property
WKCC 17-02-01	Inmate Reception and Orientation
WKCC 18-01-01	Structure, Guidelines, and Functions of the Classification Committee
WKCC 20-01-01	Education Program (Amended 3/15/94)
WKCC 22-00-01	Inmate Recreation and Leisure Time Activities
WKCC 22-00-02	Inmate Clubs and Organizations
WKCC 23-00-01	Religious Services (Amended 3/15/94)
WKCC 25-02-01	Inmate Release Process
WKCC 25-03-01	Prerelease Programs

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: March 10, 1994

FILED WITH LRC: March 10, 1994 at 4 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for April 25, 1994 at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack T. Damron and William Seabold, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack Damron

(1) Type and number of entities affected: 139 employees of the Western Kentucky Correctional Complex, 410 inmates, and all visitors to state correctional institutions.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.

2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing costs: Same as 2(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

DEPARTMENT OF CORRECTIONS
(Proposed Amendment)

501 KAR 6:140. Bell County Forestry Camp.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590 and 439.640 authorizes the commissioner to adopt, amend or rescind administrative regulations necessary and suitable for the proper administration of the department 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. This administrative regulation is in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Department of Corrections the following policies and procedures, revised March 15, 1994 [~~June 15, 1993~~] are incorporated by reference and shall be referred to as Bell County Forestry Camp Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Department of Corrections, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

BCFC 01-02-01	Organization and Assignment of Responsibility
BCFC 01-04-02	Extraordinary Occurrence Procedure
BCFC 01-05-01	Procedures Office: Duties and Responsibilities
BCFC 01-08-01	Public Information and Inmate Access to News Media
BCFC 01-09-01	Staff Participation in Professional Organization and Conferences; Provision for Leave and Reimbursement for Expenses
BCFC 01-11-01	Institutional Duty Officer's Responsibilities
BCFC 02-01-02	Fiscal Management: Accounting Procedures
BCFC 02-01-03	Fiscal Management: Agency Funds
BCFC 02-01-04	Fiscal Management: Insurance
BCFC 02-01-05	Fiscal Management: Budget
BCFC 02-01-06	Fiscal Management: Audit
BCFC 02-02-01	Inmate Accounts
BCFC 02-02-02	Inmate Control of Personal Funds
BCFC 02-02-03	Storage and Disposition of Inmate Monies Received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays
BCFC 02-03-01	Purchase Orders
BCFC 02-04-01	Processing of Invoices
BCFC 02-05-01	BCFC Materials Receiving Procedure
BCFC 02-06-01	Property Inventory
BCFC 04-01-01	Employee Training and Development (Amended

3/15/94)
BCFC 05-01-01 Information System
BCFC 06-01-01 Offender Records
BCFC 06-02-01 Storage of Expunged Records
BCFC 06-03-01 Court Trips
BCFC 06-03-02 Receipt of Order of Appearance
BCFC 07-04-01 Smoking Control
BCFC 08-02-01 Fire Prevention
BCFC 08-03-01 Fire Procedures
BCFC 08-03-02 Fire Extinguishers and Their Use
BCFC 08-09-01 Guidelines for the Control and Use of Flammable, Toxic, and Caustic Substances
BCFC 08-09-02 OSHA Hazard Communication Program
BCFC 08-10-01 Bell County Forestry Camp Emergency Response Team (Added 3/15/94)
BCFC 09-06-01 Search Policy/Disposition of Contraband
BCFC 09-14-01 Bell County Forestry Camp - Restricted Area
BCFC 10-01-01 Special Management Inmates
BCFC 11-01-01 Food Services: General Guidelines
BCFC 11-02-01 Food Service: Security
BCFC 11-03-01 Dining Room Guidelines
BCFC 11-04-01 Food Service: Meals
BCFC 11-04-02 Food Service: Menu, Nutrition and Special Diets
BCFC 11-05-02 Health Requirements of Food Handlers
BCFC 11-06-01 Food Service: Inspection and Sanitation
BCFC 11-07-01 Food Service: Purchasing, Storage and Farm Products
BCFC 11-08-01 Staff/Visitor Meals
BCFC 12-01-01 Sanitation, Living Conditions Standards, and Clothing Issues
BCFC 12-01-02 Bed Areas, Assignments/Conditions Standards
BCFC 12-02-01 Issuance of Clean Laundry and Receiving of Dirty Laundry
BCFC 12-03-01 Personal Hygiene Items: Issuance and Placement Schedule
BCFC 12-03-02 Barbershop Services and Equipment Control
BCFC 12-04-01 Institutional Inspections
BCFC 12-05-01 Fire Safety and Use of Noncombustible Receptacles
BCFC 12-06-01 Pest Control
BCFC 13-01-01 Organization of Health Services
BCFC 13-02-01 Health Maintenance Services: Sick Call and Pill Call
BCFC 13-03-01 Dental Policy/Sick Call
BCFC 13-04-01 Inmate Medical Screenings and Health Evaluations
BCFC 13-05-01 Licensure and Training Standards
BCFC 13-06-01 Suicide Prevention and Intervention Program
BCFC 13-06-02 First Aid/CPR Training Program
BCFC 13-06-03 Emergency Medical/Dental Care Services
BCFC 13-07-01 Health Records
BCFC 13-08-01 Special Diets
BCFC 13-09-01 Notification of Inmate, Family in the Event of Serious Illness, Surgery, or Inmate Death
BCFC 13-10-01 Health Education/Special Health Programs
BCFC 13-11-01 Informed Consent
BCFC 13-12-01 Mental Health/Provision of Psychiatric Services by KCPC
BCFC 13-12-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center (KCPC)
BCFC 13-13-01 Identification of Special Needs Inmates
BCFC 13-14-01 Use of Pharmaceutical Products
BCFC 13-15-01 Medical Restraints
BCFC 13-16-01 Specialized Health Services
BCFC 13-17-01 Vision Care/Optometry Services
BCFC 13-18-01 Infection Control
BCFC 13-19-01 Exposure Control Plan
BCFC 14-01-01 Inmate Rights and Responsibilities (Amended 3/15/94)
BCFC 14-02-01 Legal Services Program (Amended 3/15/94)
BCFC 14-03-01 Inmate Grievance Procedure (Amended 3/15/94)
[~~BCFC 14-04-01 Inmate Participation in Authorized Research (Deleted 3/15/94)~~]
BCFC 15-01-01 Due Process/Disciplinary Procedures
BCFC 16-01-01 Inmate Visiting [~~(Amended 6/15/93)~~]
BCFC 16-02-01 Telephone Communications
BCFC 16-03-01 Mail Regulations
BCFC 16-03-02 Inmate Packages
BCFC 17-01-01 Assessment/Orientation Procedure
BCFC 17-02-01 Inmate Reception Process
BCFC 17-04-01 Unauthorized Items
BCFC 17-05-01 Inmate Canteen
BCFC 18-01-01 Institutional Classification Committee
BCFC 18-02-01 Classification Document
BCFC 18-03-01 Classification Process
BCFC 18-03-02 Classification Program Planning
BCFC 18-03-03 Population Category Status
BCFC 18-04-01 Instructions for Six Month Review
BCFC 18-05-01 Transfers to Other Minimum Security Institutions
BCFC 19-01-01 Job and Vocational Program Assignments
BCFC 19-02-01 Government Service Details
BCFC 20-01-01 Academic School
BCFC 20-01-02 Testing and Verification Procedure
BCFC 20-02-01 Educational Program Planning
BCFC 20-03-01 Academic Curriculum
BCFC 21-01-01 Library Services
BCFC 22-01-01 Recreation and Inmate Activities
BCFC 22-02-01 Inmate Clubs and Organizations
BCFC 22-02-02 Conducting Inmate Organizational Meetings and Programs
BCFC 22-03-01 Privilege Trips
BCFC 23-01-01 Religious Service
BCFC 23-02-01 Visitors for Religious Programs
BCFC 23-03-01 Marriage of Inmates
BCFC 24-01-01 Social Services and Counseling Program
BCFC 24-01-02 Casework Services
BCFC 25-01-01 Release Preparation Program Description
BCFC 25-02-01 Temporary Release/Community Center Release
BCFC 25-02-02 Furloughs
BCFC 25-03-01 Preparole Progress Report
BCFC 25-03-02 Parole Eligibility Dates
BCFC 25-04-01 Inmate Discharge Procedure
BCFC 26-01-01 Citizen Involvement and Volunteer Services Program

JACK C. LEWIS, Commissioner
APPROVED BY AGENCY: March 15, 1994
FILED WITH LRC: March 15, 1994 at 9 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for April 25, 1994 at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack Damron and William Seabold, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack Damron
(1) Type and number of entities affected: 39 employees of the Bell County Forestry Camp, 200 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
Office of Minority Affairs
(Proposed Amendment)

600 KAR 4:010. Certification of disadvantaged, minority and women business enterprises.

RELATES TO: KRS Chapters 96A, 174, 176, 177, 183, 13 CFR 121.1-121.3, 49 CFR 23, 15 USC 637

STATUTORY AUTHORITY: KRS 13A.120, 174.080, 49 CFR 23

NECESSITY AND FUNCTION: Title 49 of the Code of Federal Regulations Part 23 requires that most recipients of funds from the United States Department of Transportation (USDOT) implement a program to support the fullest possible participation of firms or business enterprises owned and controlled by minorities, women and socially and economically disadvantaged individuals in USDOT programs. The Kentucky Transportation Cabinet as a recipient of USDOT funds is required by the federal regulation to have a program of certification of disadvantaged, minority and women business enterprises. This administrative regulation establishes the procedures and criteria for the Transportation Cabinet's certification program. It also sets forth the requirement that certified and prequalified DBE firms attend an orientation program and management development course to increase the probability of the firm remaining certified.

Section 1. Definitions. (1) "Applicant" means any corporation, partnership, sole proprietorship, or joint venture applying with the Transportation Cabinet for certification as a disadvantaged, minority or women business enterprise.

(2) "Approval" means that the applicant meets disadvantaged, minority or women business enterprise or joint venture eligibility criteria as outlined in 49 CFR Part 23 and as required by this administrative regulation.

(3) "Certification" means the process whereby the Transportation Cabinet determines if an applicant meets disadvantaged, minority or women business enterprise or joint venture criteria.

(4) "Challenge" means an action of a third party which takes issue with the socially and economically disadvantaged status of certified disadvantaged business enterprise program participants or applicants for DBE certification.

(5) "Decertified" means that a firm or business enterprise which has been certified by the Transportation Cabinet which certification has not expired, as a disadvantaged, minority or women business enterprise or joint venture has been determined to be ineligible and is, therefore, no longer entitled to the rights and privileges accorded to those who are certified by the Transportation Cabinet as a disadvantaged, minority or women business enterprise or joint venture.

(6) "Denial" means that the applicant does not meet disadvantaged, minority or women business enterprise or joint venture eligibility criteria as outlined in 49 CFR Part 23 and as required by this administrative regulation.

(7) "Disadvantaged business enterprise" or "DBE" means a small business concern as defined pursuant to Section 3 of the Small Business Act and implementing regulations:

(a) Which is at least fifty-one (51) percent owned by one (1) or more socially and economically disadvantaged persons; or, in the case of any publicly owned business, at least fifty-one (51) percent of the stock of which is owned by one (1) or more socially and economically disadvantaged individuals; and

(b) Whose management and daily business operations are controlled by one (1) or more of the socially and economically disadvantaged individuals who own it.

(8) "Joint venture" means an association of two (2) or more businesses to perform a specified business contract for profit for which purpose the businesses combined their property, capital, efforts, skills and knowledge.

(9) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

(a) Black (a person having origins in any of the black racial groups of Africa);

(b) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);

(c) Portuguese (a person of Portuguese, Brazilian, or other Portuguese culture or origin, regardless of race);

(d) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands);

(e) American Indian and Alaskan native (a person having origins in any of the original peoples of North America); or

(f) Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 USC 637(a)).

(10) "Minority business enterprise" or "MBE" means a small business concern, as defined pursuant to Section 3 of the Small Business Act and implementing regulations, which is owned and controlled by one (1) or more minorities or women. This definition applies only to financial assistance programs. For the purposes of this part, owned and controlled means a business:

(a) Which is at least fifty-one (51) percent owned by one (1) or more minorities or women or, in the case of a publicly owned business, at least fifty-one (51) percent of the stock of which is owned by one (1) or more minorities or women; and

(b) Whose management and daily business operations are controlled by one (1) or more such individuals.

(11) "Notice" means written notice from the Transportation Cabinet or Office of Minority Affairs delivered certified mail to the business address listed on the application form.

(12) "On-site inspection" means conducting an interview with principals of the firm at its primary place of business, reviewing business-related documents, and inspecting business facilities.

(13) "Prequalified" means that the Transportation Cabinet has approved the business enterprise to perform certain functions on behalf of the cabinet in accordance with KRS Chapter 45A or 603 KAR 2:015.

(14) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are black Americans,

Hispanic Americans, native Americans, Asian-Pacific Americans, Asian-Indian Americans, or women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act. The Transportation Cabinet shall have a rebuttable presumption that individuals listed in paragraphs (a) through (f) of this subsection are socially and economically disadvantaged. The Transportation Cabinet also may determine, on a case-by-case basis, that individuals who are not a member of one (1) of the following groups are socially and economically disadvantaged:

(a) "Black Americans," which includes persons having origins in any of the black racial groups of Africa;

(b) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(c) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or native Hawaiians;

(d) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;

(e) "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh; and

(f) "Women."

(15) "Women business enterprise" or "WBE" means a disadvantaged or minority business enterprise which is owned and controlled by one (1) or more women.

Section 2. 49 CFR 23 effective June 1, 1992 is adopted without change. This federal regulation governs the federal Department of Transportation's and the Kentucky Transportation Cabinet's relationship with and responsibility to each other in the DBE/MBE/WBE Program. It further sets forth the basic requirements which the Transportation Cabinet shall impose on firms desiring certification.

Section 3. Application Process. (1) Application for certification as a DBE, MBE, or WBE shall be made to the Transportation Cabinet's Office of Minority Affairs on form TC 10-3. Each application form shall be completed in full. All documentation required by the application shall be attached to the completed application. The person signing the application shall identify his position with the business enterprise applying for certification. The completed application shall be submitted to the Transportation Cabinet, Office of Minority Affairs.

(2) If the application is not complete, the Office of Minority Affairs shall return the application to the applicant firm requesting that the omitted information be included. An incomplete application shall not be considered by the Office of Minority Affairs.

(3) The Office of Minority Affairs shall perform an on-site inspection of the offices and any job sites in Kentucky on which the firm is working at the time of the application evaluation of any new applicant. Failure of the applicant firm to participate in the on-site inspection shall be sufficient cause for the Office of Minority Affairs to deny the application.

(4) An out-of-state applicant as a prerequisite to consideration of certification by the Office of Minority Affairs shall be certified as a DBE, MBE, or WBE by the state transportation agency responsible for certifying firms under 49 CFR Part 23 in the state in which the firm has residence.

(5) The Office of Minority Affairs may request additional information in order to determine if an applicant firm should be certified. Failure of the applicant firm to provide the requested information shall be cause for the Office of Minority Affairs to deny the application.

(6) The form TC 10-3, Application for Certification Schedule A, last revised in January, 1992 is hereby incorporated by reference as a part of this administrative regulation. Copies may be obtained, viewed or copied at the Office of Minority Affairs, 501 High Street, Frankfort, Kentucky 40622. The business hours of the Office of Minority Affairs are 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, except state holidays. Its telephone number is (502)564-3601.

Section 4. Evaluation of Application. (1)(a) The Transportation Cabinet, Office of Minority Affairs shall use the eligibility standards set forth in 49 CFR Part 23.53 to determine the eligibility of a firm to be certified or recertified as a MBE.

(b) The Office of Minority Affairs shall use the eligibility standards set forth in 49 CFR Part 23.53; 49 CFR Part 23.62; 49 CFR Part 23, Subpart D, Appendix A, Appendix B and Appendix C to determine the eligibility of a firm to be certified or recertified as a DBE or WBE.

(c) To be certified a firm shall:

1. Perform a commercially useful function as set forth in 49 CFR Part 23.47;

2. Be operated with the intention of making a profit; and

3. Be operational and performing as an independent business concern prior to the date the application for certification was filed.

(2) The Office of Minority Affairs shall issue a written determination of eligibility for certification within ninety (90) days of receipt of a completed application provided that a challenge as set forth in Section 9 of this administrative regulation has not been received.

Section 5. Certification of Applicant Firm. (1) If an application for certification as a DBE, MBE, or WBE is approved by the Transportation Cabinet, Office of Minority Affairs and a challenge to the status of a firm from a third party as set forth in Section 9 of this administrative regulation is not received during the time the Office of Minority Affairs is evaluating the application, the written notification required by Section 4(2) of this administrative regulation shall be the notice to the applicant firm of certification as a DBE, MBE, or WBE.

(2) Certification as a DBE, MBE, or WBE is valid for one (1) year from the date of notice of certification.

(3) Records of a certified firm shall be retained for a period of not less than five (5) years from the date of notice of certification.

(4) Certification of a business enterprise shall expire immediately upon any change in ownership or control of the business enterprise. The business enterprise may submit a new application to the Office of Minority Affairs to be considered for certification under the new ownership or control. If, within seven (7) days of the change in ownership or control, the firm notifies the Office of Minority Affairs of the change, the office may extend the expired certification for a brief period of time and with reasonable conditions placed on the firm.

Section 6. Recertification. (1) At least thirty (30) days prior to its certification expiration, a certified DBE, MBE, or WBE that intends to continue its certification shall submit an application to the Transportation Cabinet, Office of Minority Affairs. The application shall be in the same form and require the same information as in Section 3 of this administrative regulation except that beginning with the application for recertification for the third year of certification, certified firms prequalified to engage in highway construction, design or right-of-way activities, shall also submit evidence of participation in at least one (1) management development course as set forth in Section 14 of this administrative regulation.

(2) Certification of a DBE, MBE, or WBE which has requested recertification at least thirty (30) days prior to the date of certification expiration shall not expire unless the Office of Minority Affairs denies the request for recertification as set forth in Section 6 of this administrative regulation.

(3) If a firm is notified that its request for recertification is denied and the reasons therefore, the firm may request a predetermination meeting within ten (10) days of the date of the notice. If the firm fails to request a predetermination meeting within the ten (10) days, its request for recertification shall be denied.

(4) The predetermination meeting, if requested, shall be held in accordance with the procedures specified in Section 10 of this administrative regulation.

(5) If the Office of Minority Affairs' decision after the predetermination meeting is that the request for recertification shall be denied, the denial shall be effective immediately. However, the firm may appeal that decision in accordance with Section 11 of this administrative regulation.

Section 7. Denial of Certification. (1) If an application for certification as a DBE, MBE, or WBE is denied by the Transportation Cabinet, Office of Minority Affairs, the notification required by Section 4(2) of this administrative regulation shall set forth the reasons for denial.

(2) A denial may be appealed to the Transportation Cabinet within thirty (30) days of the notice. The appeal shall be filed in accordance with Section 11 of this administrative regulation.

(3) An applicant firm may not reapply for certification for one (1) year from the effective date of denial. The effective date of denial shall be the date [of] the notice is received or delivery is attempted if the denial is not appealed. If the denial is appealed and the denial is upheld the effective date of the denial shall be the date of the notice of final action on behalf of the Transportation Cabinet.

Section 8. Decertification. (1) The Transportation Cabinet, Office of Minority Affairs may perform periodic reviews of each certified DBE, MBE, or WBE during its certification period to verify continued eligibility of the firm. If the Office of Minority Affairs finds noncompliance with the eligibility criteria or the certified firm fails to provide reasonable information requested by the Office of Minority Affairs as a part of the periodic review, the office may initiate a decertification proceeding.

(2) The Office of Minority Affairs shall notify the certified firm of the pending decertification. The notice shall specify the reasons for the pending decertification. The firm may request a predetermination meeting within ten (10) days of the date the notice is received or delivery is attempted. If the firm fails to request a predetermination meeting within the ten (10) days, it shall be decertified.

(3) The predetermination meeting, if requested, shall be held in accordance with the procedures specified in Section 10 of this administrative regulation.

(4) If the Office of Minority Affairs' decision after the predetermination meeting is that the firm shall be decertified, the firm may appeal that decision in accordance with Section 11 of this administrative regulation.

(5) The effective date of the decertification is thirty (30) days after the date the notice of decertification is mailed to the firm providing the firm does not appeal the decertification to the Transportation Cabinet. If a firm appeals the decertification, the effective date of the decertification shall be the date of the final ruling of the Secretary of the Transportation Cabinet as set forth in Section 11 of this administrative regulation. Decertification shall be for a specific period of time but not less than one (1) year.

Section 9. Challenge of DBE Certification. (1) Any third party may challenge the socially and economically disadvantaged status of any individual, except an individual who has a current certification from the Small Business Administration issued pursuant to United States Code Title 15 Section 637, rebuttably presumed to be socially and economically disadvantaged if that individual is an owner of a firm certified by or seeking certification from the Transportation Cabinet, Office of Minority Affairs as a DBE. The challenge shall be made in writing to the Office of Minority Affairs.

(2) With its letter, the challenging party shall include all information available to it relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged.

(3) The Office of Minority Affairs shall determine, on the basis of the information provided by the challenging party, if there is reason to believe that the challenged party is in fact not socially and economically disadvantaged.

(4) If the Office of Minority Affairs determines that there is not reason to believe that the challenged party is not socially and economically disadvantaged, the office shall so inform the challenging party in writing. This shall terminate[s] the proceeding.

(5) If the Office of Minority Affairs determines that there is reason to believe that the challenged party is not socially and economically disadvantaged, the office shall notify the challenged party that his status as a socially and economically and disadvantaged individual has been challenged. The notice shall identify the challenging party and summarize the grounds for the challenge. The notice shall also require the challenged party to provide to the Office of Minority Affairs, within a specified reasonable time, information sufficient to evaluate his status as a socially and economically disadvantaged individual. Failure to provide the requested information within the time limit shall be cause for the DBE to be decertified or to be denied certification.

(6) If the social and economic disadvantaged status of a new applicant is challenged, the challenge proceedings shall be completed prior to completion of the certification.

(7) The Office of Minority Affairs shall evaluate the information available and make a proposed determination of the social and economic disadvantage of the challenged party. The office shall notify both parties of this proposed determination, setting forth the reasons for its proposal.

(8) Either party may request a predetermination meeting within ten (10) days of the date of the notice. If neither party requests a predetermination meeting within the ten (10) days, the proposed determination of the Office of Minority Affairs shall become the final determination, i.e., the challenged party shall either be decertified or continue to be certified.

(9) The predetermination meeting, if requested, shall be held in accordance with Section 10 of this administrative regulation. However, both parties shall be allowed to attend the meeting or respond in writing to the proposed determination.

(10) In making the determinations called for in subsections (3) and (7) of this section and Section 10 of this administrative regulation as it relates to challenge, the Office of Minority Affairs shall use the standards set forth in 49 CFR Part 23, Subpart D, Appendix C.

(11) During the pendency of a challenge under this section, the presumption that the challenged party is a socially and economically disadvantaged individual shall remain in effect.

(12) The decision of the Office of Minority Affairs in subsection (4) of this section or after an appeal and hearing before the Secretary of the Transportation Cabinet as set forth in Section 11 of this administrative regulation may be appealed to the United States Department of Transportation, by the adversely affected party to the proceeding under the procedures of 49 CFR Part 23.55.

Section 10. Predetermination Meeting. (1) A predetermination meeting with the Office of Minority Affairs may be requested by any party as set forth in Sections 8 and 9 of this administrative regulation. The request shall be made in writing, signed and dated.

(2) The Transportation Cabinet, Office of Minority Affairs shall schedule the predetermination meeting between five (5) and ten (10) days after receipt of the request for the predetermination meeting. Upon agreement between the Office of Minority Affairs and all affected parties the meeting may be scheduled later than the ten (10) days.

(3) The Office of Minority Affairs shall notify all affected parties in writing of the date, time and location of the predetermination meeting.

(4) The predetermination meeting shall be an informal proceeding. The predetermination meeting shall provide the opportunity for the affected parties to present evidence or arguments, either written or oral, on the matter being considered by the Office of Minority Affairs. The affected parties may be represented by legal counsel.

(5) The Office of Minority Affairs shall render a written decision within seven (7) days of completion of the predetermination meeting. In making this decision, the Office of Minority Affairs shall use the

standards set forth in Section 4 of this administrative regulation. The affected parties shall be notified of the decision of the Office of Minority Affairs.

Section 11. Appeal and Hearing. (1) Any party in Sections 6(2), 8(4) and 9(10) of this regulation adversely affected by a decision of the Transportation Cabinet, Office of Minority Affairs may appeal that decision within thirty (30) days of the notice of determination. The appeal shall be filed in writing with the Transportation Cabinet.

(2)(a) The Transportation Cabinet shall schedule the hearing on the appeal between fifteen (15) and thirty (30) days after the appeal is received unless otherwise agreed to by all parties.

(b) If an appeal hearing is rescheduled beyond the thirty (30) days from the date of the notification to deny certification at the request of the applicant firm, the Office of Minority Affairs shall not approve as part of an established DBE goal any of the work contracted by the applicant.

(c) A firm for which decertification proceedings has been started shall not be approved by the Office of Minority Affairs to meet established DBE goals.

(3) The Transportation Cabinet shall provide written notice to the appellant of the date, time and location of the hearing.

(4) At the hearing, the hearing officer appointed by the Transportation Cabinet, shall provide an opportunity for the appellant to call witnesses and present evidence and arguments both written and oral as to why the decision of the Office of Minority Affairs should be overturned.

(5) The Office of Minority Affairs shall present evidence at the hearing on the reasons their decision was made. However, the burden of proof is on the appellant.

(6) The hearing officer appointed by the Transportation Cabinet has the authority to issue subpoenas to compel the appearance of witness or the production of other evidence.

(7) The Transportation Cabinet shall provide a stenographer to record all oral testimony at the hearing.

(8)(a) The hearing officer shall prepare a written report setting forth findings of fact, conclusions of law and a recommendation of final action within sixty (60) days of the hearing.

(b) The hearing officer's findings of fact shall be based on conditions existing at the time the on-site inspection and owner interview were conducted by the Office of Minority Affairs. Changes made in an applicant's firm since the on-site inspection or owner interview shall not be considered by the Office of Minority Affairs or a hearing examiner in determining the eligibility of the firm.

(c) The report shall be submitted to the Secretary of the Transportation Cabinet or his appointed designee.

(9) The Secretary shall render the final decision of the Transportation Cabinet within ten (10) days of receipt of the hearing officer's report. A copy of the decision shall be sent by certified mail to the appellant and the Office of Minority Affairs.

(10) An appeal from the Transportation Cabinet's final decision may be made to the United States Department of Transportation in accordance with the provisions of 49 CFR 23.55 and 49 CFR 23 Subpart D, Appendix A, Decertification Procedures.

Section 12. Joint Ventures. (1) Any joint venture which includes a certified DBE, MBE, or WBE may apply to be certified as a joint venture eligible to participate in the DBE, MBE, or WBE program. Application for certification shall be on Transportation Cabinet Form TC 10-5 which is incorporated by reference as a part of this administrative regulation. The application procedure, eligibility standards, and certification procedure followed shall be as set forth in this administrative regulation.

(2) Application from a joint venture which includes a disadvantaged, minority or women business enterprise which has not been certified shall not be considered by the Transportation Cabinet.

(3) If all firms involved in the joint venture are certified DBEs, MBEs, or WBEs, there shall not be a need for the joint venture to request certification.

(4) The form TC 10-5, DBE/WBE Joint Venture Eligibility Application, Schedule B, last revised in February, 1992 is hereby incorporated by reference as a part of this administrative regulation. Copies may be obtained, viewed or copied at the Office of Minority Affairs, 501 High Street, Frankfort, Kentucky 40622. The business hours of the Office of Minority Affairs are 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, except state holidays. Its telephone number is (502) 564-3601.

Section 13. Additional Program Guidelines. 13 CFR 121.1-121.3, effective September 9, 1992, is adopted without change. The federal regulation sets forth the small business size standards established by the Small Business Administration. These size standards, when less than $15.37 million, are required by 49 CFR Part 23 Subpart D, Appendix A to be used to determine when a firm has graduated from the certification program, i.e., it is no longer considered to be a small business.

Section 14. Management Development Course. (1) Each owner of a Kentucky-based certified firm which is also prequalified by the Transportation Cabinet under the provisions of 603 KAR 2:015 to engage in highway construction, design or right-of-way activities shall attend at least one (1), one (1) week management development course prior to being recertified for its third year as a DBE.

(2) DBE certified firms not based in Kentucky but which are within a seventy-five (75) mile proximity may be required by the Office of Minority Affairs to attend at least one (1) management development course. This attendance requirement shall be based on an assessment of the firm's managerial and operational capability in relationship to the regulatory requirements determined during the conduct of the on-site inspection, personnel interviews, and evaluation of the firm's prequalification status.

(3) DBE certified firms which have previously attended a management development course and which have been cited for a violation of this administrative regulation or 600 KAR 4:020 may be required to attend an additional management development course.

(4) The management development course shall be offered free of charge by the Entrepreneurial Development Institute.

(5) All owners of firms required to attend a management development course shall attend the course.

(6) The owners of certified firms which are not required to attend the management development course may apply to attend. The Transportation Cabinet shall accommodate them on a space-available basis.

Section 15. Disadvantaged Business Enterprise Orientation Program. (1) The Transportation Cabinet shall offer a one (1) day orientation program for any certified DBE firm. The orientation program shall acquaint owners of DBE firms with the following:

(a) The organization, structure and expectations of the Transportation Cabinet;

(b) The requirements of the DBE program and with the provisions of the "Standard Specifications for Road and Bridge Construction" and "Standard Drawings"; and

(c) The supportive services and technical assistance available to the DBE.

(2) Each owner of a certified DBE firm which is also prequalified under 600 KAR 1:100 or 603 KAR 2:015 to engage in highway construction, design or right-of-way activities shall attend an orientation program prior to competing for a U.S. Department of Transportation assisted project.

(3) If the certified DBE firm is based out of Kentucky, the orientation program may be completed by telephone and mail.

(4) The owners of certified firms which are not required to attend the orientation program may apply to attend. The Transportation

Cabinet shall accommodate them on a space-available basis.

MAURICE SWEENEY, Executive Director
DON C. KELLY, P.E., Secretary
APPROVED BY AGENCY: March 14, 1994
FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on April 21, 1994 at 1 p.m. local prevailing time in the Transportation Cabinet, Fourth Floor Conference Room, Corner of High, Clinton and Holmes Streets, 501 High Street, Frankfort, Kentucky 40622. Any person who intends to attend this meeting must in writing by April 16, 1994, so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by April 16, 1994. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is held, written comments will be accepted until the close of the hearing. If the hearing is cancelled, written comments will only be accepted until April 21, 1994. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra G. Pullen, Staff Assistant, Transportation Cabinet, 1003 State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-4890.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: All firms applying to be certified or recertified as a DBE, MBE, or WBE. Currently, there are 180 firms certified by the Transportation Cabinet. Of these 75 are prequalified under 603 KAR 2:015.

(a) Direct and indirect costs or savings to those affected: The changes to this administrative regulation will only apply to one or two firms per year. There will be a cost to those firms because when their qualifications as a DBE have been seriously questioned, they will no longer receive contracts as certified DBE's. The loss to these firms will be contracts of $25,000 to $100,000.

1. First year: $50,000 - $200,000

2. Continuing cost or savings: It is anticipated that once the Transportation Cabinet gets a little tougher with the firms which are not qualified as DBE's but attempting to continue under the program, there will be a reduction in the number trying.

3. Additional factors increasing or decreasing costs: (note any effects upon competition):

(b) Reporting and paperwork requirements: None as a result of the amendment to the administrative regulation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: The Transportation Cabinet will be able to not approve subcontracts of questionable DBE's until they do truly meet the definition of a DBE. This will allow the cabinet to remain in compliance with the federal mandate on the use of DBE's. There is no difference in the cabinet's cost or paperwork - just a change in the process of administration.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting or paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternative of allowing firms to continue delaying tactics or allowing close relatives to establish a front company as the current regulation has done was unacceptable to the federal government. This proposed procedure should make the process cleaner.

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering: Was tiering applied? Yes. Tiering was applied in that the firms to be prequalified are required to meet different standards if they are prequalifying for different classifications.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 49 Code of Federal Regulations Part 23 contains the federal mandate for this certification program. The authorities for the federal regulation are Section 905 of the Railroad Revitalization and Regulatory Reform Act of 1978; Section 30 of the Airport and Airway Act of 1970, as amended; Section 19 of the Urban Mass Transportation Act of 1964, as amended; Title 23 of the US Code and Title VI of the Federal Rights Act of 1964.

2. State compliance standards. The same as the federal mandate on the certification of DBE, MBE, or WBE firms.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate imposes on the state the requirement of setting the process of certification and managing the program. The Transportation Cabinet through this administrative regulation and 600 KAR 4:020 has set reasonable procedures for certification and managing the program including due process hearings. US Department of Transportation has found the procedures to be consistent with the federal mandate.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The federal mandate does not address how the state is to manage the certification program. Rather, it requires the state to get federal approval of its management program. This management program has received federal approval.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

TRANSPORTATION CABINET
Office of Minority Affairs
(Proposed Amendment)

600 KAR 4:020. The disadvantaged, minority and women business enterprise program.

RELATES TO: KRS Chapters 96A, 174, 176, 177 183
STATUTORY AUTHORITY: KRS 13A.120, 174.080, 49 CFR Part 23

NECESSITY AND FUNCTION: Title 49 of the Code of Federal Regulations Part 23 requires that most recipients of funds from the United States Department of Transportation (USDOT) implement a program of supporting the fullest possible participation of firms owned and controlled by minorities, women and socially and economically disadvantaged individuals in USDOT programs. The Kentucky Transportation Cabinet as a recipient of USDOT funds is required by the federal regulation to have a program that requires the participation of disadvantaged, minority and women business enterprises in contracts financed in whole or in part with federal funds. This administrative regulation establishes the procedures to be followed by and requirements of contractors and subcontractors dealing with the Transportation Cabinet.

Section 1. Definitions. (1) "DBE" means a firm certified by the Transportation Cabinet under the provisions of 600 KAR 4:010 as a disadvantaged business enterprise.

(2) "MBE" means a firm certified by the Transportation Cabinet under the provisions of 600 KAR 4:010 as a minority business enterprise.

(3) "WBE" means a firm certified by the Transportation Cabinet under the provisions of 600 KAR 4:010 as a women business enterprise.

(4) "Good faith effort" means an attempt that can reasonably be expected to produce a level of disadvantaged, minority or women business enterprise participation sufficient to meet contract goals.

(5) "Notice" means written notice from the Transportation Cabinet or Office of Minority Affairs delivered certified mail to the business address listed on the firm's application for certification or bid documents.

(6) "Prime contractor" means an individual, partnership, firm, corporation, joint venture, or any other acceptable business entity that contracts with the Kentucky Transportation Cabinet for the performance of prescribed work.

(7) "Subcontractor" means an individual, partnership, firm, corporation, joint venture, or any other acceptable business entity that subcontracts any portion of a contract with the written consent of the Transportation Cabinet.

(8) "Suspension" means the action taken for cause by the Transportation Cabinet to disqualify for a specified period of time a person or firm from participating as a DBE, MBE, or WBE in Transportation Cabinet federal-aid projects.

(9) "Apparent successful competitor" means the bidder submitting the lowest and best bid in accordance with KRS 176.080 or Chapter 45A.

Section 2. Contract Goals. (1) Goals shall be established for DBE, MBE or WBE participation in a portion of the Transportation Cabinet projects in which there is United States Department of Transportation funding.

(2) A project proposal may contain goals for participation of DBE, MBE or WBE subcontractors who are certified in accordance with 600 KAR 4:010.

(3) Any contractor who bids on and is the apparent successful competitor for a project with established DBE participation goals shall be responsible for meeting the goals for participation of certified DBE, MBE, or WBE subcontractors which are set forth in the project proposal. The contractor shall submit to the Transportation Cabinet DBE, MBE or WBE subcontractor participation information as specified in Sections 3(1) and 6 of this administrative regulation.

Section 3. Prime Contractor Guidelines. (1)(a) Before a prime contractor enters into a contractual agreement with the Transportation Cabinet on a project which contains goals for participation of DBE, MBE, or WBE subcontractors, he shall submit an original and two (2) copies of each agreement between the prime contractor and any DBE, MBE, or WBE to the Transportation Cabinet, Department of Highways.

(b) The agreement shall be signed and notarized by both parties to the agreement.

(c) The agreement shall set forth:

1. A description of the work the DBE, MBE, or WBE subcontractor is to perform or the materials or services to be supplied;

2. The unit price the DBE, MBE, or WBE subcontractor is to be paid for each item; and

3. The total dollar value of the subcontract.

(d) Contractual agreements shall be reviewed by the Transportation Cabinet, Office of Minority Affairs prior to the execution of the project contract to ensure that the project goal will be met and that the DBE, MBE, or WBE subcontractors are certified in Kentucky and have completed the orientation program required by 600 KAR 4:010, Section 15 and are eligible to act as a certified DBE, MBE, or WBE.

(e) The Office of Minority Affairs shall not approve a subcontractor as a DBE, WBE, or MBE to fulfill a goal requirement on a project if the DBE, MBE, or WBE is related in the first or second degree by birth or marriage to the prime contractor. This prohibition shall include a subcontractor to a joint venture.

(2) Toward the DBE, MBE, or WBE participation goal established for the project, the prime contractor may count expenditures for materials and supplies obtained from certified DBE, MBE, or WBE suppliers and manufacturers, provided the DBE, MBE, or WBE assumes actual and contractual responsibility for providing the materials and supplies as follows:

(a) The prime contractor may count its entire expenditure to a DBE, MBE, or WBE manufacturer who operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor; and

(b) The prime contractor may count sixty (60) percent of its expenditures to DBE, MBE, or WBE regular dealers who own, operate or maintain a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm shall engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment.

(c) Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this administrative regulation.

(3) The prime contractor may count toward its MBE, DBE, or WBE goals the following expenditures to certified MBE, DBE, or WBE firms that are not manufacturers or regular dealers:

(a) The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.

(b) The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services; and

(c) The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar service.

(4)(a) Toward the DBE, MBE, or WBE participation goal established for the project, the prime contractor may count only expenditures to certified DBEs, MBEs, or WBEs that perform a commercially useful function in the work of a contract.

(b) A DBE, MBE, or WBE firm is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing and supervising the work involved.

(c) To determine if a DBE, MBE, or WBE is performing a commercially useful function, the amount of work subcontracted, industry practices and other relevant factors shall be evaluated.

(5) A prime contractor may count toward its certified DBE, MBE, or WBE goal a portion of the total dollar value of a subcontract with a joint venture certified under the provisions of 600 KAR 4:010 equal to the percentage of ownership and control of the DBE, MBE or WBE

partner in the joint venture.

(6) If the prime contractor fails to reach the goals of the project and fails to demonstrate sufficient good faith efforts as set forth in Section 5 of this administrative regulation, the Office of Minority Affairs shall in writing advise the Department of Highways that the contract agreement with the prime contractor shall not be executed because he has failed to reach the DBE, MBE, or WBE participation goals of the contract.

(7) If the prime contractor reaches the DBE, MBE, or WBE participation goals and the contractual agreement with the Transportation Cabinet is executed, the prime contractor is bound by the approved DBE, MBE, or WBE percentage participation of the contract.

(8)(a) If the prime contractor's subcontract is cancelled for nonperformance or because the subcontractor has lost its program certification, it [, he] shall replace the approved DBE, MBE, or WBE with another certified DBE, MBE, or WBE firm in the amount necessary to meet the project goal as originally established.

(b) An original and two (2) copies of the completed and executed agreement between the prime contractor and the new DBE, MBE, or WBE subcontractor shall be submitted to the Office of Minority Affairs.

(c) The agreement shall be reviewed by the Office of Minority Affairs as set forth in subsection (1) of this section prior to the replacement DBE, MBE, or WBE beginning work on the project.

(d) If the prime contractor is unable to replace the subcontractor with a certified DBE, MBE, or WBE he shall request a finding of good faith effort as set forth in Section 6 of this administrative regulation.

(9) If the prime contractor and DBE, MBE, or WBE subcontractor intend to amend their agreement which has previously been reviewed by the Office of Minority Affairs, the revision shall be submitted to the Office of Minority Affairs for review prior to the amendment being implemented to ensure that the DBE, MBE, or WBE participation goal will still be met.

(10) The prime contractor shall pay the DBE, MBE, or WBE subcontractor for work performed or materials furnished within seven (7) working days after receiving payment from the Transportation Cabinet.

(11) The prime contractor shall, upon request, make available to the Office of Minority Affairs information related to the conduct of the project.

Section 4. Prime Contractor Failure. (1) The following shall be deemed failure of the prime contractor to meet the approved DBE, MBE, or WBE percentage participation of the contract and thus violation of his contract provisions:

(a) Failure to use the approved DBE, MBE, or WBE subcontractor;

(b) Use of the approved DBE, MBE, or WBE subcontractors to an extent that provides a percentage participation less than indicated in the contract agreement with the Transportation Cabinet; and

(c) Use of a DBE, MBE, or WBE subcontractor other than those named in the subcontract reviewed by the Office of Minority Affairs.

(2) The Office of Minority Affairs shall notify the prime contractor of his failure to meet the approved DBE, MBE, or WBE percentage participation of the contract. The notice shall contain the reasons for the failure and a time deadline for correction of the failure. The prime contractor in accordance with the provisions of Section 11 of 600 KAR 4:010 may file an appeal within the time deadline. If the firm fails to file an appeal and fails to meet the DBE, MBE, or WBE percentage participation of the contract, the Office of Minority Affairs shall in writing advise the Department of Highways of the violation of contract provisions.

Section 5. Good Faith Efforts. (1) If the apparent successful competitor for the project is unable to meet his DBE, MBE, or WBE goals but believes he has made a good faith effort toward the goal, he may in writing request a finding of good faith effort from the Office of Minority Affairs. The written request shall substantiate his claim that reasonable efforts were put forth to obtain the project goals. The Office of Minority Affairs shall consider the application for a finding of good faith effort and provide notice to the apparent successful competitor of its decision within ten (10) days of receipt of the application.

(2) The Office of Minority Affairs shall in writing advise the Department of Highways of its decision.

(3) The criteria used by the Office of Minority Affairs for determining if an apparent successful competitor has demonstrated good faith efforts shall include:

(a) The apparent successful competitor's attendance at the prebid meeting regarding the specific project;

(b) The apparent successful competitor's providing written announcement of project to a reasonable number of DBEs, MBEs or WBEs regarding subcontracting opportunities;

(c) The apparent successful competitor's allowing sufficient time for DBEs, MBEs or WBEs to respond to the written announcement of project;

(d) The apparent successful competitor's following up written announcement of project with telephone calls or personal contact;

(e) The apparent successful competitor's contacting the Transportation Cabinet's supportive services contractor for assistance in identifying DBE, MBE, or WBE firms. The supportive services contractor is a contractor that provides services to the Transportation Cabinet relating to DBE, MBE, or WBE;

(f) The apparent successful competitor's selecting items of work on the project that DBEs, MBEs or WBEs are prequalified in accordance with 603 KAR 2:015 to perform;

(g) The apparent successful competitor's providing DBEs, MBEs or WBEs with adequate information about the project when requesting quotations;

(h) The apparent successful competitor's making efforts to assist DBEs, MBEs or WBEs in obtaining bonding, credit or insurance;

(i) The apparent successful competitor's advertising in general circulation, trade association and minority focus media for a reasonable time, preferably at least twenty (20) days, before bids or proposals are due;

(j) The location of the project;

(k) The size of the project;

(l) The type of work required by the project; and

(m) The availability of DBEs, MBEs and WBEs.

(4) If the apparent successful competitor is unable to meet the DBE, MBE, or WBE participation goal and either did not request a finding of good faith effort or failed to satisfy the Office of Minority Affairs that he has substantiated his claim of good faith efforts, the Office of Minority Affairs shall notify the apparent successful competitor of the reasons why his claim of good faith efforts was not accepted and additional efforts he may make to meet the contract goal.

(5) The apparent successful competitor for the project may file an appeal with the Transportation Cabinet in accordance with the provisions of Section 11 of 600 KAR 4:010 within ten (10) days of the date of the notice. If the firm fails to file an appeal or successfully make the additional efforts within the ten (10) days, the Office of Minority Affairs shall in writing advise the Department of Highways that the firm has neither met the project goals nor made a good faith effort to meet the project goals.

(6) If the apparent successful competitor elects not to file an appeal under the provisions of 600 KAR 4:010, he may within the ten (10) days appeal to the Commissioner, Department of Highways as provided in Sections 9 and 10 of 603 KAR 2:015. However, instead of departmental construction engineers a representative of the Office of Minority Affairs shall be present at the hearing. The hearing examiner and the Commissioner of the Department of Highways shall use the criteria set forth in subsection (3) of this section to determine if the apparent successful competitor has demonstrated good faith

efforts.

Section 6. Subcontractor's Guidelines. (1) Only a subcontractor who is certified and has attended a Transportation Cabinet orientation program under the provisions of 600 KAR 4:010 prior to the date of the bid letting for the project may issue a quote on a USDOT assisted project in order to meet a DBE, MBE, or WBE goal.

(2) At least fifty (50) percent of the work outlined in the subcontract shall be performed by the DBE, MBE, or WBE subcontractor's work force.

(3) Second tier subcontracting by a DBE, MBE, or WBE subcontractor may only be accomplished if the proposed second tier subcontractor is a certified DBE, MBE, or WBE and the Office of Minority Affairs has reviewed and approved the second tier DBE, MBE, or WBE subcontract prior to execution.

(4) A DBE, MBE, or WBE subcontractor shall designate in writing a project superintendent who supervises the subcontractor's work force daily. The project superintendent shall not be employed by any other contractor on the same project for the life of the project.

(5) If the subcontractor rents equipment from another contractor, the rental agreement shall be in writing and be approved by the Transportation Cabinet's resident engineer on the project.

Section 7. DBE, MBE, or WBE as Contractor. The provisions of this administrative regulation shall not be construed so as to prohibit a DBE, MBE, or WBE from competing on a project in the role of prime contractor.

Section 8. DBE, MBE, or WBE Noncompliance. (1) If any certified DBE, MBE, or WBE is found to be in noncompliance with any of the requirements of this administrative regulation, the firm may have its certification suspended for a specified period of time. The Office of Minority Affairs shall notify the certified firm of the pending suspension. The notice shall specify the reasons for the pending suspension.

(2) The firm may request a predetermination meeting within ten (10) days of the date of the notice. If the firm fails to request a predetermination meeting within the ten (10) days it shall be suspended for a specified period of time.

(3) The predetermination meeting, if requested, shall be held in accordance with the procedures specified in Section 10 of 600 KAR 4:010.

(4) If the Transportation Cabinet, Office of Minority Affairs' decision after the predetermination meeting is that the firm shall be suspended, the firm may appeal the decision in accordance with Section 11 of 600 KAR 4:010.

(5) The effective date of the suspension shall be thirty (30) days after the date the notice of suspension is mailed to the firm, providing the firm does not appeal the suspension to the Transportation Cabinet. If a firm appeals the suspension, the effective date of the suspension shall be the date of the final ruling of the Secretary of the Transportation Cabinet as set forth in Section 11 of 600 KAR 4:010.

MAURICE SWEENEY, Executive Director
DON C. KELLY, P.E., Secretary

APPROVED BY AGENCY: March 14, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on April 21, 1994 at 1 p.m. local prevailing time in the Transportation Cabinet, Fourth Floor Conference Room, Corner of High, Clinton and Holmes Streets, 501 High Street, Frankfort, Kentucky 40622. Any person who intends to attend this meeting must in writing by April 16, 1994, so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by April 16, 1994. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is held, written comments will be accepted until the close of the hearing. If the hearing is cancelled, written comments will only be accepted until April 21, 1994. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra G. Pullen, Staff Assistant, Transportation Cabinet, 1003 State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-4890.

REGULATORY IMPACT ANALYSIS

Agency contact person: Sandra G. Pullen

(1) Type and number of entities affected: All firms applying to be certified or recertified as a DBE, MBE, or WBE. Currently, there are 180 firms certified by the Transportation Cabinet. Of these 75 are prequalified under 603 KAR 2:015.

(a) Direct and indirect costs or savings to those affected: The changes to this administrative regulation will only apply to one or two firms per year. There will be a cost to those firms because when their qualifications as a DBE have been seriously questioned, they will no longer receive contracts as certified DBE's. The loss to these firms will be contracts of $25,000 to $100,000.

1. First year: $50,000 - $200,000

2. Continuing cost or savings: It is anticipated that once the Transportation Cabinet gets a little tougher with the firms which are not qualified as DBE's but attempting to continue under the program, there will be a reduction in the number trying.

3. Additional factors increasing or decreasing costs: (note any effects upon competition):

(b) Reporting and paperwork requirements: None as a result of the amendment to the administrative regulation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: The Transportation Cabinet will be able to not approve subcontracts of questionable DBE's until they do truly meet the definition of a DBE. This will allow the cabinet to remain in compliance with the federal mandate on the use of DBE's. There is no difference in the cabinet's cost or paperwork - just a change in the process of administration.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting or paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternative of allowing firms to continue delaying tactics or allowing close relatives to establish a front company as the current regulation has done was unacceptable to the federal government. This proposed procedure should make the process cleaner.

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering: Was tiering applied? Yes. There are differing requirements for a prime and subcontractor. A prime contractor has more responsibilities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 49 Code of Federal Regulations Part 23 contains the federal mandate

for this certification program. The authorities for the federal regulation are Section 905 of the Railroad Revitalization and Regulatory Reform Act of 1978; Section 30 of the Airport and Airway Act of 1970, as amended; Section 19 of the Urban Mass Transportation Act of 1964, as amended; Title 23 of the US Code and Title VI of the Federal Rights Act of 1964.

2. State compliance standards. The same as the federal mandate on the certification of DBE, MBE or WBE firms.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate imposes on the state the requirement of setting the process of certification and managing the program. The Transportation Cabinet through this administrative regulation and 600 KAR 4:020 has set reasonable procedures for certification and managing the program including due process hearings. US Department of Transportation has found the procedures to be consistent with the federal mandate.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The federal mandate does not address how the state is to manage the certification program. Rather, it requires the state to get federal approval of its management program. This management program has received federal approval.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

EDUCATION, ARTS, AND HUMANITIES CABINET
Department of Education
Office of District Support Services
(Proposed Amendment)

702 KAR 7:065. Designation of agent to manage high school interscholastic athletics.

RELATES TO: KRS 156.070
STATUTORY AUTHORITY: KRS 156.070
NECESSITY AND FUNCTION: KRS 156.070 gives the State Board for Elementary and Secondary Education (SBESE) the management and control of the common schools, including interscholastic athletics therein, and allows the state board to designate an agency to manage athletics pursuant to rules approved by the state board. This administrative regulation designates [~~such~~] an agent for high school athletics and sets forth financial planning and review processes for that agent. Also, this administrative regulation adopts the [~~constitution,~~] bylaws, procedures and rules of that agent.

Section 1. The Kentucky High School Athletic Association (KHSAA) is hereby designated as the State Board for Elementary and Secondary Education's agent to manage interscholastic athletics at the high school level in the common schools, including any private schools desiring to associate with KHSAA and to compete with the common schools.

Section 2. Effective July 1, 1994 the KHSAA shall meet the following conditions in order to remain eligible to maintain the designation as the agent to manage interscholastic athletics:

(1) Accept four (4) at-large members appointed by the State Board for Elementary and Secondary Education to its governing body;

(2) Sponsor an annual meeting of its member schools;

(3) Provide for each member school to have a vote on constitution and bylaw changes submitted for consideration at the annual meeting;

(4) Provide for regional postseason tournament net revenues to be distributed to the member schools in that region participating in that sport, utilizing a share approach determined by KHSAA;

(5) The governing body shall set goals and objectives and perform a self-assessment and submit them annually to the SBESE;

(6) Advise the Department of Education of all legal action brought against the KHSAA;

(7) Permit Board of Control members to serve a maximum of two (2) four (4) year terms with no region represented for more than eight (8) years;

(8) Employ the commissioner and evaluate that person's performance annually and establish all staff positions upon recommendation of the commissioner;

(9) Permit the commissioner to employ all other personnel deemed necessary to perform the staff responsibilities;

(10) Permit the Board of Control to assess fines on member schools;

(11) Utilize trained independent hearing officers instead of eligibility committees for appeals; and

(12) Establish a philosophical statement of principles to use as a guide in eligibility cases.

Section 3. Financial Planning and Review Requirements. (1) KHSAA shall submit the following financial documents to the SBESE:

(a) Draft budget for the next two (2) years in November of each year;

(b) Annual audit with KHSAA Commissioner's letter addressing any exceptions within thirty (30) days of receipt of the audit; and

(c) Midyear and end-of-year budget status reports by July 30 and January 30, respectively.

(2) KHSAA shall submit a strategic plan to SBESE by June 1 of each year.

(3) KHSAA shall submit a midyear and annual report by July 30 and January 30, respectively.

(4) KHSAA shall complete an annual review of its bylaws by October 30 of each year, including the following:

(a) Athletic appeals;
(b) Eligibility rules;
(c) Duties of school officials;
(d) Contests; and
(e) Requirements for officials and coaches.

(5) KHSAA shall submit to SBESE a report of all athletic appeals and their disposition by September 1 of each year. The annual report on appeals shall include the name of individual(s), grade, school, and the action taken by KHSAA.

Section 4. [~~3.~~] The [~~constitution,~~] bylaws, tournament rules, due process procedures, and officials' rules of the KHSAA Handbook, 1994-95 [~~1992-93~~] as revised, adopted, and approved on March 3, 1994 [~~April 17, 1992~~], are hereby incorporated by reference. This material may be inspected and copied at the Office of Legal Services, Department of Education, First Floor, Capital Plaza Tower, Frankfort, [~~8 a.m. through 4:30 p.m.,~~] Monday through Friday, 8 a.m. through 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the State Board for Elementary and Secondary Education, as required by KRS 156.070(4).

Thomas C. Boysen
Commissioner of Education

JOSEPH W. KELLY, Chairman
APPROVED BY AGENCY: March 15, 1994
FILED WITH LRC: March 15, 1994 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 26, 1994, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 21, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing

is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to Mr. Kevin M. Noland, General Counsel, Department of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact person: Gary Faulkner

(1) Type and number of entities affected: The Kentucky High School Athletic Association (KHSAA) and its member schools.

(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 effect upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Will improve the KHSAA operations.

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: There are no alternatives. KRS 156.070 requires state board approval.

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

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

(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. Tiering was not appropriate in this administrative regulation because the administrative regulation applies to the only agency designated to govern high school athletics.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(Proposed Amendment)

704 KAR 20:245. Provisional certificate for teachers of exceptional children - trainable mentally handicapped[~~; teacher's provisional certificate~~].

RELATES TO: KRS 161.020, 161.028 [~~161.025~~], 161.030

STATUTORY AUTHORITY: KRS 161.028 [~~156.070~~], 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. Additionally, KRS 161.028 requires [~~Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore,~~ ~~the~~] teacher education institutions [~~are required to~~] be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established by the Education Professional Standards Board [~~recommended by the Council and approved by the State Board~~]. This administrative regulation establishes the [~~an appropriate~~] provisional certificate for teachers of [~~teaching~~] exceptional children - [~~classified as~~] trainable mentally handicapped and relates to the corresponding standards and procedures for program approval as included in 704 KAR 20:005, the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

[~~Section 1. Effective September 1, 1989, the issuance of certificates under the provisions of this section, except subsection (4)(b), shall be discontinued. Effective with the beginning of the 1986-87 academic year, new teacher candidates desiring to prepare for teaching children who are trainable mentally handicapped children shall not be admitted to any program described in this section; instead, the teacher education institutions shall advise and guide them with respect to the provisions of Section 2 of this regulation.~~

~~(1) The provisional certificate for teachers of exceptional children - trainable mentally handicapped shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 61.0.~~

~~(2) The provisional certificate for teachers of exceptional children - trainable mentally handicapped shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.~~

~~(3) The provisional certificate for teachers of exceptional children - trainable mentally handicapped shall be valid at any grade level for the instruction of exceptional children who are trainable mentally handicapped and as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).~~

~~(4)(a) For a person who qualifies before the deadline date of September 1, 1988, the provisional certificate for teachers of exceptional children - trainable mentally handicapped may be issued for a one (1) year period to an applicant who meets the following requirements:~~

~~1. Holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching other than a certificate issued for the internship year for first year teachers as required in KRS 161.030;~~

~~2. Has completed at least six (6) semester hours credit from the special education component of the approved curriculum under which the applicant may reasonably expect to become fully certified;~~

~~3. Supplies a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position.~~

~~(b) The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum then in effect.~~

~~(c) Three (3) years of teaching experience performed under a succession of one (1) year certificates in a full-time position requiring TMH certification shall be substituted for the special education portion of the student teaching requirement.~~]

Section 1. [~~2. Effective July 1, 1986, the following provisions shall become applicable for teacher candidates admitted to the preparation program as described:~~]

(1) The provisional certificate for teachers of exceptional children - trainable mentally handicapped shall be issued in accordance with the pertinent Kentucky statutes and the administrative [~~State Board of Education~~] regulations of the Education Professional Standards

Board. The [~~to an~~] applicant shall have [~~who has~~] completed the [~~approved~~] program of preparation which has been approved under the standards and procedures included [~~corresponds to the certificate grade levels as described~~] in 704 KAR 20:005, the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005[~~, TEC 61.2 and TEC 61.4~~].

(2) The certificate shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The preparation program for teachers of exceptional children - trainable mentally handicapped shall also include preparation for teaching in the regular instructional program with preparation options [~~for grade levels~~] as follows:

(a) Option I. Provisional certificate for teachers of exceptional children - trainable mentally handicapped grades K-12 and provisional certificate for teaching in the early elementary grades K-4, Curriculum Standards, 704 KAR 20:005, TEC 61.2.

(b) Option II. Provisional certificate for teachers of exceptional children - trainable mentally handicapped grades K-12, and provisional certificate for teaching in the middle grades 5-8, Curriculum Standards, 704 KAR 20:005, TEC 61.4.

Section 2. Effective September 1, 1994, candidates shall not be admitted to the preparation program leading to the provisional certificate for teachers of exceptional children - trainable mentally handicapped. The issuance of the provisional certificate for teachers of exceptional children - trainable mentally handicapped shall be discontinued September 1, 1997.

DANIEL GREENE, Chair

APPROVED BY AGENCY: March 9, 1994

FILED WITH LRC: March 10, 1994 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on April 28, 1994, at 10 a.m. in the State Board Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 23, 1994, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Roland Goddu, Office of Teacher Education and Certification, Capital Plaza Tower, 500 Mero Street, Frankfort, KY 40601, (502) 564-4606.

REGULATORY IMPACT ANALYSIS

Contact person: Akeel Zaheer

(1) Type and number of entities affected: All recipients for the type of certificate named in this regulation - approximately 70 each year and 8 institutions of higher education.

(a) Direct and indirect costs or savings to those affected: Not applicable.

1. First year: None, since the amendments phase out current certificate.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Institutions with approved programs must inform potential and currently enrolled candidates of phase out dates and options available.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Agency will communicate phase out dates and procedures to institutions with approved programs.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The certificate for teachers of trainable mentally handicapped students is being replaced by the certificate for moderate and severe disabilities.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. Certification requirements are uniformly applicable to all individuals.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(Proposed Amendment)

704 KAR 20:250. Severely/profoundly handicapped; teaching endorsement.

RELATES TO: KRS 161.020, 161.028 [~~161.025~~], 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030 [~~156.070, 156.160~~]

NECESSITY AND FUNCTION: KRS 161.020[~~, 161.025, and 161.030~~] requires that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. Additionally, KRS 161.028 requires [~~Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the~~] teacher education institutions [~~are required~~] to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established by the Education Professional Standards Board [~~recommended by the council and approved by the state board~~]. This administrative regulation establishes the endorsement for teaching the severely/profoundly handicapped [~~an appropriate certificate~~] and relates to the corresponding standards and procedures for program approval as included in 704 KAR 20:005, the Kentucky Standards [~~State Plan~~] for the [~~Approval of~~] Preparation- [~~Programs for the~~] Certification of Professional School Personnel.

Section 1. (1) An endorsement for teaching severely/profoundly handicapped pupils shall be issued in accordance with the pertinent Kentucky statutes and administrative [~~State Board of Education~~] regulations of the Education Professional Standards Board to an applicant who holds certification for any category of special education and who has completed [~~in addition thereto,~~] the approved program of preparation for the endorsement for teaching severely/profoundly handicapped pupils at a teacher education institution approved under the standards and procedures included in 704 KAR 20:005, the Kentucky Standards [~~State Plan~~] for the [~~Approval of~~] Preparation- [~~Programs for the~~] Certification of Professional School Personnel.

(2) Effective September 1, 1994, candidates shall not be admitted to the preparation program leading to the endorsement for teaching severely-profoundly handicapped pupils. The issuance of the endorsement for teaching severely/profoundly handicapped pupils

shall be discontinued September 1, 1997.

DANIEL GREENE, Chair

APPROVED BY AGENCY: March 9, 1994

FILED WITH LRC: March 10, 1994 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on April 28, 1994, at 10 a.m. in the State Board Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 23, 1994, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Roland Goddu, Office of Teacher Education and Certification, Capital Plaza Tower, 500 Mero Street, Frankfort, KY 40601, (502) 564-4606.

REGULATORY IMPACT ANALYSIS

Contact person: Akeel Zaheer

(1) Type and number of entities affected: All recipients for the type of certificate named in this regulation - approximately 5 each year and 3 institutions of higher education.

(a) Direct and indirect costs or savings to those affected: Not applicable.

1. First year: None, since the amendments phase out current certificate.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Institutions with approved programs must inform potential and currently enrolled candidates of phase out dates and options available.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Agency will communicate phase out dates and procedures to institutions with approved programs.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The certificate for teachers of severely and profoundly handicapped students is being replaced by the certificate for moderate and severe disabilities.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. Certification requirements are uniformly applicable to all individuals.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(Proposed Amendment)

704 KAR 20:380. Certification for early elementary school principal, grades K-4.

RELATES TO: KRS 161.020[~~, 161.025~~], 161.027, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.027, 161.028 [~~156.070~~], 161.030

NECESSITY AND FUNCTION: KRS 161.020[~~, 161.025, and 161.030~~] requires that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. Additionally, [~~Kentucky Council on Teacher Education and Certification and approved by the State Board of Education, and~~] KRS 161.027 specifically requires a preparation program for principals and [~~, the~~] teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established [~~recommended~~] by the Education Professional Standards Board [~~council and approved by the state board~~]. This administrative regulation establishes the [~~an appropriate~~] preparation and certification program for early elementary school principals, grades K-4.

Section 1. (1) The professional certificate for instructional leadership - early elementary school principal, grades K-4, shall be issued in accordance with the administrative [~~pertinent Kentucky statutes and State Board of Education~~] regulations of the Education Professional Standards Board to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in 704 KAR 20:005, the Kentucky Standards for the Preparation-Certification of Professional School Personnel [~~as adopted in 704 KAR 20:005, TEC 100~~].

(2) The professional certificate for instructional leadership - early elementary school principal, grades K-4, shall be valid for the position of school principal for grades K-4 and also for any other sequential combination of the grades K through eight (8) that includes any grade K-4.

(3) As prerequisites for the Level I program of preparation for the initial professional certificate for instructional leadership - early elementary school principal, grades K-4, the candidate shall:

(a) Have been admitted to the preparation program on the basis of criteria developed by the teacher education institution pursuant to 704 KAR 20:005 [~~TEC 100~~];

(b) Have completed three (3) years of full-time teaching experience;

(c) Have completed the master's degree; and

(d) Qualify for a Kentucky [~~Have been issued a standard teaching~~] certificate [~~valid~~] for [~~regular~~] classroom teaching in grades 1-4 although [~~standard~~] certificates issued or endorsed for art, music, physical education, or speech and communication disorders shall not satisfy this prerequisite.

(4) The certificate shall be issued and renewed in accordance with the testing and internship provisions of KRS 161.027 and related administrative regulations.

(5)(a) The initial professional certificate for instructional leadership - early elementary school principal, grades K-4, shall be issued for a duration period of one (1) year upon successful completion of Level I preparation and the tests prescribed under KRS 161.027 and upon obtaining employment for an internship position as principal or assistant principal. During the period of validity of the one (1) year certificate the internship program for elementary school principals as outlined in KRS 161.027 shall be completed. Upon successful

completion of the internship, the certificate shall be extended for four (4) years.

(b) The certificate shall be renewed subsequently for five (5) year periods. The first renewal shall require the completion of the twelve (12) semester hour graduate curriculum identified as the Level II program in the curriculum standards. Each five (5) year renewal thereafter shall require the completion of two (2) years of experience as an elementary school principal, or three (3) semester hours of additional graduate credit related to the position of school principal, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Leadership Training Program.

(6) If a lapse in certification occurs for lack of completion of the Level II preparation, the certificate may be reissued for a five (5) year period upon successful completion of the Level II preparation. If a certificate lapses with Level II preparation, but for lack of the renewal requirements, the certificate may be reissued after the completion of an additional six (6) semester hours of graduate study appropriate to the program.

(7) In compliance with KRS 161.027, persons applying for the professional certificate for instructional leadership - early elementary school principal, grades K-4, who satisfy the curriculum requirements and all other prerequisites, and who have completed at least two (2) years of successful full-time experience, including at least 140 days per year as an early elementary school principal, grades K-4, within a ten (10) year period prior to making application, shall [~~will~~] be exempt from the internship requirements for early elementary school principals, but shall be required to pass the written examinations required by KRS 161.027.

Section 2. A certificate based upon Level II preparation as a middle grade principal may be extended to early elementary school principal, grades K-4, upon completion of nine (9) semester hours of graduate credit which shall include, but not be limited to:

(1) Elementary school curriculum;
(2) Teaching reading at the elementary school level;
(3) Organization and administration of the elementary school; and
(4) Field experience in an elementary school.

DANIEL GREENE, Chair

APPROVED BY AGENCY: March 9, 1994

FILED WITH LRC: March 10, 1994 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on April 28, 1994, at 10 a.m. in the State Board Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 23, 1994, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Roland Goddu, Office of Teacher Education and Certification, Capital Plaza Tower, 500 Mero Street, Frankfort, KY 40601, (502) 564-4606.

REGULATORY IMPACT ANALYSIS

Contact person: Akeel Zaheer

(1) Type and number of entities affected: Approximately 200 candidates entering elementary principalship programs annually and 10 institutions of higher education offering certification programs.

(a) Direct and indirect costs or savings to those affected:

1. First year: No additional costs since the amendment substitutes a specific prerequisite for principal certification.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: Institutions of higher education must inform potential candidates of changes in prerequisites.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Costs associated with communicating changes to individuals and institutions offering elementary principalship programs.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Communicate new prerequisites to individuals and institutions and amend information documents to reflect changes.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The amendment replaces prerequisite requirements for principalship certification, since the standard teaching certificates are being discontinued.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

TIERING: Is tiering applied? No. Certification requirements are uniformly applicable to all individuals.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(Proposed Amendment)

704 KAR 20:390. Certification for middle grade school principal, grades 5-8.

RELATES TO: KRS 161.020, [~~161.025,~~] 161.027, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.027, 161.028 [~~156.070~~], 161.030

NECESSITY AND FUNCTION: KRS 161.020[~~, 161.025, and 161.030~~] requires that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. Additionally, [~~Kentucky Council on Teacher Education and Certification and approved by the State Board of Education, and~~] KRS 161.027 specifically requires a preparation program for principals and [~~; furthermore, the~~] teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established [~~recommended~~] by the Education Professional Standards Board [~~council and approved by the state board~~]. This administrative regulation establishes the [~~an appropriate~~] preparation and certification for middle grade school principal, grades 5-8.

Section 1. (1) The professional certificate for instructional leadership - middle grade school principal, grades 5-8, shall be issued in accordance with the administrative [~~pertinent Kentucky statutes and State Board of Education~~] regulations of the Education Professional Standards Board to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and

procedures included in 704 KAR 20:005, the Kentucky Standards for the Preparation-Certification of Professional School Personnel [~~as adopted in 704 KAR 20:005, TEC 101~~].

(2) The professional certificate for instructional leadership - middle grade school principal, grades 5-8, shall be valid for the position of school principal for grades 5-8 and also for any other sequential combination of the grades K through twelve (12) that includes any grade 5-8.

(3) As prerequisites for the Level I program of preparation for the initial professional certificate for instructional leadership - middle grade school principal, grades 5-8, the candidate shall:

(a) Have been admitted to the preparation program on the basis of criteria developed by the teacher education institution pursuant to 704 KAR 20:005 [~~TEC 101~~];

(b) Have completed three (3) years of full-time teaching experience;

(c) Have completed the master's degree; and

(d) Qualify for [~~Have been issued~~] a Kentucky [~~standard teaching~~] certificate [~~valid~~] for teaching in any grade five (5) through twelve (12), although a [~~standard~~] certificate issued for speech and communication disorders shall not satisfy this prerequisite.

(4) The certificate shall be issued and renewed in accordance with the testing and internship provisions of KRS 161.027 and related administrative regulations.

(5)(a) The initial professional certificate for instructional leadership - middle grade school principal, grades 5-8, shall be issued for a duration period of one (1) year upon successful completion of Level I preparation and the tests prescribed under KRS 161.027 and upon obtaining employment for an internship position as principal or assistant principal. During the period of validity of the one (1) year certificate the internship program for middle grade school principals as outlined in KRS 161.027 shall be completed. Upon successful completion of the internship, the certificate shall be extended for four (4) years.

(b) The certificate shall be renewed subsequently for five (5) year periods. The first renewal shall require the completion of the twelve (12) semester hour graduate curriculum identified as the Level II program in the curriculum standards. Each five (5) year renewal thereafter shall require the completion of two (2) years of experience as a middle grade school principal, or three (3) semester hours of additional graduate credit related to the position of school principal, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Instructional Leadership Training Program.

(6) If a lapse in certification occurs for lack of completion of the Level II preparation, the certificate may be reissued for a five (5) year period upon successful completion of the Level II preparation. If a certificate lapses with Level II preparation, but for lack of the renewal requirements, the certificate may be reissued after the completion of an additional six (6) semester hours of graduate study appropriate to the program.

(7) In compliance with KRS 161.027, persons applying for the professional certificate for instructional leadership - middle grade school principal, grades 5-8, who satisfy the curriculum requirements and all other prerequisites, and who have completed at least two (2) years of successful full-time experience, including at least 140 days per year as a middle grade school principal, grades 5-8, within a ten (10) year period prior to making application, shall [~~will~~] be exempt from the internship requirements for middle grade school principals, but shall be required to pass the written examinations required by KRS 161.027.

Section 2. A certificate based upon Level II preparation as an early elementary school principal or as a secondary school principal may be extended to middle grade principal 5-8 upon completion of six (6) semester hours of graduate credit which shall include, but not be limited to:

(1) Organization and administration of middle grade schools;

(2) Philosophy and curriculum of middle grade schools; and

(3) Nature and needs of middle grade school students.

The validity of the extended certificates shall be limited to the respective grade levels, either K-8 or 5-12.

DANIEL GREENE, Chair

APPROVED BY AGENCY: March 9, 1994

FILED WITH LRC: March 10, 1994 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on April 28, 1994, at 10 a.m. in the State Board Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 23, 1994, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Roland Goddu, Office of Teacher Education and Certification, Capital Plaza Tower, 500 Mero Street, Frankfort, KY 40601, (502) 564-4606.

REGULATORY IMPACT ANALYSIS

Contact person: Akeel Zaheer

(1) Type and number of entities affected: Approximately 50 candidates entering middle school principalship programs annually and 9 institutions of higher education offering certification programs.

(a) Direct and indirect costs or savings to those affected:

1. First year: No additional costs since the amendment substitutes a specific prerequisite for principal certification.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: Institutions of higher education must inform potential candidates of changes in prerequisites.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Costs associated with communicating changes to individuals and institutions offering middle school principalship programs.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Communicate new prerequisites to individuals and institutions and amend information documents to reflect changes.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The amendment replaces prerequisites requirements for principalship certification, since the standard teaching certificates are being discontinued.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

TIERING: Is tiering applied? No. Certification requirements are uniformly applicable to all individuals.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(Proposed Amendment)

704 KAR 20:400. Certification for secondary school principal, grades 9-12.

RELATES TO: KRS 161.020, [~~161.025,~~] 161.027, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.027, 161.028 [~~156.070~~], 161.030

NECESSITY AND FUNCTION: KRS 161.020[~~, 161.025, and 161.030~~] requires that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. Additionally, [~~Kentucky Council on Teacher Education and Certification and approved by the State Board of Education, and~~] KRS 161.027 specifically requires a preparation program for principals and [~~; furthermore,~~] the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established [~~recommended~~] by the Education Professional Standards Board [~~council and approved by the state board~~]. This administrative regulation establishes the [~~an appropriate~~] preparation and certification program for secondary school principal, grades 9-12.

Section 1. (1) The professional certificate for instructional leadership - secondary school principal, grades 9-12, shall be issued in accordance with the administrative [~~pertinent Kentucky statutes and State Board of Education~~] regulations of the Education Professional Standards Board to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in 704 KAR 20:005, the Kentucky Standards for the Preparation-Certification of Professional School Personnel [~~as adopted in 704 KAR 20:005, TEC 102~~].

(2) The professional certificate for instructional leadership - secondary school principal, grades 9-12, shall be valid for the position of school principal for grades 9-12 and also for any other sequential combination of the grades 5-12 that includes any grade 9-12.

(3) As prerequisites for the Level I program of preparation for the initial professional certificate for instructional leadership - secondary school principal, grades 9-12, the candidate shall:

(a) Have been admitted to the preparation program on the basis of criteria developed by the teacher education institution pursuant to 704 KAR 20:005 [~~TEC 102~~];

(b) Have completed three (3) years of full-time teaching experience;

(c) Have completed the master's degree; and

(d) Qualify for [~~Have been issued~~] a Kentucky [~~standard teaching~~] certificate [~~valid~~] for regular classroom teaching in any grade nine (9) through twelve (12) although a [~~standard~~] certificate issued for speech and communication disorders shall not satisfy this prerequisite.

(4) The certificate shall be issued and renewed in accordance with the internship provisions of KRS 161.027 and related administrative regulations.

(5)(a) The initial professional certificate for instructional leadership - secondary school principal, grades 9-12, shall be issued for a duration period of one (1) year upon successful completion of Level I preparation and the tests prescribed under KRS 161.027 and upon obtaining employment for an internship position as principal or assistant principal. During the period of validity of the one (1) year certificate the internship program for secondary school principals as outlined in KRS 161.027 shall be completed. Upon successful completion of the internship, the certificate shall be extended for four (4) years.

(b) The certificate shall be renewed subsequently for five (5) year periods. The first renewal shall require the completion of the twelve (12) semester hour graduate curriculum identified as the Level II program in the curriculum standards. Each five (5) year renewal thereafter shall require the completion of two (2) years of experience as a secondary school principal, or three (3) semester hours of additional graduate credit related to the position of school principal, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Instructional Leadership Training Program.

(6) If a lapse in certification occurs for lack of completion of the Level II preparation, the certificate may be reissued for a five (5) year period upon successful completion of the Level II preparation. If a certificate lapses with Level II preparation, but for lack of the renewal requirements, the certificate may be reissued after the completion of an additional six (6) semester hours of graduate study appropriate to the program.

(7) In compliance with KRS 161.027, persons applying for the professional certificate for instructional leadership - secondary school principal, grades 9-12, who satisfy the curriculum requirements and all other prerequisites, and who have completed at least two (2) years of successful full-time experience, including at least 140 days per year either as a high school or secondary school principal, grades 7-12, within a ten (10) year period prior to making application, shall [~~will~~] be exempt from the internship requirements for secondary school principals, but shall be required to pass the written examinations required by KRS 161.027.

Section 2. A certificate based upon Level II preparation as a middle grade principal may be extended to secondary school principal, grades 9-12 upon completion of six (6) semester hours of graduate credit which shall include, but not be limited to:

(1) Secondary school curriculum;

(2) Organization and administration of the secondary school; and

(3) Field experience in a secondary school.

DANIEL GREENE, Chair

APPROVED BY AGENCY: March 9, 1994

FILED WITH LRC: March 10, 1994 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on April 28, 1994, at 10 a.m. in the State Board Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 23, 1994, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Roland Goddu, Office of Teacher Education and Certification, Capital Plaza Tower, 500 Mero Street, Frankfort, KY 40601, (502) 564-4606.

REGULATORY IMPACT ANALYSIS

Contact person: Akeel Zaheer

(1) Type and number of entities affected: Approximately 200 candidates entering secondary principalship programs annually and 9 institutions of higher education offering certification programs.

(a) Direct and indirect costs or savings to those affected:

1. First year: No additional costs since the amendment substitutes a specific prerequisite for secondary principalship certification.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: Institutions of higher education must inform potential candidates of changes in prerequisites.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Costs associated with communicating changes to individuals and institutions offering secondary principalship programs.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Communicate new prerequisites to individuals and institutions and amend information documents to reflect changes.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The amendment replaces prerequisite requirements for secondary principalship certification, since the standard teaching certificates are being discontinued.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

TIERING: Is tiering applied? No. Certification requirements are uniformly applicable to all individuals.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(Proposed Amendment)

704 KAR 20:410. Certification for supervisor of instruction, grades K-12.

RELATES TO: KRS 161.020, 161.028 [~~161.025~~], 161.030

STATUTORY AUTHORITY: KRS 161.028 [~~156.070~~], 161.030

NECESSITY AND FUNCTION: KRS 161.020[~~, 161.025, and 161.030~~] requires that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. Additionally, [~~Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the~~] teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established by the Education Professional Standards Board [~~recommended by the council and approved by the state board~~]. This administrative regulation establishes the [~~an appropriate~~] preparation and certification program for supervisor of instruction, grades K-12.

Section 1. (1) The professional certificate for instructional leadership - supervisor of instruction, grades K-12, shall be issued in accordance with the pertinent Kentucky statutes and administrative [~~State Board of Education~~] regulations of the Education Professional Standards Board to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in 704 KAR 20:005, the Kentucky Standards for the Preparation-Certification of Professional School Personnel [~~as adopted in 704 KAR 20:005, TEC 103~~].

(2) The professional certificate for instructional leadership - supervisor of instruction, grades K-12, shall be valid for the position of supervisor of instruction for grades K-12 unless otherwise delimited.

(3) As prerequisites for the Level I program of preparation for the initial professional certificate for instructional leadership - supervisor of instruction, grades K-12, the candidate shall:

(a) Have been admitted to the preparation program on the basis of criteria developed by the teacher education institution pursuant to 704 KAR 20:005 [~~TEC 103.0~~];

(b) Have completed three (3) years of full-time teaching experience;

(c) Have completed the master's degree; and

(d) Qualify for a Kentucky [~~Have been issued any one of the following standard~~] teaching certificate; a certificate issued for [~~s: Standard Elementary Certificate Grades 1-8; Standard Certificate for Teaching in the Early Elementary Grades K-4; Standard Certificate for Teaching in the Middle Grades 5-8; Standard High School Certificate Grades 7-12; Standard Certificate for Teaching in the Secondary Grades 9-12; Standard Certificate for Teachers of Exceptional Children (except those having~~] speech and communication disorders shall not satisfy this prerequisite [~~as the specialty areas~~)].

(4) The initial professional certificate for instructional leadership - supervisor of instruction, grades K-12, shall be issued for a duration period of five (5) years and shall be renewed subsequently for five (5) year periods. The first renewal shall require the completion of the twelve (12) semester hour graduate curriculum identified as the Level II program in the curriculum standards. Each five (5) year renewal thereafter shall require the completion of two (2) years of experience as a supervisor of instruction, or three (3) semester hours of additional graduate credit related to the position of supervisor of instruction, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Instructional Leadership Training Program.

(5) If a lapse in certification occurs for lack of completion of the Level II preparation, the certification may be reissued for a five (5) year period upon successful completion of the Level II preparation, but for lack of the renewal requirements, the certificate may be reissued after the completion of an additional six (6) semester hours of graduate study appropriate to the program.

Section 2. (1) A certificate based upon Level II preparation as an early elementary school principal, grades K-4, shall qualify the holder as a supervisor of instruction, grades K-4. The supervision certification shall be valid also for any other sequential combination of the grades K through eight (8) that includes any grade K-4.

(2) A certificate based upon Level II preparation as a middle grade school principal, grades 5-8, shall qualify the holder as a supervisor of instruction, grades 5-8. The supervision certification shall be valid also for any other sequential combination of the grades K through eight (8) that includes any grade 5-8.

(3) A certificate based upon Level II preparation as a secondary school principal, grades 9-12, shall qualify the holder as a supervisor of instruction, grades 9-12. The supervision certification shall be valid also for any other sequential combination of the grades 5-12 that includes any grade 9-12.

DANIEL GREENE, Chair

APPROVED BY AGENCY: March 9, 1994

FILED WITH LRC: March 10, 1994 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on April 28, 1994, at 10 a.m. in the State Board Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 23, 1994, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not

wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Roland Goddu, Office of Teacher Education and Certification, Capital Plaza Tower, 500 Mero Street, Frankfort, KY 40601, (502) 564-4606.

REGULATORY IMPACT ANALYSIS

Contact person: Akeel Zaheer

(1) Type and number of entities affected: Approximately 150 candidates entering instructional supervision programs annually and 8 institutions of higher education offering certification programs.

(a) Direct and indirect costs or savings to those affected:

1. First year: No additional costs since the amendment substitutes a specific prerequisite for supervision certification.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: Institutions of higher education must inform potential candidates of changes in prerequisites.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Costs associated with communicating changes to individuals and institutions offering supervisory programs.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Communicate new prerequisites to individuals and institutions and amend information documents to reflect changes.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The amendment replaces prerequisite requirements for instructional supervision certification, since the standard teaching certificates are being discontinued.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

TIERING: Is tiering applied? No. Certification requirements are uniformly applicable to all individuals.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(Proposed Amendment)

704 KAR 20:420. Certification for school superintendent.

RELATES TO: KRS 161.020, 161.028 [~~161.025~~], 161.030

STATUTORY AUTHORITY: KRS 161.028 [~~156.070~~], 161.030

NECESSITY AND FUNCTION: KRS 161.020[~~, 161.025, and 161.030~~] requires that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. Additionally, [~~Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the~~] teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established by the Education Professional Standards Board [~~recommended by the council and approved by the state board~~]. This administrative regulation establishes the [~~an appropriate~~] preparation and certification program for school superintendent.

Section 1. (1) The professional certificate for instructional leadership - school superintendent shall be issued in accordance with the administrative [~~pertinent Kentucky statutes and State Board of Education~~] regulations of the Education Professional Standards Board to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in 704 KAR 20:005, the Kentucky Standards for the Preparation-Certification of Professional School Personnel [~~as adopted in 704 KAR 20:005, TEC 104~~].

(2) The professional certificate for instructional leadership - school superintendent shall be valid for the position of school superintendent.

(3) As prerequisites for the program of preparation for the professional certificate for instructional leadership - school superintendent, the candidate shall:

(a) Have been admitted to the preparation program on the basis of criteria developed by the teacher education institution pursuant to 704 KAR 20:005 [~~TEC 104~~];

(b) Have completed at least five (5) years of experience as follows:

1. Three (3) years of full-time teaching experience, including at least 140 days per year, and

2. [~~also~~] At least two (2) years of additional experience, including at least 140 days per year, in a position(s) of elementary school principal, middle grade school principal, secondary school principal, supervisor of instruction, guidance counselor, director of pupil personnel, director of special education, school business administrator, local district coordinator of vocational education, or coordinator/administrator/supervisor of district-wide services. Other administrative experience may be substituted for this requirement with the approval of the Education Professional Standards Board;

(c) Have completed the master's degree;

(d) Qualify for a Kentucky [~~Have been issued a standard~~] teaching certificate; and

(e) Have completed both Level I and Level II preparation and certification for any one of the positions of elementary school principal, middle grade principal, secondary school principal, or supervisor of instruction.

(4) The initial professional certificate for instructional leadership - school superintendent shall be issued for a duration period of five (5) years and shall be renewed subsequently for five (5) year periods. Each five (5) year renewal shall require the completion of two (2) years of experience as a school superintendent, or three (3) semester hours of additional graduate credit related to the position of school superintendent, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Instructional Leadership Training Program.

(5) If a lapse in certification occurs for lack of the renewal requirements, the certificate may be reissued for a five (5) year period after the completion of an additional six (6) semester hours of graduate study appropriate to the program.

DANIEL GREENE, Chair

APPROVED BY AGENCY: March 9, 1994

FILED WITH LRC: March 10, 1994 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on April 28, 1994, at 10 a.m. in the State Board Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 23, 1994, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the

hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Roland Goddu, Office of Teacher Education and Certification, Capital Plaza Tower, 500 Mero Street, Frankfort, KY 40601, (502) 564-4606.

REGULATORY IMPACT ANALYSIS

Contact person: Akeel Zaheer

(1) Type and number of entities affected: Approximately 60 candidates entering superintendency programs annually and 6 institutions of higher education offering certification programs.

(a) Direct and indirect costs or savings to those affected:

1. First year: No additional costs since the amendment substitutes a specific prerequisite for superintendency certification.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: Institutions of higher education must inform potential candidates of changes in prerequisites.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Costs associated with communicating changes to individuals and institutions offering superintendency programs.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Communicate new prerequisites to individuals and institutions and amend information documents to reflect changes.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The amendment replaces prerequisite requirements for superintendency certification, since the standard teaching certificates are being discontinued.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

TIERING: Is tiering applied? No. Certification requirements are uniformly applicable to all individuals.

WORKFORCE DEVELOPMENT CABINET
Department for Adult Education and Literacy
(Proposed Amendment)

780 KAR 9:040. Approval of federal grants [~~applications~~] under the Adult Education Act as amended by the National Literacy Act of 1991, 20 USC §1201 et seq [~~Section 322 of Adult Education Act~~].

RELATES TO: KRS 151B.110, 151B.145

STATUTORY AUTHORITY: KRS 151B.110, 151B.145

NECESSITY AND FUNCTION: KRS 151B.145 identifies the Department for Adult [~~and Technical~~] Education and Literacy as the agency solely responsible for the purpose of adopting state plans required for federal adult education programs and services in Kentucky. KRS 151B.110 identifies the State Board for Adult and Technical Education as responsible for adult education and literacy services. The Department for Adult Education and Literacy is the state educational agency authorized to award subgrants from the federal funds provided under the Adult Education Act as amended by the National Literacy Act of 1991, 20 USC §1201 et seq. This administrative regulation prescribes the policies, activities, and procedures the Department for Adult Education and Literacy shall follow for approving local applications for grants of federal funds for adult education programs [~~under Section 322 of the Adult Education Act~~].

Section 1. Eligible Recipients. (1) Equal access for funding shall be provided to the following [~~The~~] eligible recipients for federal adult education funds [~~are as follows~~]:

(a) Local educational agencies;

(b) Public or private nonprofit agencies; [~~, organizations, or institutions; and~~]

(c) Community-based organizations; [~~A consortium of public or private nonprofit agencies, organizations, or institutions that includes a for-profit agency, organization, or institution that can make a significant contribution to attaining the objectives of the Adult Education Act.~~]

(d) Correctional educational agencies;

(e) Postsecondary educational institutions;

(f) Institutions which have the ability to provide literacy services to adults and families;

(g) Institutions which serve educationally disadvantaged adults; and

(h) Local housing authorities.

(2) A public or [~~and~~] private nonprofit agency [~~agencies~~], organization[~~s~~], or institution[~~s~~] may apply on behalf of a consortium that includes a for-profit agency, organization, or institution which can make a significant contribution to attaining the objectives of the National Literacy Act of 1991, 20 USC §1201 et seq. Funds will be awarded only to the local educational agency or the public or private nonprofit entity that applies on behalf of the consortium. [~~shall submit, in addition to their proposals, documentation of consultation with the applicable local educational agency. The applicant shall allow sufficient time for the applicable local educational agency to have an opportunity to comment on the application before its submission to the Department of Adult and Technical Education. The nonprofit agency, organization, or institution shall then have an opportunity to respond to the local educational agency's comments. Both the comments and the responses shall be attached to the application.~~]

(3) Funding under the National Literacy Act, 20 USC §1201 et seq. shall include competitive two (2) year subgrants referred to as gateway grants, to public housing authorities for literacy programs and related activities. Public housing authorities which apply for gateway grants shall consult with local adult education providers in conducting such programs and activities. The amount of funds available for gateway grants shall not exceed $150,000 annually unless approved through procedures provided in the federal act. [~~For a recipient consortium, the local educational agency or public or private nonprofit agency, organization, or institution shall enter into a contract with the for-profit entity. Funds shall be awarded only to the local educational agency or the public or private nonprofit entity that applies on behalf of the consortium.~~]

(4) In selecting local recipients, the Kentucky Department for Adult [~~and Technical~~] Education and Literacy shall give preference in the awarding of subgrants to those local applicants who have demonstrated or can demonstrate a capability to recruit and serve educationally disadvantaged adults who do not have a certificate or who have not graduated from a school providing secondary education or its equivalent.

Section 2. Notice of Availability. The availability of funds shall be

announced annually through a variety of methods to ensure that eligible applicants have direct and equitable access for funding opportunities [~~ample opportunity to apply~~]. In March [~~April~~] of each year, the Department for [~~Office of~~] Adult Education and Literacy will [~~Services shall~~] make an announcement through the Workforce Development Cabinet [~~Department for Adult and Technical Education's public information services,~~] which shall send information to [~~all~~] newspapers, [~~and~~] radio and television stations in the state, that funds will be available for adult education programs and activities. Similar announcements shall be made through other appropriate communications [~~services~~] in the Department for Adult [~~and Technical~~] Education and Literacy including [~~. The office shall also announce the availability of funds on~~] KNET, the computer network serving many local school districts. Announcements will be mailed, upon request, and sent to public housing authorities, volunteer groups, correctional educational agencies, postsecondary educational institutions, and community-based organizations. [~~In addition, announcements shall be sent to those who request information about the application process and the availability of funds.~~]

Section 3. Application Process. (1) All applications are to [~~shall~~] be submitted to the Kentucky Department for Adult [~~and Technical~~] Education and Literacy by April [~~May~~] 15 of each year. Applicants may be local educational agencies, including local school districts, area vocational schools, technical institutes, [~~or~~] community colleges, [~~other colleges;~~] universities, other public or private agencies or institutions, [~~or~~] consortia of these [~~such~~] agencies or institutions, agencies responsible for corrections education, and public housing authorities.

(2) An application for an adult education program under these grants [~~Section 322 of the federal act~~] shall be signed [~~either~~] by the local director of adult education, [~~or~~] the superintendent of the school system, [~~; or, when appropriate, completed and signed by the~~] proper officials of a private or public nonprofit agency, organization, institution, [~~or~~] consortium, corrections agency, or public housing authority.

(3) Application forms are available from the Department for [~~Office of~~] Adult [~~Basic~~] Education and Literacy, 3rd Floor, [~~Services,~~] Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601. Applications shall include the required budget, assurances, and the information requested about proposed goals, activities and programs. [~~Four (4) copies of each application shall be submitted to the Office of Adult Basic Education Services.~~]

Section 4. Review Process. Applications shall be reviewed and evaluated by a committee selected by the Department for Adult Education and Literacy to determine [~~with respect to~~] the eligibility of applicants and the completeness of the information provided. [~~; and~~] Based [~~up~~]on the criteria given in Section 5 of this administrative regulation, the designated committee will recommend to [~~:~~] the Commissioner of the Department for Adult [~~and Technical~~] Education and Literacy the applications to be funded, not funded, or sent back to the applicant for revision and resubmission. [~~shall determine the applications to be approved and the funding levels.~~]

Section 5. Criteria for Evaluating Applications. Applications for these subgrants [~~funds under Section 322 of the Adult Education Act~~] shall be evaluated according to the following criteria:

(1) The characteristics or needs of the population to be served;

(2) The extent to which the applicant proposes projects to reach educationally disadvantaged adults and those most in need of assistance, e.g., adults unable to read, individuals who are [~~such as the illiterate, the~~] unemployed, disabled [~~the handicapped~~], [~~the~~] institutionalized, and those with limited English proficiency;

(3) The extent to which the applicant gives special emphasis to adult literacy and basic education projects;

(4) The extent to which the proposed programs, activities, and services address the identified needs;

(5) The resources available to the applicant, other than federal and state adult education funds, to meet those needs;

(6) The adequacy of outreach and retention activities, including flexible scheduling, convenience of facilities to target populations, [~~and~~] availability of day care, [~~and~~] transportation services, and counseling services;

(7) The extent to which the project objectives can be accomplished within the amount of the budget request;

(8) The adequacy of the evaluation procedures detailed;

(9) The projected program goals with respect to recruitment, retention, and educational achievements;

(10) [~~(9)~~] Current programs, activities, and services receiving assistance from federal, state, and local sources in the area proposed to be served by the applicant;

(11) [~~(10)~~] Cooperative arrangements that have been made to deliver services to adults, including arrangements with business, industry, and volunteer literacy organizations; [~~and~~]

(12) [~~(11)~~] Nonduplication and coordination of programs, services, or activities made available to adults under other federal, state, and local programs;

(13) The past effectiveness of the applicants in providing services, especially with respect to the recruitment, retention, and learning gains of educationally disadvantaged adults.

Section 6. Distribution of Funds. (1) The Kentucky Department for Adult [~~and Technical~~] Education and Literacy shall determine the allocation of grant monies. [~~funds under Section 322 of the Adult Education Act.~~] The funds available for this purpose shall be the amount remaining after the state's basic grant [~~under Section 321~~] is reduced by the amount of funds needed for state administration, not to exceed five (5) percent, instruction in institutions, discretionary set-aside, [~~and~~] special projects, [~~and~~] teacher training, and gateway grants [~~(Section 353 projects)~~].

(2) The department shall give preference to those applicants who have demonstrated or can demonstrate a capability to recruit and serve the largest numbers of educationally disadvantaged adults. Because of budgetary constraints, the department encourages the consolidation of very small programs that are in geographic[~~al~~] proximity, and shall no longer provide state or federal funds to programs that have averaged serving fewer than six (6) adult learners per year.

(3) Funds shall be awarded for continuation programs based on the extent to which local recipients of funds have improved their capacity to achieve the purpose of the Adult Education Act as codified in 20 USC §1201 et seq., [~~basis of the numbers served in the previous year,~~] consideration of the population to be served, and the availability of funds. For new applicants, awards shall be based on consideration of the population to be served, the extent to which project objectives can be accomplished within the budget proposed, prior experience with similar activities, and the availability of funds.

Section 7. Administrative Costs. At least ninety-five (95) percent of the federal funds provided by the Kentucky Department for Adult [~~and Technical~~] Education and Literacy to local agency recipients shall be spent for adult education instructional activities. Local costs for administration, planning, personnel development, and interagency cooperation shall not exceed five (5) percent [~~of the federal funds awarded~~]. Where local administrative costs may exceed that amount, the Department for Adult [~~and Technical~~] Education and Literacy shall negotiate with local grant recipients to determine whether to provide supplementary state funds for noninstructional purposes.

C. RICHARD WARNER, Chairman

APPROVED BY AGENCY: February 17, 1994

FILED WITH LRC: March 14, 1994 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Thursday, April 21, 1994, at 10 a.m. (EST)

in Room 306, 3rd Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person. Contact Person: Delmus Murrell, Secretary, State Board for Adult and Technical Education, 302 Capital Plaza Tower, Frankfort, KY 40601, (502) 564-4286.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverly Haverstock

(1) Type and number of entities affected: Approximately 227 providers of adult education and literacy services, e.g., local education agencies, vocational-technical schools, community colleges, universities, private agencies, and public housing authorities.

(a) Direct and indirect costs or savings to those affected: None. Only subgrantees will receive funds in exchange for services.

(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: Applicants will submit proposals and required reports for subgrants.

(2) Effects on the promulgating administrative body: None. This agency has performed this work for years.

(a) Direct and indirect costs or savings: Not expected to increase or decrease significantly.

(1) First year:

(2) Continuing costs or savings:

(3) Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: About the same.

(3) Assessment of anticipated effect on state and local revenues: No effect on revenues. This is federal money granted for services.

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

(5) Identify any statute, rule, or regulation or governmental policy which may be in conflict, overlapping, or duplication: There are none.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed regulation with conflicting provisions:

(6) Any additional information or comments: None

TIERING: Was tiering applied: No. Every eligible provider has equal access to subgrants.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Adult Education Act, as amended by the National Literacy Act of 1991, 20 USC §1201 et seq.

2. State compliance standards. The State follows the federal compliance standards.

3. Minimum or uniform standards contained in the federal mandate. The administrative regulation adopts compliance standards set out in the federal acts relating to adult education.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Proposed Amendment)

806 KAR 38:020. Health maintenance organization agent license.

RELATES TO: KRS 304.38-110

STATUTORY AUTHORITY: KRS 304.38-110

NECESSITY AND FUNCTION: KRS 304.38-110 provides that the commissioner shall promulgate rules and administrative regulations necessary for licensure of a health maintenance organization agent. This regulation sets forth basic procedures to acquire and to keep an agents' license.

Section 1. (1) An "agent" means any person directly or indirectly associated with such organization who engages for profit or pecuniary gain in the solicitation or enrollment of persons in a health maintenance organization.

(2) "Profit or pecuniary gain" as used in this section means any type of compensation that a person receives from the health maintenance organization for which the solicitation or enrollment of members is made.

Section 2. To qualify for an agent's license, an applicant shall:

(1) Be above the age of eighteen (18) years;

(2) Be competent, trustworthy, [~~financially responsible,~~] and of good reputation;

(3) Be financially responsible and demonstrate financial responsibility as provided in KRS 304.9-105(5);

(4) Pass any written examination required for the license under KRS Chapter 304, Subtitle 38, except when the applicant is a nonresident who has filed with the Commissioner a certification from his home state that the applicant is licensed in good standing as an agent for health insurance or health maintenance organizations;

(5) [~~(4)~~] Be appointed as an agent by one (1) or more corporations subject to the provisions of KRS Chapter 304, Subtitle 38;

(6) [~~(5)~~] Make application to the commissioner in the manner and form prescribed by him; [~~and~~]

(7) [~~(6)~~] Pay the fee provided in KRS 304.4-010;

(8) Successfully complete specific courses of instruction in the field of insurance as prescribed and approved by the commissioner for the license when initially issued. These courses of instruction shall in the aggregate consist of or equal forty (40) hours of classroom instruction administered by or under the supervision of persons qualifying with and approved by the commissioner for such purpose and the successful completion of which shall be certified to the commissioner, on forms prescribed by him, by the person under whose supervision such instruction was administered; and

(9) Agents who hold licenses issued on or after July 1, 1994, shall be subject to continuing education requirements as specified in KRS 304.9-295 subsections (4) through (10) and 806 KAR 9:220.

Section 3. Agents' licenses shall expire as of 12:01 a.m. on the first day of April, 1983, and biennially thereafter, unless the licensee prior thereto has filed with the commissioner, on forms prescribed and furnished by him, a request for continuation of license. The request must be accompanied by payment of the renewal fee as provided in KRS 304.4-010. However, any request for continuation received by the commissioner after such April 1 and prior to the next following June 30 may be accepted and effectuated by the commissioner if accompanied by a penalty as provided in KRS 304.99-100.

Section 4. (1) Each corporation qualified under KRS Chapter 304,

Subtitle 38 appointing an agent shall notify the commissioner by filing written notice in duplicate with the commissioner on forms prescribed and furnished by him, and shall pay the fee as provided in KRS 304.4-010. If the agent is then licensed, or as soon as licensed, the commissioner shall mail the appointment certificate to the corporation.

(2) Each appointment shall continue in force until:

(a) The commissioner notifies the corporation that the agent's license is suspended or revoked;

(b) The appointment is terminated by the corporation by written notice of termination filed with the commissioner; or

(c) The corporation fails to renew the appointment.

Section 5. The commissioner may suspend, revoke, or refuse to renew any license issued under this regulation, for any of the following causes:

(1) For any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner;

(2) If the licensee willfully violates or knowingly participates in the violation of any provision of KRS Chapter 304, Subtitle 38 or this regulation;

(3) If the licensee obtains or attempts to obtain a license through willful misrepresentation or fraud, or fails to pass any examination required under KRS Chapter 304, Subtitle 38;

(4) If the licensee has been convicted, by final judgment, of a felony involving moral turpitude;

(5) If in the conduct of his affairs under the license, the licensee has shown himself to be, and is deemed by the commissioner to be, incompetent or untrustworthy;

(6) If the licensee exercises powers outside the scope of his license;

(7) If the licensee commits any violation of the provisions of KRS Chapter 304 or any regulation of the commissioner as made applicable to him.

DON W. STEPHENS, Commissioner
EDWARD J. HOLMES, Secretary

APPROVED BY AGENCY: March 10, 1994

FILED WITH LRC: March 14, 1994 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1994 at 10 a.m. (ET), in the offices of the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments must be received prior to 10 a.m. (ET), on April 21, 1994, in order to receive consideration. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Carla H. Montgomery, Counsel, Department of Insurance, 215 West Main Street, P. O. Box 517
Frankfort, Kentucky 40602, (502) 564-3630.

REGULATORY IMPACT ANALYSIS

CONTACT PERSON: Carla H. Montgomery

Need for the Proposed Administrative Regulation: The Department of Insurance sets guidelines for all insurance agents to meet before obtaining a license and while licensed. These guidelines ensure that agents are better trained, are more financially responsible, and continue their education in their field of expertise. Agents for health maintenance organizations should meet the same responsibilities as other insurance agents especially with the increase in health maintenance organizations.

(1) Type and number of entities affected: The Department of Insurance currently has a listing of approximately 913 health maintenance organization agents.

(a) Direct and indirect cost or savings to those affected:

1. First year: Applicants must receive forty hours of classroom instruction prior to being licensed. Agents shall get continuing education and exhibit financial responsibility in accordance with KRS 304.9-105(5). Some individual agents will incur these costs while companies or agencies may pay for other agents.

2. Continued cost or savings: The continued cost or savings will be the same as in the first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Agents must file appropriate forms to exhibit financial responsibility. Agents must have continuing education reported to the Department of Insurance. Applicants for agent positions must report forty hours of instruction before being licensed.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The Department of Insurance's Licensing Division has in place a computer program to handle this information. The Department of Insurance foresees no additional costs or savings. Although, some work may be eliminated by requiring equal standards for all agents, the number of letters to all agents will increase.

2. Continued costs or savings: The cost or savings will continue as in the first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The reporting and paperwork will not change except as to the amount of correspondence sent to all agents.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The Department of Insurance desires to treat all agents equally and to provide the same protection for customers of health maintenance organization agents. To require different standards for different agents creates additional work for our agency and an unequal footing for some agents and consumers.

(5) Statutes, regulations, or governmental policies which may conflict, overlap, or duplicate the proposed regulation: None

TIERING: Tiering is not used since the proposed administrative regulation should apply to all health maintenance organization agents equally.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Proposed Amendment)

806 KAR 43:010. Prepaid dental plan organization agent license.

RELATES TO: KRS 304.43-080

STATUTORY AUTHORITY: KRS 304.43-080

NECESSITY AND FUNCTION: KRS 304.43-080 provides that the commissioner shall promulgate rules and administrative regulations necessary for licensure of prepaid dental plan organization agents. This regulation sets forth basic procedures to acquire and to keep an agent license.

Section 1. Definitions. (1) As used in this regulation, "agent" has the meaning set forth in KRS 304.43-010(1).

(2) "Profit or pecuniary gain" as used in KRS 304.43-010(1) means any type of compensation that a person receives directly or indirectly from the prepaid dental plan organization for which the solicitation or enrollment of members is made.

Section 2. To qualify for an agent's license, an applicant shall:

(1) Be above the age of eighteen (18) years;

(2) Be competent, trustworthy, [~~financially responsible,~~] and of good reputation;

(3) Be financially responsible and demonstrate financial responsibility as provided in KRS 304.9-105(5);

(4) Pass a written examination required for the license by the commissioner, except when the applicant is a nonresident who has filed with the commissioner a certification from his home state that the applicant is licensed in good standing as an agent for health insurance, dental insurance, or prepaid dental plan organizations;

(5) [~~(4)~~] Be appointed as an agent by one (1) or more corporations subject to the provisions of KRS Chapter 304.43;

(6) [~~(5)~~] Make application to the commissioner in the manner and form prescribed by him; [~~and~~]

(7) [~~(6)~~] Pay the fee provided in KRS 304.4-010;

(8) Successfully complete specific courses of instruction in the field of insurance as prescribed and approved by the commissioner for the license when initially issued. These courses of instruction shall in the aggregate consist of or equal forty (40) hours of classroom instruction administered by or under the supervision of persons qualifying with and approved by the commissioner for such purpose and the successful completion of which shall be certified to the commissioner, on forms prescribed by him, by the person under whose supervision such instruction was administered; and

(9) Agents who hold licenses issued on or after July 1, 1994, shall be subject to continuing education requirements as specified in KRS 304.9-295 subsections (4) through (10) and 806 KAR 9:220.

Section 3. Agents licenses shall expire as of midnight on March 31, 1983, and biennially thereafter, unless the licensee prior thereto has filed with the commissioner on forms prescribed and furnished by him, a request for continuation of license for an ensuing biennium, except that any request for continuation received by the commissioner after such March 31 and prior to the next following June 30 may be accepted and effectuated by the commissioner if accompanied by a penalty as provided in KRS 304.99-100.

Section 4. (1) Each corporation qualified under KRS Chapter 304.43 appointing an agent shall notify the commissioner by filing written notice in duplicate with the commissioner on forms prescribed and furnished by him, and shall pay the fee as provided in KRS 304.4-010. If the agent is then licensed, or as soon as licensed, the commissioner shall mail the appointment certificate to the corporation.

(2) Each appointment shall continue in force until:

(a) The commissioner notifies the corporation that the agent's license is suspended or revoked;

(b) The appointment is revoked by the corporation by written notice of revocation filed with the commissioner; or

(c) The corporation fails to renew the appointment.

Section 5. The commissioner may suspend, revoke, or refuse to renew any license issued under this regulation, for any of the following causes:

(1) For any cause for which the issuance of the license could have been refused had it then existed and been known to the commissioner;

(2) If the licensee willfully violates or knowingly participates in the violation of any provision of KRS Chapter 304.43 or this regulation;

(3) If the licensee obtains or attempts to obtain a license through unfair, false, misleading, or deceptive practices, or fails to pass any examination required by the commissioner;

(4) If the licensee has materially misrepresented the terms or effect of any membership contract, or has engaged or is about to engage in any fraudulent transactions;

(5) If the licensee has been guilty of misrepresentation or rebating, as defined in KRS Chapter 304.12;

(6) If the licensee has been convicted, by final judgment, of a felony involving moral turpitude;

(7) If in the conduct of his affairs under the license, the licensee has shown himself to be and is deemed by the commissioner to be, incompetent or untrustworthy;

(8) If the licensee exercises powers outside the scope of his license;

(9) If the licensee misappropriates or converts to his own use or illegally withholds monies received in the conduct of his business under the license, belonging to enrollees, members, the prepaid dental plan organization, or others.

DON W. STEPHENS, Commissioner
EDWARD J. HOLMES, Secretary
APPROVED BY AGENCY: March 10, 1994
FILED WITH LRC: March 14, 1994 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1994 at 10 a.m. (ET), in the offices of the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments must be received prior to 10 a.m. (ET), on April 21, 1994, in order to receive consideration. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Carla H. Montgomery, Counsel, Department of Insurance, 215 West Main Street, P. O. Box 517
Frankfort, Kentucky 40602, (502) 564-3630.

REGULATORY IMPACT ANALYSIS

CONTACT PERSON: Carla H. Montgomery

Need for the Proposed Administrative Regulation: The Department of Insurance sets guidelines for all insurance agents to meet before obtaining a license and while licensed. These guidelines ensure that agents are better trained, are more financially responsible, and continue their education in their field of expertise. Agents for prepaid dental plan organizations should meet the same responsibilities as other insurance agents especially with the increase in prepaid dental plan organizations.

(1) Type and number of entities affected: The Department of Insurance currently has a listing of approximately 110 prepaid dental plan organization agents.

(a) Direct and indirect cost or savings to those affected:

1. First year: Applicants must receive forty hours of classroom instruction prior to being licensed. Agents shall get continuing education and exhibit financial responsibility in accordance with KRS 304.9-105(5). Some individual agents will incur these costs while companies or agencies may pay for other agents.

2. Continued cost or savings: The continued cost or savings will be the same as in the first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Agents must file

appropriate forms to exhibit financial responsibility. Agents must have continuing education reported to the Department of Insurance. Applicants for agent positions must report forty hours of instruction before being licensed.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The Department of Insurance's Licensing Division has in place a computer program to handle this information. The Department of Insurance foresees no additional costs or savings. Although, some work may be eliminated by requiring equal standards for all agents, the number of letters to all agents will increase.

2. Continued costs or savings: The cost or savings will continue as in the first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The reporting and paperwork will not change except as to the amount of correspondence sent to all agents.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The Department of Insurance desires to treat all agents equally and to provide the same protection for customers of prepaid dental plan organization agents. To require different standards for different agents creates additional work for our agency and an unequal footing for some agents and consumers.

(5) Statutes, regulations, or governmental policies which may conflict, overlap, or duplicate the proposed regulation: None

TIERING: Tiering is not used since the proposed administrative regulation should apply to all prepaid dental plan organization agents equally.

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Unemployment Insurance
(Proposed Amendment)

903 KAR 5:290. Employer contribution rates.

RELATES TO: KRS 341.270

STATUTORY AUTHORITY: KRS 194.050, 341.270

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

Section 1. Trust Fund Balance. The secretary finds the following to exist:

(1) The "trust fund balance" as of December 31, 1993 [~~1992~~], was $401,310,854.86 [~~364,286,605.73~~].

(2) There was no outstanding loan from the Federal Unemployment Trust Fund as of December 31, 1993 [~~1992~~].

Section 2. Rate Schedule. On the basis of the findings in Section 1 of this administrative regulation, and in accordance with KRS 341.270(3), Schedule A of Table A shall be in effect for calendar year 1994 [~~1993~~], because the "trust fund balance" equals or exceeds $350,000,000, on December 31, 1993 [~~1992~~]. Rates listed in Schedule A of Table A are listed below.

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

MARGARET WHITTET, Commissioner

FONTAINE BANKS, JR., Secretary

APPROVED BY AGENCY: February 15, 1994

FILED WITH LRC: February 25, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1994, at 9 a.m. at the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: William K. Moore, Deputy Counsel, Department of Law, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Contact person: Margaret Whittet

(1) Type and number of entities affected: 73,200 Kentucky employers.

(a) Direct and indirect costs or savings to those affected:

1. First year: No change - rate schedule remains the same.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Possible increase in UI Trust Fund receipts due only to natural wage increases and increased number of employers.

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed administrative regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. All taxpaying employers treated equally.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. Either all or part of a local government could be affected. Entities such as county health departments, water districts, libraries, etc., could be affected based upon their independent exercise of unemployment reporting options.

3. State the aspect or service of local government to which this administrative regulation relates. This regulation affects the unemployment tax assessed based on the payroll of those local governments which have elected to make quarterly unemployment tax payments.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: The great majority of local governments have elected to reimburse any unemployment benefits attributable to their employment. However, approximately 700 governmental entities have elected to pay quarterly unemployment taxes. By specifying the tax rate schedule in effect for 1994, this regulation determines in part the amount of tax which will be due from these tax paying entities. The tax rate schedule set forth in this regulation remains the same as the previous year.

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Unemployment Insurance
(Proposed Amendment)

903 KAR 5:300. Required reports and due dates.

RELATES TO: KRS 341.190, 341.262

STATUTORY AUTHORITY: KRS 13A.100, 194.050, 341.115

NECESSITY AND FUNCTION: KRS 341.190 authorizes the Secretary for Human Resources to require the furnishing of certain information and records by employing units concerning wages paid, employment and other related matters. KRS 341.262 provides that a penalty will be assessed for failure to submit reports when due. Internal Revenue Procedures 93-18 and 93-31 require employers of more than 250 workers to report wage data for federal purposes using magnetic media, or incur penalties prescribed in Internal Revenue Code Section 6721. This administrative regulation delineates the required reports and information with attendant due dates, and adopts the federal magnetic media reporting requirements for reporting of wage information for state unemployment insurance purposes.

Section 1. Required Reports. (1) For the purpose of this administrative regulation, following are the required reports, which are incorporated by reference:

[~~(1)~~] Employer's Quarterly Unemployment Wage and Tax Report (UI-3), [~~;~~] and

[~~(2)~~] Reimbursing Employer's Quarterly Wage and Tax Report (UI-3R).

(2) For employers with more than five (5) workers performing service in covered employment during the quarter being reported, a report shall not be considered filed unless it includes the name, Social Security number and wages of each worker.

(3) For employers with more than 250 workers performing service in covered employment during the quarter being reported, a report shall not be considered filed unless the name, Social Security number, and wages of each worker are reported using magnetic media in a format approved by the department for this purpose. The secretary or his authorized representative shall waive this requirement upon a showing of a lack of automation, severe economic hardship, or other good cause. Good cause shall include proof that the employer has been exempted from reporting wage information using magnetic media under any like provision of federal law. Request for waiver from this requirement shall be made in writing specifying the reason for the request.

Section 2. Due Dates. (1) Except as provided below, the due date for the filing of a required report is the last day of the month following the close of the calendar quarter in which wages are paid in covered employment.

(2) The initial due date for the filing of a required report by an employing unit newly subject under the provisions of KRS 341.070 shall be the last day of the month following the quarter in which the employing unit is first given notice by the department of its liability as a subject employer, provided that:

(a) For the purpose of this administrative regulation, no employing unit shall be deemed to be newly subject if:

1. Prior to beginning employment in Kentucky, it has previously been determined subject under the unemployment compensation law of any other state; however, it shall be deemed to be newly subject if all wages paid in covered employment in Kentucky were reported to another state unemployment compensation program by the due date specified by that state; or

2. If it has previously been determined subject under the provisions of KRS 341.070 but subsequently terminated subjectivity under the provisions of KRS 341.250(2); and

(b) This subsection shall not apply if the employing unit has failed to file a required report due to willful intent to evade filing. In this case the provisions of subsection (1) of this section shall apply.

Section 3. Reports [~~which are deposited in the mail~~] shall be considered [~~filed as of the date~~] received by the department as defined in 903 KAR 5:310.

MARGARET WHITTET, Commissioner

FONTAINE BANKS, JR., Secretary

APPROVED BY AGENCY: January 6, 1994

FILED WITH LRC: February 18, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1994, at 9 a.m. at the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact

person.

CONTACT PERSON: William K. Moore, Deputy Counsel, Department of Law, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Contact person: Margaret Whittet

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings: This amendment will affect approximately 37,700 employers who have more than five employees. There will be no additional cost imposed unless an affected employer fails to file a complete quarterly wage and tax report as required. Failure to comply would result in the imposition of penalties a prescribed in KRS 341.262. Small businesses (comprising nearly half of all covered employers) will not be affected.

3. Additional factors increasing or decreasing costs (note any effects upon competition): This amendment will affect approximately 670 employers who have more than 250 employees. There will be no additional cost imposed, since this merely extends the federal magnetic media reporting requirement to state UI reports. Affected employers currently filing UI reports on paper and federal reports by magnetic media will realize a small savings by eliminating the time and material required to prepare paper wage listings. Employers exempted from the federal requirement due to inability to comply will be similarly exempted from the state requirement. Employers subject to this regulation would be subject to penalties as prescribed in KRS 341.262 if they fail to report as required.

(b) Reporting and paperwork requirements: Change of method only.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Some additional data processing costs offset by savings annually of $70,000 on data entry of wage information.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: Potential savings due to reduction in benefit payment errors due to wage entry errors.

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed administrative regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

TIERING: Is tiering applied? Yes. See explanation of (1)2 and 3.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. All governmental entities with covered employees.

3. State the aspect or service of local government to which this administrative regulation relates. Requirement of governmental entities to file quarterly unemployment wage reports.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: No impact unless reports are not filed as required. At present, all local government units are in compliance.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management and Development
(Proposed Amendment)

904 KAR 2:370. Technical requirements; job opportunities and basic skills.

RELATES TO: 45 CFR 250.0, 250.10, 250.11, 250.30, 250.32, 250.33, 250.34, 250.35, 250.36, 250.41, 250.43, 250.44, 250.45, 250.46, 250.48, 250.60, 250.61, 250.63

STATUTORY AUTHORITY: KRS 194.050, 205.200(2)

NECESSITY AND FUNCTION: The Cabinet for Human Resources has the responsibility under the provisions of KRS Chapter 205 to administer the assistance program of Aid to Families with Dependent Children (AFDC). KRS 205.200(2) requires that the conditions of eligibility to receive AFDC money grants be prescribed by regulations in conformity with 42 USC 602 and federal regulations. This administrative regulation sets forth the technical requirements of the Job Opportunities and Basic Skills (JOBS) Program participants as they relate to eligibility for receiving AFDC.

Section 1. Definitions. (1) "Assessment" means the ongoing evaluation of an individual's educational and vocational potential.

(2) "Barriers" are any hardships the individual shall overcome to participate in education, training or employment.

(3) "Case manager" means the Department for Social Insurance (DSI) individual who:

(a) Determines ongoing AFDC or Medical Assistance (MA) or Food Stamp (FS) eligibility and benefit levels for all case action in the household of a JOBS participant;

(b) Aids the JOBS participant by brokering services for the participant;

(c) Identifies and resolves barriers to the extent possible; and

(d) Delivers JOBS related services to the participant.

(4) "Conciliation" is a process in which participation problems in the JOBS Program can be resolved.

(5) "JOBS" means a program which assists recipients of AFDC in obtaining the necessary education and training that will lead to gainful employment and self-support.

(6) "Target population" means that group composed of each individual who:

(a) Is receiving AFDC, and who has received AFDC for any thirty-six (36) of the preceding sixty (60) months;

(b) Makes application for AFDC and has received AFDC for any thirty-six (36) of the sixty (60) months immediately preceding the most recent month for which application has been made;

(c) Is a custodial parent under the age of twenty-four (24) who:

1. Has not completed a high school education and, at the time of application for AFDC, is not enrolled in high school or a high school equivalency course of instruction; or

2. Had little or no work experience in the preceding year; or

(d) Is a member of a family in which the youngest child is within two (2) years of being ineligible for AFDC because of age.

Section 2. Exemptions. All AFDC recipients are required to participate in the JOBS Program if the program is available in the county of residence unless the recipient:

(1) Is a child who:

(a) Is under age sixteen (16); or

(b) Attends, full time, an elementary, secondary, vocational or technical school (unless he was enrolled in school through the JOBS Program);

(2) Is ill and the illness or injury is serious enough to temporarily prevent entry into employment or training;

(3) Is incapacitated to the extent that the physical or mental impairment would prevent the recipient from participating in the JOBS Program. This may include a period of recuperation after childbirth if prescribed by a woman's physician;

(4) Is sixty (60) years old or older;

(5) Resides in a county which offers the JOBS Program but in a location in which travel time to the JOBS activity would exceed two (2) hours round trip by reasonably available public or private transportation, exclusive of time necessary to transport children to and from a child care facility;

(6) Is needed in the home because another member of the household requires the individual's presence due to illness or incapacity;

(7) Is working at least thirty (30) hours per week prior to determination of JOBS status;

(8) Is pregnant and the child is expected to be born within the following six (6) month period;

(9) Is the parent or other relative who is personally providing care for a child under age three (3), except as specified in Section 5(3) of this administrative regulation;

(10) Is a full-time Volunteers in Service to America (VISTA) volunteer.

(11) Is the parent age twenty (20) years or older or other relative personally providing care for a child under six (6) years of age unless:

(a) The agency assures that child care will be guaranteed; and

(b) The state agency guarantees that required program participation will not exceed twenty (20) hours per week.

Section 3. Volunteers. All persons in active JOBS counties as specified in Section 2 of this administrative regulation may volunteer to participate in the JOBS Program.

(1) The DSI shall give first priority for JOBS services to volunteers within the target population to be served, as described in Section 1 of this administrative regulation.

(2) A volunteer who is exempt, as specified in Section 2 of this administrative regulation, and who stops participating without good cause shall lose priority status for JOBS services if he volunteers at a later time.

(3) A volunteer who is not exempt and who stops participating without good cause shall be subject to sanctions, as specified in Section 10 of this administrative regulation.

Section 4. Components. With the exception of the component described in subsection (8) of this section, all JOBS counties shall offer the following services and activities:

(1) Education below the postsecondary level shall include:

(a) High school education or education designed to prepare a person to qualify for a high school equivalency certificate;

(b) Basic and remedial education that shall provide an individual with a basic literacy level, equivalent to at least grade 8.9; and

(c) Education in English proficiency to allow employment commensurate with his employment goal for an individual who is not sufficiently competent to:

1. Understand;
2. Speak;
3. Read; or
4. Write the English language.

(2) Job skills training which includes vocational training for a participant in technical job skills and equivalent knowledge and abilities in a specific occupational area.

(3) Job readiness activities that help prepare a participant for work by familiarizing him with workplace expectations, attitudes and appropriate behavior.

(4) Job development and job placement activities for soliciting public and private employers' job openings, marketing participants, and securing job interviews for a participant.

(5) Job search which provides group and individual assistance and training with job-seeking activities.

(a) Job search shall be provided in a group setting where a participant is taught job-seeking skills, and may include a phone bank from which he contacts potential employers;

(b) Individual job search shall be offered as needed to provide on a one-to-one basis:

1. Counseling;
2. Information;
3. Dissemination; and
4. Support;

(c) Participation in the job search component shall not exceed eight (8) weeks in any period of twelve (12) consecutive months unless it is required as part of another educational, training, or employment component designed to improve the individual's employment prospects.

(6) On-the-job training (OJT) in which a JOBS participant is hired by a private or public employer and receives job training or skills essential to the full and adequate performance of that job.

(a) A participant in OJT shall be compensated by the employer at the same rate as a similarly situated employee or trainee;

(b) The wage [~~cabinet~~] shall be subsidized [~~subsidize the wage~~] through payments to the employer for OJT, not to exceed an average of fifty (50) percent of the wages paid to the participant during the training;

(c) At the conclusion of the OJT, the participant shall be retained as a regular employee.

(7) Community Work Experience Program (CWEP) which provides unpaid work experience and training in nonprofit organizations to assist a participant to move promptly into regular public or private employment.

(a) A CWEP assignment shall be limited to projects which serve a useful public purpose in a field such as:

1. Health;
2. Social service;
3. Environmental protection;
4. Education;
5. Urban and rural development;
6. Welfare;
7. Recreation;
8. Public facilities;
9. Public safety; and
10. Day care;

(b) The maximum number of hours of participation shall be determined by dividing the family's monthly AFDC grant amount by the greater of the federal or state minimum wage;

(c) The agency shall reassess and revise, if necessary, the individual's employability plan:

1. After each six (6) months of CWEP participation; and
2. At the conclusion of participation in the component.

(d) After an individual has been assigned to CWEP for nine (9) months, the individual shall not be required to continue in that assignment unless the maximum number of hours of participation is no greater than the family's grant divided by the highest of:

1. Federal minimum wage;
2. State minimum wage; or
3. The rate of pay for an individual employed in the same or similar occupations by the same employer at the same site.

(8) Alternative Work Experience Program (AWEP) which provides unpaid work experience and training to assist a participant to move promptly into regular public or private employment.

(a) An AWEP assignment shall be limited to a for-profit health care facility such as:

1. Home health agency;
2. Hospital; and
3. Nursing home.

(b) AWEP placements shall be developed and monitored by the Department for Social Insurance or contracting agencies.

(c) Placements shall be made in conjunction with the participant's assessment and employability development plan to ensure that the placement meets the participant's training needs.

(d) The AWEP component shall not be mandatory in every JOBS county.

(e) AWEP participants are required to participate a minimum of twenty (20) hours per week.

(f) The agency shall reassess and revise, if necessary, the individual's employability plan:

1. After each six (6) months of AWEP participation; and
2. At the conclusion of participation in the component.

(9) Other work experience program (OWEP) which provides unpaid work experience and training in nonprofit organizations to assist a participant to move promptly into regular public or private employment.

(a) An OWEP assignment shall be limited to projects which serve a useful public purpose in a field such as:

1. Health;
2. Social service;
3. Environmental protection;
4. Education;
5. Urban and rural development;
6. Welfare;
7. Recreation;
8. Public facilities;
9. Public safety; and
10. Day care;

(b) OWEP placements shall be developed and monitored by the Department for Social Insurance or contracting agencies;

(c) Placements shall be made in conjunction with the participant's assessment and employability development plan to ensure that the placement meets the participant's training needs;

(d) OWEP participants shall be required to participate a minimum of twenty (20) hours per week;

(e) The agency shall reassess and revise if necessary, the individuals employability plan:

1. After each six (6) months of OWEP participation; and
2. At the conclusion of participation in the component.

(10) [~~(9)~~] Post secondary education may be provided if:

(a) The occupational assessment indicates that the participant has the aptitude to perform a specific job for which this education and training is required;

(b) The participant has or is capable of achieving the basic literacy skills required by the occupation; and

(c) Jobs are available in the specific occupation for which education and training is needed.

Section 5. JOBS Participation Requirements. (1) Assessment.

(a) When an AFDC recipient has been identified as a JOBS participant, the individual shall be referred to a JOBS case manager;

(b) The case manager shall make an assessment of the individual's employability;

(c) Other agencies will assist in the assessment process as needed;

(d) The assessment shall include consideration of basic skills, work skills, occupational skills, and barriers;

(e) The assessment shall be based on:

1. Education, child care and other supportive service needs;
2. The individual's proficiencies, skills deficiencies, and prior work experience;
3. The needs of the family of the participant; and
4. Any other relevant factors.

(2) Employability plan. Based on the findings of the assessment, the agency and participant shall jointly develop an employability plan. This plan shall contain:

(a) An employment goal for the participant;

(b) Services to be provided by the agency (including child care);

(c) JOBS activities to be undertaken to achieve the employment goal; and

(d) Other needs of the family.

(3) Special participation requirements for education.

(a) An AFDC parent under age twenty (20) who resides in a JOBS county shall be required to participate in educational activities if:

1. The parent is not otherwise exempt; and
2. The parent lacks a high school diploma or has basic skills in reading or math below the 8.9 grade level.

(b) The agency may require a parent aged eighteen (18) or nineteen (19) to participate in work or training activities instead of education if:

1. The parent fails to make good progress in successfully completing educational activities; or

2. Prior to any assignment of the individual to educational activities it is determined, based on an educational assessment and the employment goal established in the individual's employability plan, that participation in education activities is inappropriate for the parent.

(c) For purposes of this requirement, the exemption contained at Section 2(9) of this administrative regulation shall not qualify the participant for exemption from JOBS activities.

[~~(b) For purposes of this requirement, the exemption contained at Section 2(9) of this administrative regulation shall not qualify the participant for exemption from JOBS activities.~~

~~(c) The agency may require a parent aged eighteen (18) or nineteen (19) to participate in work or training activities instead of education if:~~

~~1. The parent fails to make good progress in successfully completing educational activities; or~~

~~2. Prior to any assignment of the individual to educational activities it is determined, based on an educational assessment and the employment goal established in the individual's employability plan, that participation in educational activities is inappropriate for the parent.~~]

Section 6. Self-initiated JOBS Activities. The agency shall consider an individual self-initiated if the definition specified in 904 KAR 2:017 is met. This shall include the following provisions:

(1) These individuals shall be in good standing at an institution of higher education or school or other entity offering a course of vocational or technical training.

(2) Activity below the postsecondary level shall be included if it is determined to be appropriate for the participant's employability plan.

(3) Both exempt and nonexempt individuals may be approved for self-initiated education or training for their JOBS activity.

(4) The participant shall be attending:

(a) A JTPA-funded training program; or

(b) A public source or private institution that is:

1. Licensed by the Kentucky Board for Proprietary Education; or
2. Recognized by the appropriate regulatory agency or licensing body for the state in which the training is located; or

(c) An associate degree program which will qualify the participant for a recognized occupation; or

(d) Other education or training which would otherwise be an approved JOBS activity, for example:

1. GED;
2. Adult basic education;
3. Literacy; or
4. Other educational activities which could lead to employment.

Section 7. Good and Satisfactory Progress. (1) Each participant in an education or training component shall meet good and satisfactory progress requirements.

(2) Good and satisfactory progress criteria for all JOBS educational activities and approved self-initiated education is established by the educational institution.

(3) Good and satisfactory progress shall be measured and reported to the DSI at the following intervals:

(a) Literacy, adult basic education, or general educational development. Good and satisfactory progress is measured at intervals determined by the educational providers.

(b) High school. Good and satisfactory progress shall be measured at the end of each semester or quarter.

(c) Vocational school. Good and satisfactory progress shall be measured at regularly scheduled intervals, as defined by the institution.

(d) Proprietary school. Good and satisfactory progress shall be measured at the end of each regularly scheduled grading period as defined by the institution, not to exceed a twelve (12) month period.

(e) College. Good and satisfactory progress shall be measured at the end of a semester or quarter.

(f) JTPA funded training. Good and satisfactory progress shall be measured at intervals determined by the providers.

Section 8. Conciliation. (1) Conciliation shall be conducted:

(a) At the request of a JOBS participant;

(b) At the request of a component provider; or

(c) When a situation is identified which could result in a sanction (as specified in Section 10 of this administrative regulation).

(2) The conciliation shall be conducted by:

(a) The DSI;

(b) The DES; or

(c) Both agencies jointly.

1. During conciliation, the agency shall determine if additional services are needed to assist with JOBS participation.

2. Participation shall be monitored for thirty (30) days following the issuance of form JOBS-204.

3. The thirty (30) day period may be extended for an additional thirty (30) days, if necessary.

(3) At the conclusion of the conciliation period, the participant shall be notified in writing of the results of the conciliation.

Section 9. Good Cause. (1) Good cause for noncompliance in the JOBS Program or refusal to accept employment shall be found if:

(a) The participant is personally providing care for a child under age six (6) and employment or JOBS participation would require the individual to work more than twenty (20) hours per week;

(b) Dependent care is:

1. Not available for a dependent child;

2. Not available for any incapacitated individual living in the same household as a dependent child;

3. Not available or nonreimbursable for a nondependent child over age six (6).

(c) The agency determines that employment would result in a net loss of cash income.

1. The family's gross income less necessary actual work-related expenses is less than the cash assistance the individual was receiving at the time the offer of employment was made; and

2. Child care costs exceeding the child care disregard shall be considered in the determination;

(d) The individual is unable to engage in employment or training for mental or physical reasons including participation in a drug and alcohol rehabilitation program;

(e) Unavailability of transportation (including unavailability due to costs which exceed the reimbursement) with no readily accessible alternative means of transportation available;

(f) Travel time to the work site or JOBS component site exceeds two (2) hours round trip daily;

(g) Illness of another household member requiring the presence of the participant;

(h) The participant is temporarily incarcerated;

(i) The agency determines there is discrimination by an employer based on:

1. Age;
2. Race;
3. Sex;
4. Color;
5. Disability;
6. Religious beliefs;
7. National origin; or
8. Political beliefs;

(j) Work demands or conditions render continued employment unreasonable, such as:

1. Consistently not being paid on schedule; or

2. The presence of a risk to the individual's health or safety;

(k) Wage rates are decreased subsequent to acceptance of employment;

(l) The participant accepts a better job which, because of circumstances beyond the control of the recipient, does not materialize;

(m) A household emergency occurs, such as:

1. Death of a member of the immediate family;
2. Entry into a spouse abuse center;
3. Natural disaster;
4. Court appearance;
5. Victim of crime; or
6. Flooded basement; or

(n) The participant receives a temporary military assignment;

(o) The participant leaves employment in an attempt to improve skills, become self-sufficient and leave the AFDC rolls.

(2) The duration of good cause criteria may vary according to individual circumstances.

Section 10. Sanctions. (1) When a nonexempt AFDC recipient fails to comply with the requirements of the JOBS Program, he shall be subject to JOBS and AFDC sanctions. Failure to comply shall be found when the participant:

(a) Fails without good cause to participate in required activities, including but not limited to:

1. An interview;
2. An assessment; or
3. Employability plan development;

(b) Fails without good cause to participate in the program;

(c) Refuses without good cause to accept employment; or

(d) Terminates employment or reduces earnings without good cause.

(2) A person who has failed to comply without good cause shall be sanctioned, as follows:

(a) The participant is excluded from JOBS activities and services:

1. For the first failure to comply, until the failure to comply ceases;

2. For the second failure to comply, until the failure to comply ceases, or three (3) months, whichever is longer; and

3. For any subsequent failure to comply, until the failure to comply ceases, or six (6) months, whichever is longer.

(b) In determining the amount of the AFDC grant, the agency shall not take into account the needs of the sanctioned individual, beginning with the first administratively feasible month after JOBS sanctions begin.

(c) In a case based on unemployment, the agency shall not take into account the needs of the sanctioned individual and the second parent, unless the second parent:

1. Is exempt for reasons other than those in Section 2 [5](9) and (11) of this administrative regulation;

2. Is participating; or

3. Has volunteered to participate in JOBS.

(d) A sanctioned individual shall participate in a designated activity for two (2) weeks before the failure to comply is considered to have ceased. At that time, the sanctions shall be terminated.

Section 11. Material Incorporated by Reference. (1) Forms necessary for participation in the JOBS Program are being incorporated effective May 1, 1993. These forms include:

(a) PA-33C, revised 1/92;
(b) PA-33D, revised 1/92;
(c) PA-218A, revised 2/93;
(d) [~~(c)~~] PA-219, revised 11/92;
(e) [~~(d)~~] JOBS-105, revised 6/91;
(f) [~~(e)~~] JOBS-201, revised 1/91;
(g) [~~(f)~~] JOBS-202, revised 10/90;
(h) [~~(g)~~] JOBS-204, revised 1/94 [~~8/91~~]; and
(i) [~~(h)~~] JOBS-205, revised 8/91.

(2) Material incorporated by reference may be inspected and copied at the Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

MIKE ROBINSON, Commissioner
FONTAINE BANKS, JR., Secretary

APPROVED BY AGENCY: February 4, 1994
FILED WITH LRC: February 25, 1994 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1994, at 9 a.m. at the Health Services Auditorium, 1st Floor, CHR Building. Individuals interested in being heard at this hearing shall notify the contact person in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: William K. Moore, Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900.

REGULATORY IMPACT ANALYSIS

Contact person: Truett DeMoisey, Director

(1) Type and number of entities affected: The type of entities that will be affected will be those JOBS participants who are placed into the OWEP component. In October 1993, there were 6,679 AFDC cases based on unemployment. At least one parent in each of those households could be placed into the OWEP component.

(a) Direct and indirect costs or savings to those affected:

1. First year: We do not anticipate any cost or savings to JOBS participants. We are simply adding another optional component from which to select in order to meet participation requirements.

2. Continuing costs or savings: See first year response.

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

(b) Reporting and paperwork requirements: No more than is currently required for other components.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: We do not anticipate any additional cost to the administrative body through the addition of this activity in the JOBS Program. These same individuals who could be placed into the CWEP component will qualify to be placed in the OWEP component. The difference in the two components is the number of hours for participation requirement.

2. Continuing costs or savings: See first year response.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. Eligibility conditions for AFDC must be applied on a consistent and equitable bases in accordance with federal regulations at 45 CFR 233.10(a)(1).

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 45 CFR 250.33.

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 are required to implement provisions that require at least one parent in a family eligible for AFDC through unemployment to be required to participate in a work experience program for a total of 16 hours per week.

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

PROPOSED ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, MARCH 15, 1994

TOURISM CABINET
Department of Fish and Wildlife Resources

301 KAR 2:041. Shooting preserves and foxhound training enclosures.

RELATES TO: KRS 150.010, 150.170, 150.175, 150.180, 150.240, 150.630, 150.990
STATUTORY AUTHORITY: 13A.350, 150.170, 150.180
NECESSITY AND FUNCTION: To insure that detrimental exotic game species are not introduced, to insure uniformity of shooting preserve operating procedures, and to protect native wildlife.

Section 1. Definjtions. (1) "Commercial shooting preserve" means a shooting preserve which is open to the public and charges fees for hunting.

(2) "Hoofed animals" means ungulate wildlife except wild hog and javelina.

(3) "Members" means persons whose names are included on private shooting preserve membership lists submitted to the department.

(4) "Private shooting preserve" means a shooting preserve which is open only to members.

(5) "Shooting preserve" means a place where animals are held or propagated in captivity and released to be taken by hunters.

Section 2. Shooting Preserve Hunting Seasons. (1) Quail - August 15 through May 15.

(2) Pheasant, chukar and mallard duck - year round.

(3) Hoofed animals - September 1 through May 15.

(4) Seasons for other species shall conform to those in effect where the preserve is located.

Section 3. Permits and Applications. (1) A person operating a commercial or private shooting preserve shall obtain a permit from the department.

(2) Applications for shooting preserve permits shall be made on standard forms supplied by the department.

(3) All applications for commercial shooting preserve permits shall be signed by all persons having a financial interest in the preserve.

(4) All applications for private shooting preserve permits shall be signed by the officers of the organization and a list of members shall accompany the application. Officers shall submit updated membership lists as necessary to reflect current membership.

(5) The applicant for a preserve permit shall produce evidence that he is the owner or a bona fide lessee of record of the land where he proposes to establish a shooting preserve.

(6) The department shall not issue a private shooting preserve permit to an organization with fewer than twenty (20) members.

Section 4. Nonresident Shooting Preserve Licenses. (1) Commercial preserve operators wishing to sell nonresident shooting preserve licenses shall furnish the department with a surety bond in the amount of $500.

(2) At the end of each month from September through May, the preserve operator shall send the department all money received from the sale of nonresident shooting preserve licenses.

Section 5. Shooting Preserve Size Requirements and Posting. (1) Shooting preserves shall be 2000 acres or less.

(2) The boundary of each shooting preserve shall be marked with signs at least eight (8) inches by twelve (12) inches, having a white background with contrasting letters at least one (1) inch high reading, "Shooting Preserve."

(3) Boundary signs shall not be more than 500 feet apart.

Section 6. Operating Requirements. (1) A person shall not hunt or carry a gun on a shooting preserve before checking in with the operator of a commercial shooting preserve or at a designated check station of a private shooting preserve.

(2) A person shall not hunt on a shooting preserve without a current Kentucky hunting license or shoot-to-retrieve field trial permit unless exempted by KRS Chapter 150.

(3) Individuals observing but not participating in field trials are not required to possess a hunting license.

(4) Field trials may be held throughout the year on licensed shooting preserves.

(5) Operators of commercial shooting preserves or members of private shooting preserves shall band bobwhite quail with a standard metal or plastic leg band before releasing the birds.

(6) Operators of commercial shooting preserves or members of private shooting preserves shall tag all game except banded bobwhite quail before the game is taken from the preserve.

(7) Operators of commercial shooting preserves or members of private shooting preserves shall clip the right hind toe of mallard ducks before releasing them.

(8) Properly tagged or banded game may be processed, transported or possessed.

(9) Tags or bands shall remain on game until it is prepared for cooking.

Section 7. Recordkeeping Requirements. (1) The permit holder shall maintain a daily record of hunting activities on the preserve.

(2) This record shall contain the names, addresses and hunting license numbers of all hunters using the preserve.

(3) Commercial preserve operators shall obtain a receipt showing the number of game bird eggs or game birds purchased by species.

(4) Permit holders shall retain records and receipts for at least one (1) year.

(5) Members hunting on a private shooting preserve shall have in their possession a bill of sale for birds released for hunting or a copy of the preserve's pet and propagation permit.

Section 8. Hoofed Animals. (1) A commercial shooting preserve permit holder may release legally acquired hoofed animals on his preserve if the preserve is a single block of land at least 300 acres and is fenced to contain all released animals and to exclude native hoofed wildlife.

(2) The permit holder shall keep a record of the number of each hoofed species released, and the names, addresses, hunting license numbers and game killed by species by each hunter.

(3) At the end of each month from September through May, the preserve operator shall submit these records to the department.

Section 9. Commercial Foxhound Training Enclosure Permits. (1) Owners or operators of commercial foxhound training enclosures who wish field trial authorization to exempt participants from hunting license requirements shall obtain a commercial foxhound training enclosure permit.

(2) Applications for permits shall be made on standard forms supplied by the department and signed by all persons having a financial interest in the enclosure.

(3) The applicant shall produce evidence that he is the owner or operator of record of the enclosure.

(4) If ownership or management changes, the new owner or operator shall purchase a new permit.

Section 10. Foxhound Training Enclosure Requirements. (1) To qualify for a permit, an enclosure shall be at least 200 acres and fenced to enclose foxes.

(2) The area shall not be divided by interior fences which limit or restrict the range of foxes to less than 200 acres.

(3) Two (2) or more enclosures under the same ownership or management may be licensed under the same permit if each is at least 200 acres and shares a common fence.

(4) The owner or operator shall provide proper food, water, and shelter from inclement weather for all foxes within the enclosure.

(5) The owner or operator shall provide at least one (1) natural or constructed den, box or hollow log per fifty (50) acres, sufficient to hold all foxes within the enclosure, preventing their capture by hounds.

(6) Owners or operators who house foxes for release into an enclosure shall provide a cage eight (8) feet long, four (4) feet wide and six (6) feet high with a shelf eighteen (18) inches wide, three (3) feet high and four (4) feet long, containing an enclosed den box capable of housing a pair of foxes.

(7) An owner or operator shall not hold more than one (1) pair of foxes or a pair and their young less than one (1) year old per cage.

Section 11. Operations and Licensing Requirements on Foxhound Training Enclosures. (1) A person shall not intentionally engage in an activity which would cause foxhounds to injure or kill foxes in the enclosure.

(2) Fox chasing on permitted areas is an authorized field trial if no foxes are captured or killed.

(3) Wildlife may be taken within an enclosure under applicable administrative regulations and license requirements.

(4) Owners or operators shall allow the department to inspect their facilities.

(5) Owners or operators shall comply with commercial pet and propagation permit requirements in obtaining and holding foxes.

(6) No person shall purchase, barter, or trade live wild foxes taken in Kentucky.

(7) Foxes born in captivity may be purchased from licensed commercial propagators for release into foxhound training enclosures.

(8) Foxes obtained legally from another state may be transported into Kentucky if the purchaser first obtains required transportation permits and health certificates.

(9) Owners or operators may capture live foxes from the wild to release into commercial foxhound training enclosures only during the open furbearer season.

Section 12. 301 KAR 2:040, Upland game shooting preserves, is hereby repealed.

C. TOM BENNETT, Commissioner
CRIT LUALLEN, Secretary
DAVID H. GODBY, Chairman

APPROVED BY AGENCY: December 3, 1993

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 26, 1994 at 2 p.m. at the Kentucky Department of Fish and Wildlife Resources, Wildlife Annex, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 21, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Arthur R. Boebinger, Acting Director, Wildlife Division, Kentucky Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, 502/564-4406.

REGULATORY IMPACT ANALYSIS

Agency contact: C. Tom Bennett

(1) Type and number of entities affected: There are currently no holders of fox enclosure permits and 30 holders of shooting preserve permits who will be affected by this administrative regulation. Since this administrative regulation replaces an existing one with very similar provisions, the permitting requirements are not new.

(a) Direct and indirect costs or savings to those affected:

1. First year: Shooting preserve permits cost $100, and fox enclosure permits, $250 annually.

2. Continuing costs or savings: Permits must be renewed annually at the rates given above.

3. Additional factors increasing or decreasing costs (note any effects upon competition): No additional factors have been identified.

(b) Reporting and paperwork requirements: Permit holders must file membership lists and annual reports of hunting activity with the department.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs and savings:

1. First year: The small number of permits issued have little impact on either costs or savings.

2. Continuing costs or savings: Unless the number of permits increase greatly, no significant impacts are anticipated.

3. Additional factors increasing or decreasing costs: None have been identified.

(b) Reporting and paperwork requirements: The department must process and issue permits as well as collect and compile reports submitted; again, with the small number of permit holders, this will not be significant.

(3) Assessment of anticipated effect on state and local revenues: There are no anticipated effects.

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

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

(a) Necessity of proposed administrative regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This administrative regulation replaces 301 KAR 2:240. The primary substantive change from the previously existing administrative regulation was to reduce the membership requirements for private preserves from 150 to 20 members. Extensive wording and format changes specified by KRS Chapter 13A made writing a new administrative regulation, rather than amending the existing one, necessary.

TIERING: Was tiering applied? Yes. Tiering was applied in distinguishing between private and commercial shooting preserves. Private preserves have fewer reporting and other requirements, since their anticipated impact is less. A further distinction was made by separating the requirements for foxhound enclosures, with their own set of requirements that do not apply to other preserves.

TOURISM CABINET
Department of Fish and Wildlife Resources

301 KAR 2:049. Seasons for furbearers and small game on specified areas.

RELATES TO: KRS 150.010, 150.015, 150.021, 150.170, 150.175, 150.300, 150.340, 150.360, 150.365, 150.370, 150.399,

150.400, 150.410, 150.990

STATUTORY AUTHORITY: KRS 13A.350, 150.015, 150.021, 150.170, 150.175

NECESSITY AND FUNCTION: To specify exceptions on certain areas to statewide small game and furbearer hunting regulations.

Section 1. All provisions of 301 KAR 2:251 shall apply unless specifically exempted in Section 5 of this administrative regulation.

Section 2. Hunter Orange. (1) Persons 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.

(2) Mesh weave openings in the hunter orange garment 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.

(3) Camouflage pattern hunter orange garments do not meet these requirements.

(4) Waterfowl hunters are exempt from these hunter orange requirements.

Section 3. On all areas listed in Section 5 of this administrative regulation, and on the Pennyrile Forest and Tradewater Wildlife Management areas in Christian, Caldwell and Hopkins counties, small game and furbearer hunting or trapping or unleashed dogs are prohibited during deer hunts where breech-loading firearms are allowed.

Section 4. Unleashed dogs are permitted year-round during field trials authorized by the department.

Section 5. Exceptions to 301 KAR 2:251. (1) Ballard Wildlife Management Area, Ballard County. Areas closed to hunting are designated by signs.

(2) Barren River Wildlife Management Area, Allen and Barren counties.

(a) Quail and rabbit: November 1 through December 31.

(b) Unleashed dogs are prohibited April 1 until the third Saturday in August.

(3) Beaver Creek Wildlife Management Area, McCreary and Pulaski counties; Mill Creek Wildlife Management Area, Jackson County; Cane Creek Wildlife Management Area, Laurel County; and all private inholdings within these areas.

(a) Squirrels: the Saturday preceding Labor Day 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 complete a harvest survey form obtained from the area manager.

(e) Unleashed dogs are prohibited March 1 until the Saturday preceding Labor Day.

(f) Shakeout season is closed on these areas.

(4) Big South Fork National River and Recreation Area, McCreary County.

(a) Squirrels: Saturday preceding Labor Day 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 until the Saturday preceding Labor Day.

(5) Central Kentucky Wildlife Management Area, Madison County.

(a) This area is closed to all small game hunting except squirrels.

(b) Unleashed dogs are prohibited April 1 until the third Saturday in August.

(c) At other times of the year, unleashed dogs are permitted only on Tuesdays, Thursdays, Saturdays, Sundays, or during permitted field trials.

(d) All trappers shall obtain prior written permission from the area manager.

(e) All hunters and dog trainers shall check in and out daily at the designated check station.

(6) Clay Wildlife Management Area, Nicholas County.

(a) Quail and rabbit: November 1 through December 31.

(b) Grouse: October 1 through December 31.

(c) Squirrels: June 1 through June 14, and the Saturday preceding Labor Day 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 May 31 and June 15 until the Saturday preceding Labor Day.

(7) Curtis Gates Lloyd/Mullins Wildlife and Recreation Area, Grant and Kenton counties.

(a) Areas closed to hunting are designated by refuge signs.

(b) Quail and rabbit: November 1 through December 31.

(c) Unleashed dogs are prohibited April 1 until the third Saturday in August.

(d) All hunters and dog trainers shall check in and out daily at the designated check station.

(8) Daviess County Wildlife Management Area, Daviess County.

(a) This area is closed to hunting and trapping for small game and furbearers.

(b) Unleashed dogs are prohibited April 1 until the third Saturday in August.

(9) Dewey Lake Wildlife Management Area, Floyd County; Paintsville Lake Wildlife Management Area, Johnson and Morgan counties; Fishtrap Lake Wildlife Management Area, Pike County; and Redbird Wildlife Management Area, Clay and Leslie counties.

(a) Squirrels: the Saturday preceding Labor Day through December 31.

(b) Grouse: October 1 through December 31.

(c) Quail and rabbit: November 1 through December 31.

(d) Furbearers: closed after December 31.

(e) Unleashed dogs are prohibited March 1 until the Saturday preceding Labor Day.

(f) Shakeout season is closed on these areas.

(10) Fleming Wildlife Management Area, Fleming County.

(a) Quail and rabbit: November 1 through December 31.

(b) Grouse: October 1 through December 31.

(c) Squirrels: the Saturday preceding Labor Day through December 31.

(d) Unleashed dogs are prohibited March 1 until the Saturday preceding Labor Day.

(11) Fort Campbell Wildlife Management Area, Christian and Trigg counties.

(a) There shall be no hunting on Tuesdays or Wednesdays except when Tuesday or Wednesday is a federal holiday or as follows: December 20-21 and 27-28. There shall be no hunting on December 25 and January 1.

(b) Seasons, bag and possession limits.

1. Squirrels: third Saturday in August through January 31.

2. Quail: Thanksgiving day through the last day of February.

3. Rabbit: Thanksgiving day through the last day of February; bag limit five (5); possession limit ten (10).

4. Raccoon, foxes and opossum: taking with gun or dogs, Thanksgiving day through January 31; limit one (1) per person.

5. Coyote and groundhog: May 13 through August 17 and during any other authorized hunt.

(c) Permission shall be obtained for each hunt at building #6645.

(d) Hunters shall stay within their assigned area.

(e) Hunters shall obtain a hunting permit costing fifteen (15) dollars.

(f) All hunters between the ages of twelve (12) and eighteen (18)

shall possess their own hunter safety certificate.

(12) Fort Knox Wildlife Management Area, Bullitt, Meade and Hardin counties.

(a) Furbearer trapping is prohibited.

(b) Unleashed dogs are prohibited April 1 until the third Saturday in August.

(c) Ruffed grouse hunting is open the month of December with a one (1) bird daily bag limit. All grouse must be checked at building #112.

(d) Area requirements.

1. Permission to hunt shall be obtained for each hunt at the Hunt Control Office.

2. Hunters shall stay in their assigned areas.

3. All hunters thirty-eight (38) years of age and younger shall possess their own hunter safety certificate.

4. Pistols, centerfire rifles and crossbows are prohibited.

5. Vehicles are prohibited off maintained roads, except as otherwise authorized.

6. 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.

(13) Grayson Lake Wildlife Management Area, Carter and Elliott counties.

(a) Areas closed to hunting are designated by signs.

(b) Quail and rabbit: November 1 through December 31.

(c) Grouse: October 1 through December 31.

(d) Squirrels: the Saturday preceding Labor Day through December 31.

(e) Unleashed dogs are prohibited March 1 until the Saturday preceding Labor Day.

(f) All hunters and dog trainers shall check in and out daily at a designated check station.

(14) Green River Lake Wildlife Management Area, Taylor and Adair counties.

(a) Quail and rabbit: November 1 through December 31.

(b) Grouse: closed to hunting.

(c) Squirrel: June 1 through June 14, and September 1 through December 31.

(d) Unleashed dogs are prohibited March 1 through May 31 and June 15 through August 31.

(e) All hunters and dog trainers must check in and out daily at a designated check station.

(15) Higginson-Henry Wildlife Management Area, Union County.

(a) Quail and rabbit: November 1 through December 31.

(b) Squirrels: June 1 through June 14, and September 1 through December 31.

(c) Unleashed dogs are prohibited April 1 through May 31 and June 15 through August 31.

(d) All hunters and dog trainers shall check in and out daily at the designated check station.

(e) Areas closed to hunting are designated by signs.

(16) Kleber Wildlife Management Area, Owen and Franklin counties.

(a) Quail and rabbit: November 1 through December 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 the third Saturday in August.

(17) 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 until the third Saturday in August.

(18) Land Between the Lakes Wildlife Management Area (LBL), Trigg and Lyon counties.

(a) Hunting is prohibited in developed public use areas, safety zones and posted areas unless otherwise noted.

(b) Squirrels: From the third Saturday in August through the fourth Friday in September; December 1 through January 31; and during deer archery season only by legally licensed and equipped deer archery hunters.

(c) Quail and rabbit: December 1 through the last day of February.

(d) Raccoon and opossum.

1. Tuesday, Thursday, Friday and Saturday nights only, December 1 through January 31.

2. Daily bag limit one (1) per person per night.

3. Raccoon and opossum hunters shall check in and out nightly at designated check station.

4. Harvest report cards shall be displayed in vehicle windshield while hunting and submitted at the check station upon completion of each night's hunt.

5. Season shall be closed in some hunt areas as posted at designated hunter check stations.

(e) Field trials.

1. September 1 through March 31.

2. Scheduled basis only. Written requests shall be received by LBL at least ten (10) days prior to the proposed trial date.

3. Approval shall be obtained from LBL and the department's First District Captain.

4. Field trials shall be recognized club trials and each participant shall be on a club roster for that trial.

(f) Fox chasing: from sunset to sunrise; third Saturday in August through the third Saturday in September south of Highway 68 to the state line.

(g) Fox (gray and red) and bobcat: gun and archery, December 1 through January 31.

(h) Groundhog: daylight hours only. March 15 through March 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.

(i) Coyote: daylight hours only by legally licensed hunters during any LBL open season with weapons specified for that season.

(j) 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.

(k) All dogs shall wear a collar bearing the owner's name, address, and telephone number. Dogs shall not be used for hunting from the fourth Saturday in September through November 30, except in authorized field trials and designated dog training hunt areas.

(l) Trapping for furbearers and bobcats.

1. No person 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: fourteen (14) consecutive days beginning the second Monday in January for all furbearers.

4. Trapping devices.

a. No. 3 or smaller foot-hold traps, padded traps and snares without self-locking devices are permitted.

b. The jaws of No. 1 1/2 and larger foot-hold traps used on land shall be offset three-sixteenths (3/16) inch or be padded traps.

c. Water sets are restricted to No. 3 or smaller foot-hold traps, padded traps, No. 330 or smaller Conibear-type traps, and nonlocking snares.

(m) Bobcat: bobcats may 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 be filled prior to January 31, the season shall close. A minimum of twenty-four (24) hours notice of the time and date of closure shall be given.

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.

(n) Weapons restrictions.

1. 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.

2. Groundhogs may be taken with center-fire rifles during the specified spring season.

(o) Crow: December 1 through the last day of February.

(19) Nolin Reservoir Wildlife Management Area, Edmonson, Grayson and Hart counties. Quail and rabbit: November 1 through December 31.

(20) Peal Wildlife Management Area, Ballard and Carlisle counties.

(a) Squirrels: the third Saturday in August through December 31.

(b) Furbearer hunting: twenty (20) day season beginning the day after the modern gun deer season.

(c) Shakeout season is closed on this area.

(d) Furbearer trapping: December 1 through 10, water sets only. Trappers selected by drawing conducted by the area manager.

(e) Quail and rabbit: November 1 through December 31.

(f) Unleashed dogs are prohibited April 1 until the third Saturday in August.

(21) Pine Mountain Wildlife Management Area, Letcher County. Unleashed dogs are prohibited March 1 until the third Saturday in August.

(22) Pioneer Weapons Wildlife Management Area, Bath and Menifee counties.

(a) Hunters on this area shall use muzzle-loading rifles, muzzle-loading pistols, muzzle-loading shotguns, longbows, recurve bows, compound bows or crossbows.

(b) Muzzle-loading shotguns for taking squirrels, quail, grouse and rabbits shall not be used with shot larger than No. 2.

(c) Unleashed dogs are prohibited March 1 until the third Saturday in August.

(d) Breech-loading firearms shall be unloaded in both the chamber and magazine unless possessed by authorized personnel.

(23) Reelfoot National Wildlife Refuge, Fulton County.

(a) Squirrels: the fourth Saturday in August through September 30 only in areas designated by signs as open to public hunting.

(b) Raccoon: four (4) consecutive nights beginning on the third Wednesday in October, and four (4) consecutive nights beginning on the fourth 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.

(24) Robinson Forest Wildlife Management Area, Breathitt, Perry and Knott counties, is closed to all hunting.

(25) Sloughs Wildlife Management Area, Henderson and Union counties. On the Frank Sauerheber Unit, areas designated by signs are closed to public access from October 15 through March 15.

(26) Taylorsville Lake Wildlife Management Area, Spencer, Anderson and Nelson counties.

(a) The area east of Van Buren Boat Ramp is closed to public access the day after the deer quota hunt through March 15.

(b) Quail and rabbit: November 1 through December 31.

(c) All hunters and dog trainers shall check in and out daily at a designated check station.

(27) West Kentucky Wildlife Management Area, McCracken County.

(a) Hunting is prohibited on all tracts designated by numbers followed by the letter "A".

(b) Quail and rabbit:

1. On Tracts 2, 3, 6 and 7: November 1 through December 31.

2. On Tracts 1, 4 and 5: January 1 through 10, unless maximum acceptable harvest levels have been reached prior to January 10 as determined from hunter use data. Signs announcing closure will be posted at the hunter check station at least twenty-four (24) hours prior to the closure.

(c) Squirrels: the third Saturday in August through December 31.

(d) Shakeout season is closed on this area.

(e) All hunters and dog trainers shall check in and out daily at the designated check station.

(f) Rifles or ball or slug ammunition of any type for taking small game is prohibited.

(g) Unleashed dogs are prohibited April 1 until the third Saturday in August.

(h) Vehicular traffic on Tract 6 is prohibited February 1 through April 16.

(28) Westvaco Public Hunting Areas. Persons hunting on Westvaco Public Hunting Areas shall possess a valid Westvaco Hunting Permit.

(29) White City Wildlife Management Area, Hopkins County. Quail and rabbit: November 1 through December 31.

(30) Yatesville Wildlife Management Area, 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 public access.

(31) Yellowbank Wildlife Management Area, Breckinridge County.

(a) Quail and rabbit: November 1 through December 31.

(b) Squirrels: June 1 through June 14, and September 1 through December 31.

(c) All hunters and dog trainers shall check in and out daily at the designated check station.

(d) Unleashed dogs are prohibited April 1 through May 31 and June 15 through August 31.

(e) Areas within Tract 1 designated by signs are closed to public access from October 15 through March 15.

Section 6. 301 KAR 2:048 is hereby repealed.

C. TOM BENNETT, Commissioner
CRIT LUALLEN, Secretary
DAVID H. GODBY, Chairman

APPROVED BY AGENCY: March 10, 1994

FILED WITH LRC: March 10, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 26, 1994, at 11 a.m. in the Wildlife Annex, Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 21, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Art Boebinger, Acting Director of Wildlife, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4406.

REGULATORY IMPACT ANALYSIS

Agency Contact: C. Tom Bennett

(1) Type and number of entities affected: Approximately 251,600 small game hunters and 700 trappers are expected to participate in the 1993-94 statewide hunting and trapping seasons. About 58,000 of these can be expected to avail themselves of the opportunity to participate in seasons on the special areas designated in this regulation.

(a) Direct and indirect costs or savings to those affected: Direct costs involve the purchase of a state hunting license and/or a state trapping license. Indirect costs are determined by the individual, depending upon his level of participation.

1. First year: Persons participating in the hunting or trapping seasons proposed by this regulation would be required to possess a valid hunting license ($12.50 for residents) or a valid trapping license ($15 resident, $7.50 resident landowner/tenant), respectively. Additional hunting permits are required by Fort Campbell, Fort Knox, Land Between the Lakes and Westvaco authorities for hunting on their lands.

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: Hunters are required to check in and/or out at some of the management areas specified in this regulation. Trappers on Mill Creek, Cane Creek and Beaver Creek wildlife management areas are required to complete a harvest survey.

(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 and savings: Primary costs are associated with enforcing the regulation.

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is $2,500.

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: 58,000 small game hunters and 140 trappers may be expected to expend money for equipment, transportation, food and lodging. The average annual expenditure for these items by Kentucky small game hunters is $194 according to the 1991 National Hunting and Fishing Survey. The average season expenditure for Kentucky trappers during the 1981-82 trapping season was $209.32. State and local revenues can be expected to be positively affected due to necessary expenditures by small game hunters and trappers for the required licenses and due to taxes levied upon items purchased.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only available alternative to regulated hunting is closure of the season. This alternative was rejected as contrary to the conservation ethic which is based upon the wise use of renewable resources and the fact that small game and furbearer populations are at levels which can sustain a regulated harvest by sportsmen.

(5) Identify any statute, administrative regulation or governmental 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. Variations in habitat, hunting conditions and hunting pressure are recognized at public wildlife management areas. Seasons and limits are set accordingly.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. 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 Clerks office serves as a distribution system for the hunting licenses required by this regulation. The County Circuit Courts are where violators of these regulations are prosecuted.

4. How does this administrative regulation affect the local government or any service it provides? The County Clerk's office personnel are involved in sale of hunting licenses. This office receives a $.75/license fee for selling the licenses. The County Circuit 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

301 KAR 2:081. Pet and propagation permits.

RELATES TO: KRS 150.015, 150.180, 150.280, 150.290, 150.305, 150.320, 150.330, 150.360, 150.370, 150.470

STATUTORY AUTHORITY: KRS 13A.350, 150.170, 150.180

NECESSITY AND FUNCTION: This administrative regulation is necessary to control the indiscriminate possession of wildlife and to insure that wildlife is humanely and properly cared for; to protect the public and native wildlife from wildlife-borne diseases and to prevent the introduction of wildlife that might be detrimental to native fauna and flora.

Section 1. Definitions. "Wildlife" means all species of normally undomesticated animals except lovebirds, cockatiels, white rats, exotic finches, hamsters, guinea pigs, canaries, mice, reptiles, myna birds, gerbils, toucans, and primates.

Section 2. Taking and Possessing Wildlife. (1) A person shall not hold wildlife in captivity which was not legally taken or possessed.

(2) A person holding wildlife in captivity shall apply for a permit within ten (10) days after the wildlife is acquired.

Section 3. Importation or Possession Prohibited. A person shall not import or possess the following wildlife: wild hog, jack rabbit, monk parakeet, javelina, nutria, wild turkey, San Juan rabbit, bear, bobcat, cougar, raccoon dog (Nyctereutes procyonoides) and wolf. The commissioner may approve exceptions for certain educational, scientific or research purposes.

Section 4. Permits. (1) Commercial pet and propagation permits.

(a) A person buying, selling, possessing, propagating or exhibiting wildlife for commercial purposes shall obtain a commercial pet and propagation permit from the department.

(b) Commercial permit holders shall obtain wildlife only from permitted or qualified sources as determined by the commissioner.

(c) Determination of wildlife permitted to be possessed, transported, bought, sold, or exhibited will be made by the commissioner or his appointed representative.

(2) Noncommercial pet and propagation permits.

(a) A person possessing, purchasing, or propagating wildlife for noncommercial purposes shall obtain a noncommercial pet and propagation permit from the department within ten (10) days after the

wildlife is acquired.

(b) Holders of noncommercial permits may obtain wildlife legally from the wild or from a permitted or qualified source as determined by the commissioner.

(3) Transportation permits and veterinarian's certificates.

(a) A person importing, transporting, or receiving shipment of live wildlife shall first obtain a transportation permit from a conservation officer; nonresidents receiving wildlife shipments in Kentucky may apply directly to the department.

(b) All shipments of wildlife shall be accompanied by a veterinarian's certificate stating that the wildlife is free of symptoms of disease. A federal quarantine certificate may be substituted for the veterinarian's certificate.

(4) Commercial and noncommercial permits are renewable annually from dates of issue.

Section 5. Applying for Permits. (1) All applications for pet or propagation permits shall be made on standard forms.

(2) The applicant shall indicate the source of supply of the wildlife.

(3) After the permit is issued, the permit holder shall retain a bill of sale or other written proof to show that the wildlife was obtained from a legal source.

(4) A permit holder shall show this written proof to a conservation officer upon request.

Section 6. Confining Facilities and Inspections. (1) Confining facilities shall be large enough to allow reasonable space for exercise, shelter, and maintenance of sanitary conditions.

(2) The holder of a pet or propagation permit shall allow a conservation officer to inspect the facilities at any reasonable time.

(3) The conservation officer shall immediately notify the permit holder and the commissioner if his inspection reveals that wildlife is being kept under unsanitary or inhumane conditions.

(4) The conservation officer shall make a second inspection after ten (10) days, and the permit shall be revoked and all captive wildlife confiscated immediately if the unsatisfactory conditions have not been corrected.

(5) The pet or propagation permit shall be revoked and all wildlife confiscated if it becomes apparent that an application was not made in good faith, or if the permit holder is convicted of any law violation concerning the species for which he holds a permit.

(6) Fees shall not be refunded for permits which are revoked.

Section 7. Conditions for Selling Wildlife. (1) The carcasses of deer, wild turkey, wild rabbit or squirrel shall not be sold.

(2) Other wildlife or parts thereof produced on a permitted commercial propagation facility may be sold.

(3) The pelts of furbearers may be sold during the regular open season or at other times by written permission of the commissioner.

(4) All wildlife sold alive for propagation purposes or to commercial shooting preserves shall bear a tag on each crate stating the name and address of the propagator and permit number. The tags may be obtained from the department.

(5) All propagated wildlife sold for food purposes shall be tagged with tags obtained from the department.

Section 8. Sale of Bobwhite Quail for Food Purposes. (1) A person who sells bobwhite quail for human consumption shall have a food purposes permit from the department. This food purposes permit is valid for one (1) year from date of issue.

(2) This permit shall be in addition to all other permits required for the operations of propagation farms.

(3) The holder of a food purposes permit shall present to a person buying quail an invoice in triplicate showing the number of birds and the date of sale.

(4) The seller shall have the invoice signed by the purchaser.

(5) The seller shall mail one (1) copy of the invoice to the department.

(6) The seller and purchaser shall retain one (1) copy of the invoice for at least one (1) year.

(7) A restaurant or store serving or selling bobwhite quail for food shall possess and display a valid sale for food certificate.

(8) A person shall not sell bobwhite quail for food purposes to restaurants or stores which do not possess a valid sale for food certificate.

Section 9. 301 KAR 2:080, Propagation of game, pet permits, is hereby repealed.

C. TOM BENNETT, Commissioner
CRIT LUALLEN, Secretary
DAVID H. GODBY, Chairman

APPROVED BY AGENCY: March 7, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 26, 1994 at 9 a.m. at the Kentucky Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky in the commission room. Individuals interested in attending this hearing shall notify this agency in writing by April 21, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Arthur R. Boebinger, Acting Director, Wildlife Division, Kentucky Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, 502/564-4406.

REGULATORY IMPACT ANALYSIS

Agency Contact: C. Tom Bennett

(1) Type and number of entities affected: In 1993, 316 commercial and 686 noncommercial pet and propagation permits were issued.

(a) Direct and indirect costs or savings to those affected:

1. First year: $200 per commercial permit holder; $25 per non commercial permit holder.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs (note any effects upon competition): The requirements that wildlife be held in adequate facilities may increase the costs of such facilities. This administrative regulation, however, does not change existing requirements.

(b) Reporting and paperwork requirements: Applicants must fill out applications for permits and must allow inspection of permits and facilities. This administrative regulation does not change existing requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs and savings:

1. First year: The department receives income from permit fees, but this is offset by the requirement that holding facilities be periodically inspected. This administrative regulation will not change savings or costs.

2. Continuing costs or savings: Annual cost or savings will rise or fall with the number of permit holders.

3. Additional factors increasing or decreasing costs: No additional factors have been identified.

(b) Reporting and paperwork requirements: The department must

issue and keep records of permits. Conservation officers must inspect and report facilities out of compliance. This administrative regulation will not change these requirements.

(3) Assessment of anticipated effect on state and local revenues: This administrative regulation will have no impact on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternative is not regulating the possession, or importation of wildlife; this alternative is not acceptable because of potentially damaging effects on wildlife held in captivity and on native flora and fauna.

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

(a) Necessity of proposed administrative regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: The purpose of this administrative regulation is to replace an existing administrative regulation (301 KAR 2:080) with one which meets the current requirements of KRS Chapter 13A. It imposes no new requirements or standards over what existed previously.

TIERING: Was tiering applied? Yes. Tiering was applied in imposing differing requirements and permits for commercial and noncommercial holding of wildlife. Some requirements are less stringent for those holding one or two wildlife specimens for pets than for those engaging in a commercial enterprise.

TOURISM CABINET
Department of Fish and Wildlife Resources

301 KAR 2:251. Hunting and trapping seasons and limits for furbearers and small game.

RELATES TO: KRS 150.010, 150.170, 150.175, 150.340, 150.360, 150.365, 150.370, 150.390, 150.400, 150.410, 150.990

STATUTORY AUTHORITY: KRS 13A.350, 150.015, 150.021, 150.170, 150.175

NECESSITY AND FUNCTION: To insure the permanent and continued supply of small game and furbearer species by protecting them from overharvest.

Section 1. Definitions. (1) "Conibear-type trap" means a spring-loaded trap designed to kill the animal upon capture.

(2) "Dry land set" means a trap not set to drown an animal upon capture.

(3) "Foot-hold trap" means a spring-loaded trap with smooth, metallic jaws which close upon an animal's foot.

(4) "Furbearers" means mink, muskrat, beaver, raccoon, opossum, gray fox, red fox, weasels or striped skunk.

(5) "Hunter" means a person hunting small game or furbearers with gun, gun and dog, bow and arrow, dog, or by falconry.

(6) "Modern gun deer season" means the ten (10) day period beginning on the second Saturday of November.

(7) "Nonlocking snare" means a wire, cable or string loop without a device to keep the loop from loosening.

(8) "Padded trap" means a commercially constructed foot-hold trap with metal jaws padded with a soft, nonmetallic substance.

(9) "Small game" means squirrels, rabbits, quail or grouse.

(10) "Squirrels" means gray squirrels and fox squirrels in any combination.

(11) "Water set" means a trap set to drown an animal upon capture.

Section 2. Hunting and Trapping Seasons. (1) Squirrels: the third Saturday in August through December 31. The season is closed during the modern gun deer season.

(2) Rabbits and quail: November 1 through January 31. The season is closed during the modern gun deer season.

(3) Grouse: the day after the modern gun deer season through the last day in February in Adair, Bath, Bell, Boyd, Bracken, Breathitt, Campbell, Carter, Clark, Clay, Clinton, Cumberland, Elliott, Estill, Fleming, Floyd, Garrard, Greenup, Harlan, Harrison, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Wayne, Whitley, and Wolfe.

(4) Furbearers: the day after the modern gun deer season through 12 noon, February 1.

(5) Extended beaver season: the month of February.

(6) Small game and furbearers taken by falconry: September 1 through February 15.

(7) There is no closed season on chasing red and gray foxes and rabbits during daylight hours for sport and not to kill.

(8) Bobcats shall be taken only according to the provisions of 301 KAR 2:240.

Section 3. Small Game Bag and Possession Limits.

	Daily	Possession
Squirrels	6	12
Rabbits	4	8
Quail	8	16
Grouse	4	8

Section 4. Furbearer Hunter Limits. (1) There is no limit on furbearers except raccoons.

(2) A hunter shall not take more than one (1) raccoon within a twenty-four (24) hour period from noon to noon.

Section 5. Limits by Falconry. Falconers hunting within the falconry season but outside the dates specified in Section 2(1) through (5) of this administrative regulation: no more than two (2) of any small game or furbearer species, singly or in the aggregate per day.

Section 6. Shooting Hours. (1) Small game or furbearers, except opossum and raccoon: daylight hours only.

(2) Raccoon and opossum: day or night.

Section 7. Use of Calls. Hunters may use hand- or mouth-operated calls or attracting devices.

Section 8. Hunters shall not possess buckshot or shotgun slugs.

Section 9. Hunters shall not use lights from a boat to take raccoon or opossum.

Section 10. Trapping. (1) There are no daily or possession limits on furbearers taken by trapping.

(2) Traps used for dry-land sets shall be:

(a) Deadfalls;

(b) Wire cage or box traps;

(c) Number two (2) or smaller foot-hold traps;

(d) Padded traps with a jaw spread of six (6) inches or less;

(e) Number 220 or smaller Conibear-type traps; or

(f) Nonlocking snares.

(3) Any trap may be used as a water set except during the extended beaver season.

(4) Traps shall be set at least ten (10) feet apart.

(5) Traps shall not be set in trails or paths commonly used by humans or domestic animals.

(6) Trappers may use lights from boats or vehicles.

Section 11. During the extended beaver season:

(1) Trappers shall not use dry land sets;

(2) Trappers shall use:

(a) Number three (3) or larger foot-hold traps;

(b) Padded traps having a jaw spread of at least five and one-half (5-1/2) inches;

(c) Conibear-type traps with a jaw spread of at least eight (8) inches; or

(d) Nonlocking snares.

Section 12. 301 KAR 2:250 is hereby repealed.

C. TOM BENNETT, Commissioner
CRIT LUALLEN, Secretary
DAVID H. GODBY, Chairman

APPROVED BY AGENCY: March 10, 1994

FILED WITH LRC: March 10, 1994 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 26, 1994 at 9 a.m. at the Wildlife Annex, Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 21, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Art Boebinger, Acting Director of Wildlife, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, 502-564-4406.

REGULATORY IMPACT ANALYSIS

Agency contact: C. Tom Bennett

(1) Type and number of entities affected: 251,600 small game hunters and 700 trappers are expected to participate in the hunting and trapping seasons proposed by this regulation.

(a) Direct and indirect costs or savings to those affected: Direct costs involve the purchase of a state hunting license and/or a state trapping license. Indirect costs are determined by the individual, depending upon his level of participation.

1. First year: Persons participating in the hunting or trapping seasons proposed by this regulation would be required to possess a valid hunting license ($12.50 for residents) or a valid trapping license ($15 resident, $7.50 resident landowner/tenant), respectively.

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: None

(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 and savings: Primary costs are associated with enforcing the regulation.

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is $900,000.

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: 251,600 small game hunters may be expected to expend money for equipment, transportation, food and lodging. The average annual expenditure for these items by Kentucky small game hunters is $194 according to the 1991 National Hunting and Fishing Survey. The average season expenditure for Kentucky trappers during the 1981-82 trapping season was $209.32. State and local revenues can be expected to be positively affected due to necessary expenditures by small game hunters and trappers for the required licenses and due to taxes levied upon items purchased.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only available alternative to regulated hunting is closure of the season. This alternative was rejected as contrary to the conservation ethic which is based upon the wise use of renewable resources and the fact that small game and furbearer populations are at levels which can sustain a regulated harvest by 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. Tiering was used in setting differing hunting season dates for various species, taking into account both biological concerns and hunter preference. Grouse season dates differ from those of quail and rabbits because grouse hunters, as a group, prefer a season that extends through February. The state was also zoned geographically for grouse hunting to allow hunting only where grouse populations warrant an open season and where we are not concentrating restoration efforts.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. 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 Clerks office serves as a distribution system for the hunting licenses required by this regulation. The County Circuit Courts are where violators of these regulations are prosecuted.

4. How does this administrative regulation affect the local government or any service it provides? The County Clerk's office personnel are involved in sale of hunting licenses. This office receives a $.75/license fee for selling the licenses. The County Circuit 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.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Vehicle Licensing

601 KAR 9:150. Unrebuildable, junk, or hulk vehicles.

RELATES TO: KRS Chapter 186A, 49 CFR Part 580

STATUTORY AUTHORITY: KRS 186A.020, 49 CFR Part 580

NECESSITY AND FUNCTION: In 1982 when Kentucky's vehicle titling law was passed by the General Assembly, a two (2) tier system of titles was in general use around the nation. The first tier was for a vehicle without major damage history. The second was a salvage title for motor vehicles which had been greatly damaged but which could be rebuilt, examined by an inspector and declared again road-worthy. If the motor vehicle had been so severely damaged that it could never safely be rebuilt and could be sold for its undamaged parts only, the

title on this vehicle was to be surrendered to the licensing agency. In the past decade, many states have begun issuing a third tier of titles. This is a title on a vehicle which cannot safely be rebuilt and which must be considered available for supplying parts or scrap metal only. Since Kentucky state law does not address the third tier of titles, the Transportation Cabinet in this administrative regulation is notifying the owners of vehicles with a third tier title that Kentucky is giving full faith and credit to other licensing jurisdictions' vehicle titling laws. The National Highway Traffic Safety Administration in 49 CFR Part 580 requires a vehicle title to be set forth by means of a secure printing process. Therefore, any document which has been issued by a licensing jurisdiction which has not been printed by a secure process is not a vehicle title pursuant to KRS Chapter 186A.

Section 1. Definitions. (1) "Hulk" means as defined in KRS 186A.295.

(2) "Brand" means a notation placed on a vehicle titling document which establishes a portion of the history of the vehicle.

Section 2. Hulk Titles from Other Jurisdictions. (1) A Kentucky vehicle title shall not be issued for any vehicle which has a title from another licensing jurisdiction which has a brand indicating the motor vehicle to be "unrebuildable", "nonrebuildable", "junked", "hulk" or otherwise meaning that the vehicle shall never again be operated on a public highway.

(2) The titles known to be issued by a titling jurisdiction which shall not be accepted by the Transportation Cabinet are the following:

(a) Illinois junking certificate;

(b) Michigan junking certificate;

(c) Florida unrebuildable title; and

(d) Texas junking certificate.

(3) The Transportation Cabinet shall contact the titling authority in other jurisdictions to clearly establish the meaning of the brand on the title the first time a secure title is received from that jurisdiction if the title has a notation or brand which appears to permanently prohibit the operation of the vehicle on public highways.

Section 3. Unsecured Documents. (1) A Kentucky vehicle title shall not be issued for any vehicle for which the secure title was surrendered to another licensing jurisdiction and for which a new secure title has not been issued by that licensing jurisdiction even if the document provides proof of ownership.

(2) The unsecured document known to be issued by a titling jurisdiction which shall not be accepted by the Transportation Cabinet is the Virginia proof of ownership.

NORRIS BECKLEY, Commissioner
DON C. KELLY, P.E., Secretary

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on April 21, 1994 at 10 a.m. local prevailing time in the Transportation Cabinet, Corner of High, Clinton and Holmes Streets, Room 1003, 10th Floor, 501 High Street, Frankfort, Kentucky 40622. Any person who intends to attend this meeting must in writing by April 16, 1994 so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by April 16, 1994. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. Written comments will be accepted until the close of business on April 21, 1994. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra G. Pullen, Staff Assistant, Transportation Cabinet, 1003 State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-4890.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: Approximately 400 entities who either rebuild damaged motor vehicles or recycle the pats of damaged motor vehicles. Any private citizen who buys a rebuilt motor vehicle.

(a) Direct and indirect costs or savings to those affected: The cost to those who rebuild damaged vehicles will occur because not as many damaged vehicles will be available for rebuilding in Kentucky. Therefore, the cost of each damaged vehicle in the available pool will be slightly higher. Likewise, the cost to the private citizen who buys a rebuilt motor vehicle will be slightly higher. Conversely, the savings to the private citizen who would otherwise have bought a rebuilt motor vehicle which had been declared "nonrebuildable" can be enormous. In addition, those persons who purchase damaged motor vehicles in order to salvage the parts will be able to purchase these vehicles for a cheaper price and make the parts available to the rebuilders at a cheaper price. Overall, the potential savings to the public citizens is great. The increased cost and decreased cost to the rebuilders and recyclers should average out.

1. First year:

2. Continuing cost or savings:

3. Additional factors increasing or decreasing costs: (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: The Transportation Cabinet will save some administrative time which is currently spent struggling over whether or not a damaged motor vehicle can be rebuilt.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting or paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The Transportation Cabinet rejected the alternative of allowing vehicles with nonrebuildable titles from other jurisdictions to be rebuilt because full faith and credit should be given to those documents if a procedure is not authorized by statute to override.

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering: Was tiering applied? No. Full faith and credit is being given to all official documents from other licensing jurisdictions.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Vehicle Licensing

601 KAR 9:160. Surrendered title of a vehicle.

RELATES TO: KRS 186A.295
STATUTORY AUTHORITY: KRS 186A.020
NECESSITY AND FUNCTION: If a vehicle had been so severely

damaged that it can never safely be rebuilt and can be sold only for its undamaged parts or as a source of scrap metal, the title on it is to be surrendered to the county clerk or the Transportation Cabinet pursuant to KRS 186A.295. There are times when an owner mistakenly surrenders a vehicle title. In those instances, a procedure is needed to reactivate the title to the vehicle. This administrative regulation sets forth the procedure to be followed in having a surrendered title reactivated when necessary.

Section 1. Reactivation of Surrendered Title. (1) A vehicle owner who has mistakenly surrendered a vehicle title, may apply to the county clerk for the reactivation of the title. The vehicle owner shall provide the following information to the county clerk's office:

(a) Name of the vehicle owner;

(b) Address of the vehicle owner;

(c) Identification number or complete description of the vehicle;

(d) Reason why the title needs to be reactivated including a statement of how the title was mistakenly surrendered.

(2) The Transportation Cabinet shall not reactivate a title surrendered pursuant to KRS 186A.295 unless the owner of record or his agent is the applicant for the reactivation.

NORRIS BECKLEY, Commissioner
DON C. KELLY, P.E., Secretary

APPROVED BY AGENCY: February 14, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on April 21, 1994 at 10 a.m. local prevailing time in the Transportation Cabinet, Corner of High, Clinton and Holmes Streets, Room 1003, 10th Floor, 501 High Street, Frankfort, Kentucky 40622. Any person who intends to attend this meeting must in writing by April 16, 1994 so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by April 16, 1994. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. Written comments will be accepted until the close of business on April 21, 1994. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra G. Pullen, Staff Assistant, Transportation Cabinet, 1003 State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-4890.

REGULATORY IMPACT ANALYSIS

Contact person: Sandra G. Pullen

(1) Type and number of entities affected: Approximately 50 persons who mistakenly surrender a motor vehicle title each year.

(a) Direct and indirect costs or savings to those affected: A formal, legal procedure to retrieve a title which has been mistakenly surrendered is established by this administrative regulation. There will be no costs or savings. This just provides advance public notice of the appropriate way in which to act under these circumstances.

1. First year:

2. Continuing cost or savings:

3. Additional factors increasing or decreasing costs: (note any effects upon competition):

(b) Reporting and paperwork requirements: The owner of the vehicle will be required to provide certain information about the motor vehicle and the problem leading to the surrendered title.

(2) Effects on the promulgating administrative body: It allows the Transportation Cabinet and County Clerks to insist that the owner of record of the motor vehicle be the one to reapply for the surrendered title. Currently, much time is lost in dealing with a person who purchased a damaged vehicle for parts who wants the title to be reissued - either for proof of ownership of the parts or in order to attempt to get the motor vehicle back on the road.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting or paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternative of allowing anyone to reactivate a title was rejected because many times a motor vehicle which has been damaged to the point where it would be dangerous to be rebuilt has its title surrendered (particularly by insurance companies). The owner of the motor vehicle who surrendered the title did so in order to make sure the motor vehicle was never operated on the highway again. Allowing someone else to reactivate the title would make this procedure totally ineffective and might expose the original owner to liability.

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering: Was tiering applied? Yes. The administrative regulation allows a person who has erroneously surrendered a title to get it back without any difficulty while still protecting the public on those motor vehicles whose titles were surrendered because of the degree of damage to the vehicle.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Driver Licensing

601 KAR 11:080. Limited commercial driver's license for farm-related service industries.

RELATES TO: KRS 186.531, Chapter 281A, 49 CFR Part 383

STATUTORY AUTHORITY: KRS 186.400, 281A.040, 281A.150, 281A.0901, 49 CFR Part 383

NECESSITY AND FUNCTION: The Federal Highway Administration on April 17, 1992 published in the "Federal Register" a notice that it was allowing limited waivers from some of the provisions of 49 CFR Part 383 relating to the commercial driver's license (CDL) for certain employees of custom harvesters, farm retail outlets and suppliers, agrichemical businesses and livestock feeders. Each state is allowed to waive, at its option, these employees from the commercial driver's license knowledge and skills testing requirements and issue these employees limited CDL's for a seasonal period. The Transportation Cabinet has made a commitment to the motor carrier industry to be no more stringent than required by FHWA in the implementation in Kentucky of the commercial driver's license program. Since FHWA has determined that the granting of this limited authority waiver would not be contrary to the public interest and would not diminish the safe operation of commercial motor vehicles, the Kentucky Transportation Cabinet, through this administrative regulation, adopts this waiver program.

Section 1. Definitions. "Farm-related service industry" means a custom harvester, a farm retail outlet or supplier, an agrichemical business or a livestock feeder.

Section 2. Eligibility Requirements. (1) A commercial driver employed by a farm-related service industry may apply for a farm-related service industry limited commercial driver's license.

(2) To be eligible for the limited farm-related service industry commercial driver's license, the applicant shall:

(a) Possess a valid Kentucky motor vehicle operator's license issued pursuant to KRS Chapter 186;

(b) Have been a Kentucky licensed motor vehicle operator for at least one (1) year;

(c) Be at least eighteen (18) years of age;

(d) Have a current medical certificate as provided by 601 KAR 1:005;

(e) Pass the vision test for commercial drivers administered by the Kentucky State Police;

(f) Not have had his driving privilege suspended, canceled, revoked or otherwise withdrawn for any reason during the preceding two (2) years;

(g) Not have had during the preceding two (2) years a conviction in any type of motor vehicle of any of the following:

1. Driving under the influence of alcohol or other substance which may impair one's driving ability;
2. Leaving the scene of an accident;
3. Committing any felony involving a motor vehicle;
4. Speeding fifteen (15) miles per hour or more above the speed limit;
5. Reckless driving;
6. Improper or erratic lane changes;
7. Following too closely; or
8. Accident-related traffic law violation;

(h) Not have had an at-fault accident within the immediately preceding two (2) years; and

(i) Not be the holder of any type commercial driver's license.

(3) In place of the medical certificate and vision test, the applicant may have been issued a medical waiver pursuant to 601 KAR 11:040.

(4) The applicant shall not be required to submit to the knowledge or skills test required of other CDL applicants.

Section 3. Application for the Limited CDL. (1) Application for the limited farm-related service industry commercial driver's license shall be made on form TC 94-17, "Farm-Related Services Restricted CDL Application", as effective January, 1994. This form is incorporated by reference as a part of this administrative regulation.

(2) The completed application shall be submitted to the driver license issuing office of the jurisdictional circuit court clerk.

(3) The holder of a valid operator's license who has less than six (6) months until his scheduled renewal of his operator's license may apply for an early renewal of his operator's license at the same time he applies for a limited farm-related services commercial driver's license.

(4) The form TC 94-17 incorporated by reference in subsection (1) of this section may be viewed, copied or obtained from the Division of Driver Licensing, Second Floor, State Office Building, Frankfort, Kentucky 40622 or the driver license issuing office of any circuit court clerk. The telephone number of the Division of Driver Licensing is (502) 564-6800. Its hours of business are 8 a.m. to 4:30 p.m. eastern time on weekdays.

Section 4. Validity of the Limited CDL. (1) A qualified applicant may apply for any one (1) of the following limited farm-related service industry commercial driver's licenses:

(a) One (1) valid for sixty (60) days;

(b) One (1) valid for 120 days; or

(c) One (1) valid for 180 days.

(2) A person shall not possess a limited farm-related service industry commercial driver's license for more than 180 days in any twelve (12) month period.

(3) If the limited farm-related service industry commercial driver's privilege to operate any motor vehicle expires, is cancelled, or is withdrawn for any reason, his limited commercial driving privilege shall be terminated at the same time.

(4) A limited farm-related commercial driver who has at least sixty (60) additional days' time of eligibility in the twelve (12) month period may apply to the driver licensing issuance office of the circuit clerk for an extension of his limited farm-related service industry commercial driving privilege. Prior to issuing the extension to his limited commercial driving privilege, his driving history record shall be examined for eligibility with the requirements of Section 2 of this administrative regulation.

(5) A limited farm-related service industry commercial driver's license shall not be valid for the operation of a class "A" vehicle as defined in KRS 281A.170.

(6) A limited farm-related service industry commercial driver's license shall only be valid within 150 highway miles of the employing farm-related service industry.

(7) A limited farm-related service industry commercial driver's license shall not be valid for those commercial drivers transporting hazardous materials as defined in 601 KAR 1:025 except the following:

(a) 1000 gallons or less of diesel fuel; or

(b) Anhydrous ammonia or other types of liquid fertilizer transported in a vehicle or implement of husbandry with a total capacity of 3000 gallons or less;

(c) Solid fertilizer in any quantity.

(8) A limited farm-related service industry commercial driver's license shall only be valid if accompanied by a valid operator's license displaying the following:

(a) An "F" restriction; and

(b) Either a "B" or "C" class commercial driver's license.

Section 5, Fees. (1) Each year at the initial application pursuant to Section 4(1) of this administrative regulation, the applicant for a limited farm-related service industries commercial driver's license shall pay a ten (10) dollar fee to the circuit court clerk for the issuance of the photo farm services CDL which shall be accompanied by the operator's license.

(2) The applicant for a duplicate or extension to the farm services commercial driver's license during a twelve (12) month period in which he has already paid the fee specified in subsection (1) of this section shall pay a fee of three (3) dollars to the circuit court clerk for the issuance of a new limited farm-related service industries commercial driver's photo license which shall be attached to the motor vehicle operator's license.

NORRIS BECKLEY, Commissioner
DON C. KELLY, P.E., Secretary
APPROVED BY AGENCY: March 14, 1994
FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on April 21, 1994 at 10 a.m. local prevailing time in the Transportation Cabinet, Corner of High, Clinton and Holmes Streets, Room 1003, 10th Floor, 501 High Street, Frankfort, Kentucky 40622. Any person who intends to attend this meeting must in writing by April 16, 1994 so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by April 16, 1994. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. Written comments will be accepted until the close of

business on April 21, 1994. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra G. Pullen, Staff Assistant, Transportation Cabinet, 1003 State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-4890.

REGULATORY IMPACT ANALYSIS

Agency contact person: Sandra G. Pullen

(1) Type and number of entities affected: It is anticipated that only 100 persons will apply for this limited type of commercial driver's license each year.

(a) Direct and indirect costs or savings to those affected: There will be a direct cost of $10 each time the person is issued a farm-related services limited CDL. In addition, the person will have to apply for a duplicate license with the farm limited endorsement on it. The cost of this is $10 with a total cost of $20. However, the person will be able to operate commercial motor vehicles without obtaining a full-fledged CDL, without taking the tests or paying the full fee. The fee for the first 4 years would be $75, but payable up front. If the person obtains a limited CDL each year, the total cost will be $5 more than a full-fledged CDL for the same period of time. However, it is likely that anyone who would operate commercial vehicles on such a regular basis would go ahead and obtain a full CDL.

1. First year:

2. Continuing cost or savings:

3. Additional factors increasing or decreasing costs: (note any effects upon competition):

(b) Reporting and paperwork requirements: It is necessary that the applicant complete a form in order to obtain a limited CDL.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: There should be a net cost/savings of $0. It is anticipated that the portion of the fee which will be returned to the Transportation Cabinet by the license-issuing clerk will offset the cost to the cabinet for issuing the limited CDL and so noting in the computer system.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting or paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The Federal Highway Administration issued a notice that the individual states may issue a limited commercial driver's license to persons operating in farm-related industries. The Kentucky Farm Bureau requested that the Transportation Cabinet issue the limited CDL. Farm-related industries such as seed-sellers and fertilizer dispensers use a lot of seasonal or temporary help. It would be almost impossible for them to find such persons who had CDL's. Therefore, the Transportation Cabinet agreed to issue the intrastate limited commercial driver's license.

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering: Was tiering applied? Yes. The issuance of the limited commercial driver's license is a tiering in itself.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate for the issuance of a farm-related industries limited commercial driver's license. However, if the individual state decides to issue the license (as Kentucky has now done), 49 CFR Part 383 sets the standards for the issuance of the limited CDL.

2. State compliance standards. Kentucky will allow employees of custom harvesters, farm retail outlets and suppliers, agrichemical businesses and livestock feeders to obtain a limited and seasonal CDL without passing the knowledge and skills test. The seasonal period cannot exceed 120 days in each year.

3. Minimum or uniform standards contained in the federal mandate. FHWA allows each state to waive, at its option, these employees from the commercial driver's license knowledge and skills testing requirements and issue these employees limited CDL's for a seasonal period. The seasonal period cannot exceed 180 days in each year.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The mandate does not cover the fee for the issuance of the limited CDL license, but a fee to cover administrative costs is included in the administrative regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. KRS Chapter 281A allows the state to set fees for the issuance of CDL's.

EDUCATION, ARTS, AND HUMANITIES CABINET
Department of Education
Division of Finance

702 KAR 3:265. Repeal of 702 KAR 3:230, Vocational allocation of add-on SEEK funds.

RELATES TO: KRS 157.360

STATUTORY AUTHORITY: KRS 156.070, 157.320

NECESSITY AND FUNCTION: 702 KAR 3:230 is no longer required because the time period covered by this regulation has expired.

Section 1. 702 KAR 3:230, Vocational allocation of add-on SEEK funds, is hereby repealed.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the State Board for Elementary and Secondary Education, as required by KRS 156.070(4).

Thomas C. Boysen
Commissioner of Education

JOSEPH W. KELLY, Chairman

APPROVED BY AGENCY: March 15, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 26, 1994, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 21, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to Mr. Kevin M. Noland, General Counsel, Department of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact: Kyna Koch

(1) Type and number of entities affected: 176 districts.

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: Same

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives. This administrative regulation is no longer necessary since the time period covered by the applicable statute has expired.

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

EDUCATION, ARTS, AND HUMANITIES CABINET
Department of Education
Bureau for Learning Results Services

703 KAR 4:090. Statewide assessment and accountability program; school building and local district appeal of performance judgments.

RELATES TO: KRS 158.645, 158.6451, 158.6453, 158.6455

STATUTORY AUTHORITY: KRS 158.6455

NECESSITY AND FUNCTION: KRS 158.6455(8) requires the establishment of procedures for appeals of performance judgments considered to be unfair resulting in the distribution of rewards or the applications of sanctions as specified in KRS 158.6455.

Section 1. Definitions. (1) "Accountability index" means the statistic that is the average of the cognitive and noncognitive indices for the school.

(2) "Baseline accountability index" means the accountability index score that describes the school or school district's percentage of successful students at the beginning of the biennium.

(3) "Performance judgment" means the decision to declare a school or school district:

(a) Eligible for rewards (level 5);

(b) Successful (level 4);

(c) As not meeting its threshold (level 3);

(d) In decline (level 2); or

(e) In crisis (level 1).

Section 2. (1) A request for a review of a performance judgment shall be submitted to the Commissioner of Education. For districts, the request shall be signed by the superintendent upon the approval of the school board. For schools, the request shall be signed by the principal upon approval of the school council. If there is no school council, the request shall also be signed by the superintendent, upon approval of the school board.

(2) The appeal of a performance judgment shall clearly identify the basis for the wrongful effect on the:

(a) Baseline accountability index;

(b) Accountability index; or

(c) Baseline accountability index being established for the next biennium.

(3) The appeal shall detail the requested adjustment to be made to one (1) or more of these indices.

(4) The Kentucky Department of Education staff shall review the request against the standards set forth in KRS 158.6455, determine if additional information is required, and submit the request with a recommendation to the State Advisory Committee for Educational Improvement.

(5) The State Advisory Committee for Educational Improvement shall communicate in writing its summary findings and recommendations to both the party appealing the judgment and to the Commissioner of Education. Within thirty (30) working days, the commissioner's office shall forward the committee's recommendation to the State Board for Elementary and Secondary Education with a recommendation to accept, reject, or modify the committee summary report, and notify the appealing party in writing.

(6) The appealing party shall have ten (10) days from when the report is received to submit written exceptions and responses to the state board.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the State Board for Elementary and Secondary Education, as required by KRS 156.070(4).

Thomas C. Boysen
Commissioner of Education

JOSEPH W. KELLY, Chairman

APPROVED BY AGENCY: March 15, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 26, 1994, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 21, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to Mr. Kevin M. Noland, General Counsel, Department of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact person: Neal Kingston

(1) Type and number of entities affected: 176 school districts.

(a) Direct and indirect costs or savings to those affected: None

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: Appealing parties must submit written appeal.

(2) Effects on the promulgating administrative body: None. Additional work will be handled within existing personnel allocation.

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Appealing parties must submit written appeal.

(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 governmental policy which may be in conflict, overlapping, or duplication: None

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The administrative regulation applies equally to all individuals or entities regulated by it.

WORKERS' COMPENSATION BOARD
Department Of Workers' Claims

803 KAR 25:021. Individual self-insurers.

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS 342.260, 342.340, 342.345

NECESSITY AND FUNCTION: KRS 342.260 requires the Workers' Compensation Board to prepare administrative regulations it considers necessary to carry on its work and to carry out the provisions of KRS Chapter 342. KRS 342.340 requires that every employer subject to KRS Chapter 342 shall either insure its liability for compensation or furnish satisfactory proof to the board of financial ability to pay compensation directly in the amount and manner when due. This administrative regulation establishes minimum requirements for individual employers who self-insure their compensation liabilities. This administrative regulation includes the substance of 803 KAR 25:020, which is repealed.

Section 1. Definitions. (1) "Aggregate excess insurance" means insurance covering all claims which may be imposed on an individual self-insured employer under KRS Chapter 342 in excess of a specific dollar amount designated as the employer's retained liability.

(2) "Board" means the Workers' Compensation Board created pursuant to KRS 342.215(1).

(3) "Brother-sister corporations" means two (2) or more corporations owned 100 percent by the same stockholder.

(4) "Employer" means any employer subject to the Kentucky Workers' Compensation Act.

(5) "Fiscal agent" means a person, partnership or corporation other than a servicing organization or employees or agents of a servicing organization, with whom an individual self-insurer enters into a contract for the receipt, investment and disbursement of the self-insurance funds.

(6) "Servicing organization" means a person, partnership or corporation with whom the employer enters into a contract to perform one (1) or more of the following services:

(a) Adjustment of claims;

(b) Safety engineering;

(c) Purchase of excess insurance;

(d) Accumulation of statistics and the preparation of necessary premium and loss reports and tax reports;

(e) Preparation of self-insurance reports as may be required by law.

(7) "Specific excess insurance" means insurance covering the amount of a claim from any single occurrence or accident involving one (1) or more employees in excess of a specified dollar amount designated as a retained liability of the employer.

Section 2. Eligibility for Certification as an Individual Self-insurer; Filing Requirements. (1) To be eligible for or to maintain a certificate of self-insurance, an employer shall file an application with the board on Form SI-02 accompanied by the following:

(a) A certified audited report of the applicant's financial status for the three (3) calendar year immediately preceding the filing of the application of the employer, prepared and signed by a certified public accountant;

(b) A statement indicating whether the applicant is an individual, partnership, corporation or association; the date on which the applicant began business; the location of the applicant's principal office; and the nature and location of the applicant's principal business and operations;

(c) Loss experience data for losses over one (1) day, to include indemnity paid, medical paid, rehabilitation paid, indemnity reserve, and medical reserve, for the five (5) years immediately preceding the date of application, on Form SI-08;

(d) The quarterly payroll for all locations as reported to the Kentucky Division of Unemployment Insurance, including the state and federal identification numbers for the five (5) years immediately preceding the date of application;

(e) If the applicant is a corporation, a resolution adopted by the board of directors, in a form approved by the board, authorizing and directing the corporation to undertake to self-insure itself and to comply with the provisions of the Kentucky Workers' Compensation Act and related administrative regulations;

(f) If the applicant is a subsidiary corporation, a guarantee from the subsidiary's upper-most parent corporation in a form acceptable to the board;

(g) If the applicant is composed of brother-sister corporations applying as one (1) self-insurer, mutual guarantees from each corporation in a form acceptable to the board;

(h) A photocopy of the declaration page of a policy of specific excess insurance for the applicant with a coverage of at least $4,000,000 per occurrence for the applicant, and a photocopy of the declaration page of a policy of aggregate excess insurance for the applicant in an amount approved by the board; and

(i) Copies of Kentucky adjusting licenses and resumes setting forth the qualifications and experience of the applicant's employees who are to be responsible for administration and adjustment of Kentucky workers' compensation claims, and equivalent information for any servicing organization.

(2) Each application for a certificate of self-insurance shall be assigned a number and appropriate designation. If the application is approved, the number and designation shall be assigned to the employer and records provided by the employer to show the accident experience and accrued and unpaid workers' compensation liability of the employer shall be maintained under the approved number and designation.

(3) Every employer holding a valid, unexpired certificate of self-insurance shall file with the board three (3) months prior to the close of the employer's fiscal year or, if applicable, the calendar year, a renewal application on Form SI-02.

(4) Each application and accompanying documents shall be filed both in paper form and on magnetic computer disc in dBase format or in a flat file electronic American Standard Code for Information Interchange (ASCII) format.

Section 3. Evaluation of Eligibility for Certificate of Self-insurance. (1) The board may deny any application for a self-insurance certificate if the application and any supplemental information submitted at the board's request fails to establish to the satisfaction of the board that the applicant is fiscally sound and has resources sufficient to pay and

discharge all workers' compensation liabilities in the amount and manner and when due under the Kentucky Workers' Compensation Act.

(2) In determining whether an applicant is eligible for self-insurance and in establishing the amount of security required, the board shall consider but is not limited to the following and other relevant factors:

(a) Ratio of tangible net worth to annual self-insurance retained liability;

(b) Ratio of current assets to current liabilities;

(c) Ratio of long term debt to tangible net worth/sharehold equity;

(d) Profit and loss history;

(e) Workers' compensation loss history of the applicant and the industry;

(f) Reliability of financial information;

(g) Workers' compensation losses enhanced by plant closings and shutdowns;

(h) Number of employees and degree of hazard to which employees are exposed;

(i) Claims administration personnel, policies, and procedures;

(j) Safety programs; and

(k) Financial stability of the applicant's industry.

Section 4. Security to be Furnished by Employer. Each employer who qualifies for a self-insurance certificate shall, prior to the certificate being issued by the board, provide security in the form of a continuous surety bond or irrevocable letter of credit, drawn on a financial institution approved by the board, in an amount specified by the board but not less than $500,000. Surety bonds shall be submitted on Form SI-03. Irrevocable letters of credit shall be submitted on SI-04. In lieu of a bond with surety or letter of credit, the employer may be permitted by the board to deposit cash or securities which are eligible under the laws of Kentucky for investment by insurance companies or by fiduciaries of the current market value equal to the principal amount fixed for the bond. The depository agreement shall be on Form SI-05 or equivalent form approved by the board. The employer shall obtain the approval of the board prior to the deposit of cash or securities in lieu of bond.

Section 5. Coverage of Subsidiary or Related Corporations. A corporation having wholly owned subsidiaries, or two (2) or more corporations having a brother-sister relationship with each other, may submit one (1) joint application to the board, provided the parent corporation (or one (1) of the brother-sister corporations) has sufficient assets to qualify for a self-insurance certificate for both itself and its subsidiaries or brother-sister corporations. A joint application as described in this section shall be accompanied by a certificate of the secretary of each corporation indicating that the corporations are making a joint application and the joint and several liability of the corporations for all the workers' compensation claims asserted against them have been authorized by proper orders and resolutions of the respective boards of directors for each corporation. These certificates shall be effective until revoked by the corporations following written notice to the board.

Section 6. Examination and Review of Filings. A certified public accountant duly qualified and licensed under the laws of Kentucky shall be employed by the board for the purpose of reviewing and analyzing the filings of individual self-insurers, and applicants for self-insurance, required under this administrative regulation. The duties of the certified public accountant employed by the board shall include, but not be limited to:

(1) Analysis of each application for certification as a self-insurer, including the certified financial statement and workers' compensation claims experience for the three (3) calendar years immediately preceding the date of application. The certified public accountant employed by the board shall provide the board with a written summary of the analysis performed along with a written recommendation that the application be granted, denied, or resubmitted, as appropriate;

(2) A periodic examination of the workers' compensation claims, reports of accidents, and related information provided by each employer who has been issued a self-insurance certificate, and if the certified public accountant concludes that the employees of an employer holding a self-insurance certificate may not be adequately protected or secured, the certified public accountant shall make written recommendation to the board that the board issue an order to the employer requiring the employer to show cause why its self-insurance certificate should not be revoked; and

(3) A review of the filings of each employer holding a self-insurance certificate to determine whether the filings are complete and timely made. If the filings of an employer are not complete or are not timely made, the certified public accountant shall report this finding to the board in writing.

Section 7. Certification, Revocation and Suspension. (1) After consideration of an application and all supporting documentation, the board shall approve or deny the application, or the board may advise the applicant of requirements to be met before approval is granted. The certificate of self-insurance shall not be issued until the board has received proof that all requirements for the issuance of a certificate of self-insurance have been met.

(2) After a self-insurance application has been approved, the board shall issue a certificate acknowledging the employer's status as a self-insurer under the Kentucky Workers' Compensation Act.

(3) All individual self-insured employers are required to maintain a level of reserves sufficient to pay all workers' compensation claims in full, including incurred but not reported claims as well as outstanding claims, or an amount sufficient to pay a three (3) year claims loss average based upon the computation of the simulated premium under KRS 342.0011(25), whichever is greater. Written notification shall be given to the board by a self-insured employer whenever reserves fall below this level.

(4) If there is a change of ownership or the controlling interest of an employer holding a self-insurance certificate changes, the new ownership shall submit a new application to the board for a certificate of self-insurance.

(5) Certification of an employer as an individual self-insurer shall be for a term not to exceed one (1) year.

(6) The board may, following notice of at least sixty (60) days and a hearing, revoke an employer's certification upon receiving satisfactory evidence indicating that the employer has failed to comply with any of the requirements of this administrative regulation or KRS Chapter 342.

(7) If the board receives information indicating that an employer has ceased making workers' compensation payments in the amount and manner and when due in all or a substantial number of claims, or that the employer has failed to maintain adequate specific excess or aggregate excess insurance coverage, the board may suspend the employer's certification immediately following a hearing of which the employer has been given at least ten (10) days prior written notice.

Section 8. 803 KAR 25:020, Self-insurers, is hereby repealed.

JUDGE ARMAND ANGELUCCI, Chairman

APPROVED BY AGENCY: March 15, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing will be held at the Farnham Dudgeon Civic Center, Capital Plaza Complex, Conference Rooms ABC, 405 Mero Street, Frankfort, Kentucky 40601, 10 a.m., on April 21, 1994. Individuals interested in attending this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing

is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request and prior arrangements for a transcript are made five days prior to the hearing. 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: Karl F. Hohmann, Jr., Attorney, Department of Workers' Claims, 1270 Louisville Road, Perimeter Park West, Frankfort, KY 40601, (502) 564-5550.

REGULATORY IMPACT ANALYSIS

Contact Person: Karl F. Hohmann, Jr.

(1) Type and number of entities affected: This regulation will affect individual self-insured employers under KRS 342.340(1). At present, there are 241 self-insured employers in Kentucky, providing coverage for subsidiaries and related employers numbering more than 280,000. The new regulation replaces an existing regulation on the same subject.

(a) Direct and indirect costs or savings to those affected:

1. First year: Bonds without surety are no longer allowed and the minimum amount of security required is $500,000.

2. Continuing costs or savings: Same as first year.

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

(b) Reporting and paperwork requirements: Applications must now be filed on magnetic computer disc as well as in paper form.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There may be some savings as a result of the new requirement that applications be filed on magnetic computer disc as well as in paper form.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None known.

(b) Reporting and paperwork requirements: Reporting will not be significantly affected. The department's paperwork will not increase, and may actually decrease because of greater reliance on computerized information.

(3) Assessment of anticipated effect on state and local revenues: There should be no effect on state and local revenues.

(4) Assessment of alternative method; reasons why alternatives were rejected: Amendment of current regulation would be difficult and confusing because of the extensive revisions.

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

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. There are different requirements for group self-insured employers, and those requirements are addressed in a separate regulation. This regulation applies to individual self-insureds and provides equal treatment for each self-insured employer.

WORKERS' COMPENSATION BOARD
Department of Workers' Claims

803 KAR 25:026. Group self-insurers.

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS 342.260, 342.340, 342.345, 342.350

NECESSITY AND FUNCTION: KRS 342.260 requires the Workers' Compensation Board to prepare administrative regulations it considers necessary to carry on its work and to carry out the provisions of KRS Chapter 342. KRS 342.350(4) provides that workers' compensation group self-insurers are regulated by the board. This administrative regulation establishes minimum requirements for workers' compensation group self-insurance associations. This administrative regulation includes the substance of 803 KAR 25:025, which is repealed.

Section 1. Definitions. (1) "Aggregate excess insurance" means insurance covering all claims which may be imposed upon a group self-insurance association under KRS Chapter 342 in excess of a percentage of the annual earned premium of the group, designated as the retained liability of the group.

(2) "Annual earned premium" means the total amount of premium due by a group or member during the applicable self-insurance year.

(3) "Assessment" means a charge to a group self-insurance association member made for the purpose of sustaining the group self-insurance association fund.

(4) "Board" means the Workers' Compensation Board created pursuant to KRS 342.215(1).

(5) "Common interest" means having membership in the same bona fide trade association, or being engaged in similar activities, having similar workers' compensation risks, as every other employer in a group self-insurance association.

(6) "Fiscal agent" means a person, partnership or corporation, other than a servicing organization or employees or agents of a servicing organization, with whom the trustees enter into a contract for the receipt, investment and disbursement of the self-insurance fund.

(7) "Group self-insurance association" or "group" means an association of eleven (11) or more employers or two (2) or more city, county, municipal, or urban county employers or their agencies which have entered into agreements to pool their liabilities under KRS Chapter 342 for the purpose of qualifying as self-insurers pursuant to KRS 342.340 and 342.350(4).

(8) "Member" means an employer in a group self-insurance association.

(9) "Premium" shall have the meaning provided in KRS 342.0011(24) unless otherwise indicated.

(10) "Self-insurance year" means the calendar year or fiscal year used by a group self-insurance association for the purposes of calculating and complying with its obligations under KRS Chapter 342 and this administrative regulation.

(11) "Specific excess insurance" means insurance covering the amount of a claim or claims from any single occurrence or accident involving one (1) or more employees in excess of a specified dollar amount, designated as the self-insured retention.

(12) "Surplus funds" means monies in the self-insurance fund resulting from investment income and resulting from earned premiums in excess of all losses and other costs for the period in which premiums were earned, including all reserves for outstanding liabilities.

(13) "Third party administrator", or "servicing organization", means a person, partnership or corporation with whom the trustees enter into a contract to perform one (1) or more of the following services:

(a) Adjustment of claims;

(b) Safety engineering;

(c) Purchase of excess insurance;

(d) Accumulation of statistics and the preparation of necessary premium and loss reports and tax reports;

(e) Development of members, assessments and dividends;

(f) Administration of a revolving fund; and

(g) Preparation of self-insurance reports as may be required by law.

(14) "Trustees" means persons to be elected by the group

members or selected by the board of directors of the group for stated terms to direct the administration of the group's self-insurance fund.

Section 2. Eligibility for Certification as a Group Self-insurance Association; Filing Requirements. (1) To be eligible for or to maintain a certificate of self-insurance, a group self-insurance association ("group") shall file an application consisting of Form SI-06, or Form SI-07, a trust agreement, indemnity agreement, member applications, and group bylaws with the board. The application shall be filed not later than sixty (60) days prior to the proposed date for certification or recertification of the group, both in paper form and on magnetic computer disc in dBase format or in a flat file electronic American Standard Code for Information Interchange (ASCII) format.

(2) The trust agreement filed by a group shall provide for not fewer than three (3) nor more than seven (7) trustees to administer the operations of the self-insurance fund for the group.

(3) The indemnity agreement filed by a group shall jointly and severally bind the group and each member to comply with the provisions of the Kentucky Workers' Compensation Act, the administrative regulations of the board, and the decisions of the trustees of the self-insurance fund.

(4) If two (2) or more employers in a group have more than fifty (50) percent common ownership, they shall be deemed to be one (1) employer or member for the purposes of KRS 342.350(4) and this administrative regulation.

(5) All members of a group shall have a common interest.

(6) The annual earned premium or claims liability of any one (1) group member shall not exceed sixty (60) percent of the annual earned premium or claims liability of the entire group.

(7) The group shall have a total estimated annual earned premium of not less than $500,000. The group shall have a combined net worth of not less than $2,000,000 as shown by:

(a) Certified financial audits; or

(b) Net worth statements prepared by certified public accountants or by the owners or officers of each employer and verified by sworn affidavit of the owners or officers.

Section 3. Evaluation of Eligibility for Certification as a Group Self-insurance Association. In determining whether an applicant group is eligible for self-insurance and in establishing the amount of security required, the board shall consider, but is not limited to, the following and other relevant factors:

(1) Ratio of claims loss to estimated annual earned premium;

(2) Profit and loss history of group and its members;

(3) Workers' compensation loss history of the group and the industry or industries represented in the group;

(4) Reliability of financial information;

(5) Workers' compensation losses enhanced by plant closings and shutdowns;

(6) Number of employees and degree of hazard to which they are exposed;

(7) Claims administration personnel, policies and procedures;

(8) Safety programs;

(9) Financial stability of industries represented in the group;

(10) Ratio of reserves to bank deposits;

(11) Fees paid to administrators and for commissions; and

(12) Total amount of payroll and estimated annual earned premium.

Section 4. New Members. New members of a group shall meet all the requirements of an original member.

Section 5. Group Members. (1) The trustees shall not accept as a member of the group any employer having a net worth of less than two (2) times its estimated annual earned premium, unless the employer pays its full annual earned premium in advance. The trustees shall not accept as a member of the group any employer that does not meet all other qualifications as set forth in the by-laws of the group.

(2) The trustees may suspend or expel any member of the group due to adverse claims experience or lack of cooperation with safety and loss prevention policies after giving the member and the board written notice of not less than thirty (30) days. The trustees may immediately suspend or expel any member that fails to pay an assessment within thirty (30) days of notification of the assessment. If the expulsion of a member causes the number of members in a group to fall below the number required by KRS 342.350(4), the group shall have ninety (90) days in which to enroll a new member or to give notice of termination of its program to the board.

(3) The trustees shall obtain from each member of the group, within forty-five (45) days of the close of the group's self-insurance year, a report of the actual payrolls for the self-insurance year. The trustees shall calculate a premium adjustment from these reports. The failure of a member to provide a report may be grounds for expulsion from the group.

(4) At least thirty (30) days prior to the due date, the trustees shall notify each group member of all assessments due, including annual adjustments.

Section 6. Trustees; General Duties. (1) None of the trustees of a self-insurance group shall be officers, employees, or agents of a third party administrator or fiscal agent for the group. The trustees shall have the authority to administer the operations of the group self-insurance association fund.

(2) The trustees of the group shall be responsible for calculating and collecting assessments and premiums from group members for the group fund and for making disbursements from the fund in accordance with written agreements between the trustees and all group members. Permissible disbursements shall include the payment of claims or payments into a revolving fund from which claim payments shall be made, payments of insurance and bond premiums, payment of fees under agreements with third party administrators and fiscal agents, payment of dividends to members, payment of self-insurance taxes, and payment of all other expenses which are reasonable and necessary.

(3) The trustees may contract with a third party administrator or fiscal agent to perform the functions described in subsection (2) of this section. A third party administrator or fiscal agent shall meet the following threshold requirements:

(a) It shall be qualified to perform the functions that it contracts to perform. Its employees shall be duly licensed to perform those functions for which a license is required under Kentucky law through the Kentucky Department of Insurance.

(b) Any contract with a third party administrator or fiscal agent that includes the adjustment and settlement of claims shall include a requirement that it will adjust to final conclusion all claims that result from an occurrence during the period for which the contract is effective.

(c) If there is to be a revolving fund, the third party administrator or fiscal agent shall maintain a fidelity bond as required in this administrative regulation.

(4) A revolving fund of not more than twenty (20) percent of the estimated annual earned premium of the group may be established for use by a third party administrator or fiscal agent for the payment of claims.

Section 7. Excess Insurance. (1) Unless a group meets the requirements for exemption under this section, the trustees shall purchase aggregate excess insurance. The retained liability and other fixed costs of the group fund shall not exceed 100 percent of the annual earned premium assessment for the group, unless any retained liability over 100 percent is secured by board-approved surety including but not limited to cash under escrow, letters of credit, surety bonds, or U.S. Treasury notes or bills. The limit of liability of

the aggregate excess insurance coverage shall not be less than $5,000,000 or fifty (50) percent of the annual earned premium of the group, whichever is greater.

(2) A group shall be exempt from the requirement to purchase aggregate excess insurance if:

(a) The group has been in continuous operation for at least five (5) years;

(b) The group's annual earned premium exceeded $5,000,000 in each of its most recent three (3) self-insurance years;

(c) The reserves of the group for unpaid incurred losses and expenses, and its premium structure for the current policy period, have been established to provide adequately, as determined by the board, for the losses expected to arise from its underwritings.

(3) A group shall prove its entitlement to exemption from the requirement to purchase aggregate excess insurance by filing a certified opinion of a member of the American Academy of Actuaries and an actuarial study with the board. Both the certified opinion and the actuarial study shall confirm that the requirements for exemption have been met. The study shall be accompanied by a statement to the board from the actuary verifying that the reserve funding and premium schedule set forth in the study and adopted by the group fund are reasonable and have been established using generally accepted actuarial principles. The group may select the actuary to perform this study but its selection shall be made from a list of actuaries or actuarial firms approved by the board. This list shall be furnished to a group by the board upon request.

(4) The trustees shall purchase specific excess insurance with coverage of at least $4,000,000 per occurrence for the group.

(5) Contracts for excess insurance. Each contract for excess liability coverage purchased by a group shall be written by a casualty insurance company approved by the Kentucky Department of Insurance.

Section 8. Group Fund Balances. (1) Not less than twenty-five (25) percent of the estimated annual earned premium for each member shall be collected by the trustees before the inception of coverage by a group. The remaining balances shall be collected in a manner designed to ensure that all premiums are paid before they are earned. Payment plans to be used by the group self-insurance fund shall be filed with the board, and shall not be approved by the board unless they are designed to assure the prepayment of earned premiums.

(2) Dividends shall not be paid to members for at least twenty-four (24) months after the expiration of the self-insurance year and shall be paid only from surplus funds that result from investment income and collected premiums and assessments in excess of all losses and other costs, including reserves for outstanding liabilities.

(3) The formula to be used for assessments and for the distribution of dividends shall be in accordance with a written agreement between all members of the group.

(4) Trustees, third party administrators, or fiscal agents shall not utilize any of the monies collected as premiums from the group or group members for any purpose unrelated to workers compensation, and shall be prohibited from borrowing any monies from the fund. The trustees may, at their discretion, invest surplus monies not needed for current obligations but such investments shall be limited to U. S. Government bonds, U. S. Treasury notes, investment share accounts in a savings and loan association whose deposits are insured by a federal agency, or certificates of deposit issued by a duly chartered commercial bank. Deposits in savings and loan associations and commercial banks shall be limited to institutions located in Kentucky and the safety of any investments which exceed federally insured amounts shall be the responsibility of the trustees.

(5) A variation from the requirements imposed upon the trustees in this section shall not be valid unless it is specifically authorized by written order of the board.

Section 9. Reports. (1) The trustees shall retain the services of a certified public accountant and shall file a certified audit with the board each year within 180 days of the end of its self-insurance year.

(2) Within 120 days of the end of each self-insurance year, the trustees shall furnish members with a statement setting forth all premiums, losses, expenses and the allocation of assessments and distribution of dividends among its members.

(3) The trustees shall file any additional reports required by agencies of the Commonwealth of Kentucky.

Section 10. Fidelity Bonds. (1) The trustees and any third party administrator shall provide a fidelity bond to the board in an amount not less than $300,000 for each trustee, which may be subject to a deductible not exceeding $10,000, for each trustee, third party administrator, and third party administrator's employee serving in a fiduciary capacity.

(2) A fiscal agent shall provide a fidelity bond to the trustees of not less than fifty (50) percent of the funds to be handled by the fiscal agent or $5,000,000, whichever is greater. This requirement shall be waived if the fiscal agent is a national bank.

(3) A third party administrator shall provide a fidelity bond to the trustees of not less than two (2) times the amount of the revolving fund.

(4) In lieu of the bonds described in this section, the trustees may secure a fidelity blanket bond in an amount equal to fifty (50) percent of the self-insurance fund or $5,000,000, whichever is less, with the bonds to include the trustees, personnel of the third party administrator serving in a fiduciary capacity, fund administrator, and fiscal agent unless the fiscal agent is a national bank.

Section 11. Surety. (1) The group shall provide surety to the board, on Form SI-03, SI-04, or SI-05, in an amount not less than $1,000,000 or twenty (20) percent of its aggregate annual earned premium as established in the most recent certified audit filed with the board, whichever is greater.

(2) Each surety bond provided by a group to the board shall be written by a corporation or company approved by the Kentucky Department of Insurance to write bonds for self-insurers.

Section 12. Withdrawal from Group, Termination of Program by Group. (1) Members of a group. In order to withdraw from a group, a member shall give sixty (60) days' notice to the trustees and the board, and shall receive written acknowledgment from the trustees. The member shall not be entitled to receive any dividends or other payment from the group for at least two (2) years after the effective date of its withdrawal. If the withdrawal of a member causes the number of members in the group to fall below the minimum required by KRS 342.350(4), the group shall give notice of the termination of its program to the board.

(2) Entire group. If a group decides to terminate its self-insurance program, the trustees shall give prior notice of not less than sixty (60) days to the board and to each of the group members by certified mail. The group shall not pay dividends or make other payment to members or former members without the specific written approval of the board for at least three (3) years following the close of the last self-insurance year during which it operated. A plan showing that the group has made satisfactory arrangements for the continued payment and servicing of all liabilities shall be submitted to and approved by the board prior to the termination date.

Section 13. Certification, Revocation and Suspension. (1) Certification as a group self-insurance association shall be for a term not to exceed one (1) year. All filings required for certification under this administrative regulation shall be submitted to the board by the trustees of an ongoing group not less than thirty (30) days prior to the end of the group's current self-insurance year.

(2) The board may, following notice of at least sixty (60) days and

a hearing, revoke a group's certificate upon receiving satisfactory evidence indicating that the group has failed to comply with any of the requirements of this administrative regulation.

(3) If the board receives information indicating that a group has ceased making workers' compensation payments in the amount and manner when due in all or a substantial number of claims, or that the group has failed to maintain adequate specific excess or aggregate excess insurance coverage, the board may suspend the group's certification immediately following a hearing of which the group has been given at least ten (10) days prior written notice.

Section 14. 803 KAR 25:025, Joint self-insurers, is hereby repealed.

JUDGE ARMAND ANGELUCCI, Chairman

APPROVED BY AGENCY: March 15, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing will be held at the Farnham Dudgeon Civic Center, Capital Plaza Complex, Conference Rooms ABC, 405 Mero Street, Frankfort, Kentucky 40601, 10 a.m., on April 21, 1994. Individuals interested in attending this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request and prior arrangements for a transcript are made five days prior to the hearing. 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: Karl F. Hohmann, Jr., Attorney, Department of Workers' Claims, 1270 Louisville Road, Perimeter Park West, Frankfort, KY 40601, (502) 564-5550.

REGULATORY IMPACT ANALYSIS

Contact Person: Karl F. Hohmann, Jr.

(1) Type and number of entities affected: This regulation will affect those employers who pool their liabilities for the purpose of qualifying as self-insurers under KRS 342.350(4). At present, there are 15 group self-insurance pools representing over 5,500 employers in Kentucky. The new regulation replaces an existing regulation on the same subject.

(a) Direct and indirect costs or savings to those affected:

1. First year: The cost of surety bonding will increase because the amount of bond required is being increased. The cost of aggregate and specific excess insurance will increase because the limits of the coverage requirements are being increased. Fidelity bonding costs may increase because limits on the blanket bond are increased.

2. Continuing costs or savings: Same as first year.

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

(b) Reporting and paperwork requirements: Applications must now be filed on magnetic computer disc as well as in paper form.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There may be some savings as a result of the new requirement that applications be filed on magnetic computer disc as well as in paper form.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None known.

(b) Reporting and paperwork requirements: Reporting will not be significantly affected. The department's paperwork will not increase, and may actually decrease because of greater reliance on computerized information.

(3) Assessment of anticipated effect on state and local revenues: There should be no effect on state and local revenues.

(4) Assessment of alternative method; reasons why alternatives were rejected: Amendment of current regulation would be difficult and confusing because of the extensive revisions.

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

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: None

TIERING: Is tiering applied? No. There are different requirements for group self-insured employers, and those requirements are addressed in a separate regulation. This regulation applies to individual self-insureds and provides equal treatment for each self-insured employer.

WORKERS' COMPENSATION BOARD
Department of Workers' Claims

803 KAR 25:027. Self-insurance forms.

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS 342.260, 342.340, 342.345, 342.350, 342.430

NECESSITY AND FUNCTION: KRS 342.260 requires the Workers' Compensation Board to prepare such administrative regulations as it considers necessary to carry on its work under KRS Chapter 342. KRS 342.430 requires the board to prepare and furnish, free of charge, blank forms which it considers proper and requisite to the efficient administration of the Workers' Compensation Act. The function of this administrative regulation is to adopt those forms which the board considers necessary for use in conjunction with the administrative regulations promulgated with respect to individual and group self-insurers.

Section 1. Self-insurance Forms. Forms SI-01, SI-02, SI-03, SI-04, SI-06, SI-07 and SI-08 are adopted by order of the Workers' Compensation Board effective March 14, 1994, and are incorporated by reference in this administrative regulation for use in connection with other administrative regulations of the board concerning self-insured employers.

(1) Information and material is available for public inspection and copying at main, regional, and branch offices of the agency:

(a) Frankfort - Perimeter Park West - Building C, 1270 Louisville Road, Frankfort, Kentucky 40601;

(b) Louisville - Fourth Floor - The Meyer Building, 624 West Main Street, Louisville, Kentucky 40202;

(c) Lexington - 950 Commerce National Building, Lexington, Kentucky 40507;

(d) Paducah - 220B North 8th Street, Paducah, Kentucky 42001;

(e) Pikeville - The Justice Building, 3rd Floor, 314-316 Second Street, Pikeville, Kentucky 41501.

(2) Office hours of each office are 9 a.m. to 4 p.m., Monday through Friday, inclusive, for this purpose.

JUDGE ARMAND ANGELUCCI, Chairman

APPROVED BY AGENCY: March 15, 1994

FILED WITH LRC: March 15, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing will be held at the Farnham Dudgeon Civic Center, Capital Plaza Complex, Conference Rooms ABC, 405 Mero Street, Frankfort, Kentucky 40601, 10 a.m., on April 21, 1994. Individuals interested in attending this hearing shall notify this agency in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing

is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request and prior arrangements for a transcript are made five days prior to the hearing. 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: Karl F. Hohmann, Jr., Attorney, Department of Workers' Claims, 1270 Louisville Road, Perimeter Park West, Frankfort, KY 40601, (502) 564-5550.

REGULATORY IMPACT ANALYSIS

Contact Person: Karl F. Hohmann, Jr.

(1) Type and number of entities affected: This regulation will affect both individual and group self-insured employers under proposed regulations 803 KAR 25:021 and 803 KAR 25:026. As discussed in the impact analyses filed with those proposed regulations, there are currently 15 group self-insurance pools representing over 5,500 employers in Kentucky, and there are 241 self-insured employers providing coverage for subsidiaries and related employers numbering more than 280,000. Since some of the forms used for groups and individual self-insurers are the same, the self-insurance forms have been placed in a separate regulation.

(a) Direct and indirect costs or savings to those affected:

1. First year: Since all of these forms, or some variation on them, are currently in use there will no costs and no savings resulting from this regulation.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: The forms incorporated by reference in this regulation include the application and renewal forms to be used by both group and individual self-insurers.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None known.

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

(3) Assessment of anticipated effect on state and local revenues: This regulation will not have any effect on state and local revenues.

(4) Assessment of alternative method; reasons why alternatives were rejected: Forms for both group and individual self-insurers have been placed in a single, separate regulation since forms for bonds, letters of credit, depository contracts, and the like are the same for both group and individual self-insurers.

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

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: None

TIERING: Is tiering applied? Yes. The application forms for group and individual self-insurers are different because of the different kinds of information required from each.

CABINET FOR HUMAN RESOURCES
Office for Policy and Budget

900 KAR 1:070. Deaf and hard of hearing services.

RELATES TO: KRS 12.290, 29 USC 794, 42 USC 12101 et seq.

STATUTORY AUTHORITY: KRS 12.290, 194.050

NECESSITY AND FUNCTION: In accordance with federal mandates in 29 USC 794, 42 USC 12101 et seq., and KRS 12.290 the Cabinet for Human Resources has a responsibility to assure equal entrance opportunities and access to program services directly administered or through contract to persons who are deaf or hard of hearing. This administrative regulation sets forth cabinet procedures.

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Human Resources.

(2) "Emergency provisions" means the cabinet offices and agency facilities shall maintain an updated listing of qualified interpreters who are available on a twenty-four (24) hour basis to provide services.

(3) "Individual" means a person who is deaf or hard of hearing.

(4) "Interpreter" means a qualified interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary. If the person seeking services, cabinet staff or contract agency of the cabinet questions the qualifications of the individual designated to provide interpreter services, qualifications may be demonstrated as follows:

(a) By possession of a national interpreter certification; or

(b) By documentation demonstrating passage of the state screening test administered by the Kentucky Commission on the Deaf and Hard of Hearing (KCDHH) or verification of equivalent qualifications obtained in other states.

(5) "Ongoing interpreter services" means interpreter services required to meet the needs of residents, patients, or outpatients who are residing in or receiving services from cabinet facilities or contract agents of the cabinet.

(6) "Portal to portal" means time spent by an interpreter working on an authorized assignment whose pay is based on moment of departure from home or office until time of return.

(7) "Time limited" means interpreter services which are provided to an individual who is deaf or hard of hearing in order to assist with equal entrance opportunities and access to program services directly administered by the cabinet.

(8) "Timely request" for interpreter services means verbal requests which includes requests made by TDD or written requests are deemed to be timely if they are received by the location designated to provide the service at least seventy-two (72) hours, excluding weekends and holidays, prior to the date of service.

(9) "TDD" means telecommunications device for the deaf for individuals who are deaf or hard of hearing.

(10) "Volunteer" means a person who is available to insure benefit program applications for indigent citizens are expedited and not delayed when an interpreter is not readily accessible in the applicant's county. A family member or a friend of a deaf or hard of hearing person who volunteers to provide interpreter services may be considered qualified by the person seeking services. Volunteers may be used only when services are not related to direct social services or mental health or mental retardation services. Exceptions and alternatives to volunteers are specified in Section 2(3) of this administrative regulation.

Section 2. Provision of Interpreter Services. (1) Any deaf or hard of hearing person requesting services directly administered by the cabinet shall have interpreter services made available through the cabinet agency upon the timely request of the individual. If interpreter services cannot be made available to the individual within the time specified in Section 1(8) of this administrative regulation, the cabinet

agency shall arrange for services as soon as an interpreter is available for scheduling by the agency or facility.

(2) When available, the cabinet agency or facility shall use on-site personnel qualified to provide interpreter services.

(3) The agency, facility or individual may determine that a family member or a friend, who volunteers to provide time limited services, is not appropriate or qualified to provide interpreter services. A determination that a family member or friend is not appropriate or qualified to render services may be based on such factors as emotional or personal involvement or reasons pertaining to confidentiality.

(4) If no qualified person is available to provide interpreter services, supervisory personnel shall request assistance from an available community resource or the KCDHH which can access interpreter services.

(5) The Department for Mental Health and Mental Retardation Services and the Department for Social Services facilities shall have emergency provisions as specified in Section 1(2) of this administrative regulation for individuals who are patients or residents.

(6) Any interpreter who provides interpreter services shall comply with federal and state requirements which govern the confidentiality of information and records relating to services provided by the cabinet or its contract agents.

Section 3. Payment for Qualified Interpreter Services. (1) Whenever possible, interpreter services involving no additional cost to the cabinet shall be used for time limited and ongoing services.

(2) Payment for nonvolunteer or qualified nonagency staff shall be compensated at a rate of up to twenty-two (22) dollars per hour for time limited interpreter services. This shall be an all inclusive payment, which includes mileage, within the portal to portal payment. Interpreters shall be paid for at least two (2) hours of service which can include waiting time due to delays in appointments.

(3) If ongoing interpreter services as defined in Section 1(5) of this administrative regulation are required, the cabinet or contract agency shall purchase interpreter services at a cost effective rate.

Section 4. Complaints. Any deaf or hard of hearing person denied access to services provided directly or through contractual arrangement with the cabinet may file a complaint with the cabinet's Ombudsman Office in writing or through a TDD as follows:

(1) A toll free 800 TDD telephone number is available to access the cabinet Ombudsman Office.

(2) The mailing address for the cabinet's ombudsman is the Cabinet for Human Resources Building, 275 East Main Street, Frankfort, KY 40621.

(3) The Kentucky Relay Service allows hearing persons without a TDD to call a person who is deaf or hard of hearing. This service also permits a deaf or hard of hearing person to call a hearing person. Voice to TDD Is available in Kentucky, toll free, through an 800 telephone number. TDD to voice is available in Kentucky, toll free, through an 800 telephone number.

BOB SNYDER, Executive Director
FONTAINE BANKS, JR., Secretary

APPROVED BY AGENCY: March 1, 1994

FILED WITH LRC: March 8, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1994 at 9 a.m. at the Health Services Auditorium, 1st Floor, CHR Building. Individuals interested in attending this hearing shall notify this agency in writing by April 16, 1994 five days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William K. Moore, Jr., Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900.

REGULATORY IMPACT ANALYSIS

Contact person: Bob Snyder

(1) Type and number of entities affected:

(a) Direct and indirect cost or savings to those affected:

1. First year: Exact savings to CHR are difficult to quantify since there is no particular object code to charge for deaf interpreters only. However, cabinet experience in attempting to secure interpreters for CHR budget hearings held throughout the state during Spring of 93 and for Health Reform Town Meetings indicated wide variations in hourly charges for interpreter services, mileage, time in transit, etc.

2. Continuing cost or savings: CHR should realign savings resulting from implementation of an hourly limit on charges for interpreter services.

3. Additional factors increasing or decreasing cost (Note any effects upon competition): Interpreters are so scarce now, there is more demand than there are available interpreters. This will limit what the cabinet will pay interpreters. Many interpreters now charge whatever they wish.

(b) Reporting and paperwork requirements: No additional reporting or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect cost or savings:

1. First year: Indeterminable

2. Continuing cost or savings: Indeterminable

3. Additional factors increasing or decreasing costs: See item (1)(a)3 above.

(b) Reporting and paperwork requirements: No additional reporting or paperwork requirements.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternative would be to continue to pay whatever individual interpreters decide to charge.

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: The cabinet's use of volunteers and family members is to insure benefit program applications are expedited for indigent citizens. Currently, only 24 counties within the Commonwealth have interpreters. The majority of these counties are located in or surrounding the Lexington/Louisville/Covington area of Kentucky.

Tiering: Was tiering applied? No. Tiering was not appropriate since the provisions of the administrative regulation apply equally to ensure access to Cabinet for Human Resources programs.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 29 USC 794, 42 USC 12101 et seq.

2. State compliance standards. Access to disabled including deaf and hard of hearing must be assured to state service programs.

3. Minimum or uniform standards contained in the federal mandate. None

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 standards, or additional or different responsibilities or requirements. This administrative regulation does not exceed federal requirements.

CABINET FOR HUMAN RESOURCES
Office for Policy and Budget

900 KAR 1:080. Standards governing scientific misconduct.

RELATES TO: KRS 194.050(1), Chapter 6A §289b, 42 CFR Section 50.101 to 50.104

STATUTORY AUTHORITY: KRS 194.050(1)

NECESSITY AND FUNCTION: The promulgation of this administrative regulation is necessary to comply with 42 CFR Section 50.101 to 50.104 which mandates that the Cabinet for Human Resources establish uniform policies and procedures for investigating and reporting instances of alleged, or apparent, misconduct involving: research or research training, applications for support of research, research training, related research activities, or other activities supported with funds made available under the Public Health Service (PHS) Act. The function of this administrative regulation is to establish a procedure for inquiry, investigation, appeal and disposition of complaints alleging scientific misconduct in activities involving PHS research grants.

Section 1. Definitions. (1) "Inquiry" means information gathering and initial fact finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.

(2) "Investigation" means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred.

(3) "Misconduct", "scientific misconduct", or "misconduct in science" means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgements of data.

(4) "Research" means a systematic investigation designed to develop or contribute to generalizable knowledge and included descriptive and exploratory activities intended to lay the ground work for contributions to knowledge. It does not include investigations designed to support administrative or executive decisions unless the investigation is specifically described by the investigator as scientific.

(5) "Complainant" means an individual, sponsoring agency, or agency person who alleges that scientific misconduct has taken place.

(6) "Respondent" means the individual who is alleged to be guilty of scientific misconduct.

(7) "Sponsoring agency" means the agency which funded the research activities relevant to the alleged scientific misconduct of the respondent.

(8) "Secretary" is defined in KRS 194.020.

(9) "Cabinet" is defined in KRS 194.010.

(10) "OSI" means the Office of Scientific Integrity of the National Institutes of Health of the Department for Health and Human Services.

(11) "PHS" means the U.S. Public Health Service.

(12) "HHS" means the U.S. Department for Health and Human Services.

(13) "Act" means the Public Health Service Act, as amended, (42 USC 201 et seq.).

Section 2. Applicability of this Regulation. This regulation applies only to the investigating and reporting of instances of alleged, or apparent, misconduct involving: research or research training, applications for support of research, research training, related research activities, or other activities supported with funds made available under the Public Health Service (PHS) Act.

Section 3. Initial Inquiry. (1) Following receipt of a complaint alleging scientific misconduct, involving research or research training, applications for support of research or research training, or related research activities that are supported with funds made available under the Act, the secretary shall:

(a) Consult with the appropriate commissioner or office head; and

(b) Appoint a complaint review team, composed of a minimum of three (3) members, to conduct an inquiry into an allegation of scientific misconduct.

(2) Members of the complaint review team shall:

(a) Have no real or apparent conflicts of interest bearing on the case in question;

(b) Have sufficient training and expertise to understand and to apply the concepts of "science" and "misconduct" to the research study within which misconduct has been alleged; and

(c) Conduct the inquiry in an unbiased and confidential manner.

(3) Except as provided in subsection (4) of this section, upon initiation of an inquiry the complaint review team shall:

(a) Examine the basis of the complaint;

(b) Notify the respondent of the:

1. Substance of the complaint allegations;

2. Procedure for inquiry, investigations and appeal; and

3. Respondent's obligation to cooperate and provide materials or information necessary to conduct the inquiry;

(c) Prepare a written report, as specified in Section 2(9) of this administrative regulation; and

(d) Forward the report to the secretary within sixty (60) days or less from the date of the complaint referral.

(4)(a) The complaint review team may request that the secretary grant an extension of the inquiry beyond sixty (60) days.

(b) A request for an extension shall be in writing, and shall:

1. State the reasons for the delay and why an extension is necessary; and

2. Describe the progress of the inquiry to date.

(c) The secretary shall grant an extension if he determines that circumstances warrant an extension.

(d) If an extension is granted by the secretary, the complaint review team shall notify the respondent, complainant, and sponsoring agency of the extension.

(5) The complaint review team shall immediately notify the secretary if it determines that any of the following circumstances appear to exist:

(a) An immediate health hazard;

(b) An immediate need to protect public funds or equipment;

(c) An immediate need to protect the interests of the persons making the allegations or the individual subject to the allegations or his coinvestigators or associates, if any;

(d) A probability that the alleged incident will be reported publicly; and

(e) A reasonable indication of possible criminal activity in a Public Health Services Grant. In this instance, the secretary shall inform the OSI within twenty-four (24) hours of obtaining such information.

(6) The Director of OSI shall be notified when:

(a) A formal investigation is warranted; or

(b) An inquiry is terminated before its conclusion.

(7) An agency or institution shall securely retain detailed documentation of the inquiry for a period of three (3) years for the purpose of later assessment of the reasons for which an investigation was not warranted.

(8)(a) During and upon completion of the inquiry, the complaint review team shall:

1. Protect the privacy of those persons, who in good faith, report alleged misconduct; and

2. Afford the respondent confidential treatment to the maximum extent possible.

(b) A respondent shall have the right to comment upon the:
1. Allegations;
2. Inquiry findings; and
3. Subsequent investigation.
(9)(a) The complaint review team shall submit a written report to the secretary within sixty (60) days of the date of referral.
(b) The report shall include a:
1. Description of evidence reviewed;
2. Summary of the names and statements of persons interviewed; and
3. Inquiry conclusions and recommendations.
(10) Upon the completion of the inquiry, the secretary shall provide:
(a) The respondent with a copy of the inquiry report; and
(b) A written notice to the respondent and complainant of his determination to:
1. Conduct a formal investigation; or
2. End the inquiry, if the allegation is unsupported by the facts, and it has been determined that no further formal action will be taken.
(11) The cabinet shall:
(a) Maintain documentation of inquires in a secure manner for a period of at least three (3) years after the termination of the inquiry; and
(b) Upon request, make the documentation available to authorized Health and Human Services personnel.

Section 4. Investigation Notification. (1) The secretary shall undertake an investigation if the findings from the inquiry provide a sufficient basis for conducting an investigation.
(2) If the secretary determines that an investigation is warranted, the secretary shall:
(a) Commence the investigation within thirty (30) days of completion of the inquiry;
(b) Provide written notification to the:
1. Director of the OSI, on or before the date the investigation commences;
2. Complainant;
3. Respondent; and
4. Sponsoring agency.
(3) The notification to OSI shall include:
(a) The name of the respondent;
(b) A statement of the nature of the allegation(s); and
(c) The public health service application or grant number involved.
(4)(a) Information provided to OSI shall:
1. Be held in confidence to the extent permitted by law; and
2. Not be disclosed as part of the federal peer review and advisory committee review process.
(b) The information may be used by the Secretary of Health and Human Services in making decisions about the award or continuation of funding.
(5) The respondent shall have the right to:
(a) Respond to the allegation, inquiry and report findings; and
(b) Be represented by legal counsel.

Section 5. Investigation Procedure. (1) The investigation shall be conducted by:
(a) An investigatory team appointed by the secretary taking precautions to avoid real or apparent conflicts or interest on the part of those involved in the investigation; and
(b) A legal representative of the Department of Law.
(2) The secretary may choose to appoint additional investigation team members who may provide expertise necessary to conduct a thorough investigation.
(3) The investigation of the alleged incident of scientific misconduct shall include at least an:
(a) Examination of all documentation gathered during and subsequent to the inquiry;
(b) Related research data and proposals;
(c) Related publications;
(d) Related correspondence;
(e) Memoranda of any related telephone calls; and
(f) Interviews of all individuals involved, including the complainant and respondent.
(4) Complete summaries of all interviews shall be:
(a) Prepared and provided to the interviewed party for comment or revision; and
(b) Included as part of the investigatory file.
(5)(a) The investigation team shall submit the information specified in Section 4(9) of this administrative regulation to the secretary within 120 days from the commencement of the investigation.
(b) This period shall include:
1. Conducting the investigation;
2. Making the report available to the respondent for comment; and
3. Submitting the report to OSI.
(6)(a) If an investigation cannot be completed within 120 days, the investigatory team shall submit a written request to the secretary for an extension of time.
(b) The request shall contain an:
1. Explanation of the reason for the delay;
2. Interim report of the progress made; and
3. Estimate of time required for completion.
(c) If the secretary agrees with the request for an extension, he shall resubmit a request for an extension of the investigation to OSI. The request shall contain the items specified in paragraph (b) of this section.
(7)(a) If an extension is granted, the cabinet shall file periodic progress reports with the OSI.
(b) If satisfactory progress, in the investigation, has not been made by the cabinet, the OSI may undertake an investigation of its own.
(8) If it is determined by the investigation team that additional information, discovered during the investigation process, justifies broadening the scope of the investigation beyond the initial allegations, the team shall notify the:
(a) Secretary;
(b) OSI; and
(c) Respondent.
(9) Upon completion of the investigation, the investigation team shall submit a final written report to the secretary. The report shall include:
(a) A description of the procedures under which the investigation was conducted;
(b) Names and titles of persons interviewed;
(c) How information was obtained relevant to the investigation;
(d) Supporting documentation;
(e) Basis for findings;
(f) Findings, including the actual text or an accurate summary of the statements of the respondent; and
(g) Recommended disciplinary actions.
(10) Upon receipt of the final report, the secretary shall make a finding:
(a) Of misconduct and the disciplinary action to be taken by the cabinet;
(b) That no culpable conduct was committed, but serious scientific errors were discovered; or
(c) That no fraud, misconduct or serious scientific error was committed.
(11) The secretary shall forward written notification of the findings and a copy of the final report to the:
(a) Director of OSI;
(b) Respondent; and
(c) Sponsoring agency.

Section 6. Inquiry or Investigation Termination. If the cabinet intends to terminate an inquiry or investigation for any reason without completing the requirements of this administrative regulation, a report shall be filed to OSI stating the:

(1) Intention to terminate; and

(2) A description of the reasons for termination.

Section 7. Investigation Findings. (1) Documents, proceedings, findings and reports pertaining to the inquiry, investigation and final disposition shall be:

(a) Maintained as confidential; and

(b) Retained by the agency in a secure file for a period of three (3) years.

(2) If confidentiality is breached, the secretary shall take reasonable steps to minimize damage to the respondent's reputation that may result from inaccurate reports.

(3) The secretary may make a determination that no formal action will be taken, other than informing all involved parties if:

(a) An allegation is found to be unsupported; and

(b) Has been submitted in good faith.

(4) The secretary shall:

(a) Pending completion of the inquiry or investigation, have the authority to take interim disciplinary actions as he deems necessary to promote the integrity of:

1. Scientific research;

2. Funding;

3. Documentation; and

4. The reputations of all parties involved in the inquiry and investigation;

(b) Implement measures to:

1. Protect, to the maximum extent possible, the privacy of those, who in good faith, report apparent misconduct; and

2. Prevent retaliatory action against the complainant.

(5) If the respondent resigns from employment, the cabinet shall ensure that the investigation is completed.

Section 8. Appeal of the Finding of the Final Report. (1) If the respondent is an employee of the Cabinet for Human Resources, then the secretary may use the disciplinary powers available to him as secretary and any appeals should be made to the Personnel Board as provided for in KRS 18A.095.

(2) If the respondent is not an employee of the Cabinet for Human Resources, then the secretary may use those disciplinary options and appeals that shall be built into the grant or contract, funding the research involved in the allegation of misconduct.

(3) After the time limit for an appeal expires or after all appeals have been resolved, the secretary may at his discretion, give notification to:

(a) Sponsoring agencies, funding sources;

(b) Coauthors, coinvestigators, collaborators;

(c) Editors of journals in which fraudulent research was published;

(d) State professional licensing boards;

(e) Editors of journals or other publication, other institutions, sponsoring agencies, funding sources with which the respondent has been affiliated;

(f) Professional societies; and

(g) Where appropriate, criminal authorities.

(4) The process for appealing any actions imposed by the U.S. Department of Health and Human Services shall be through the appeals process set up by the U.S. Department of Health and Human Services for this purpose.

BOB SNYDER, Executive Director
FONTAINE BANKS, JR., Secretary

APPROVED BY AGENCY: February 28, 1994

FILED WITH LRC: March 8, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1994, at 9 a.m. in the Health Services Auditorium, 1st Floor, Health Services Building. Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William K. Moore, Deputy Counsel, Department of Law, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621, (502) 564-7900.

REGULATORY IMPACT ANALYSIS

Contact person: Bob Snyder

(1) Type and number of entities affected: Researchers in CHR or under contract with CHR funded from the U.S. Public Health Service.

(a) Direct and indirect costs or savings to those affected:

1. First year: None expected.

2. Continuing costs or savings: None expected.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The number of alleged incidences of scientific misconduct.

(b) Reporting and paperwork requirements: Inquiries and investigations of alleged misconduct must be documented.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None expected.

2. Continuing costs or savings: None expected.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Only alternative is to pass up requesting PHS funds.

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

(a) Necessity of proposed administrative regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: Not applicable.

TIERING: Is tiering applied? No. The only entities affected by this regulation are researchers receiving research monies through CHR from the U.S. Public Health Service and all such entities are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Health Service Chapter 6A §2896, 42 CFR Section 50.101 to 50.104.

2. State compliance standards. This administrative regulation requires the secretary to follow-up any allegation of scientific misconduct with an initial inquiry and if necessary a full investigation, when the allegation involves Public Health Service Research funds.

3. Minimum or uniform standards contained in the federal mandate. The federal regulations require at least an inquiry to evaluate the allegation and a full investigation if the allegation appears valid.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The regulation is neither more strict

nor less strict than the federal regulations require.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. None needed.

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

903 KAR 5:391. Repeal of 903 KAR 5:390.

RELATES TO: KRS 341.370

STATUTORY AUTHORITY: KRS 13A.100, 341.115

NECESSITY AND FUNCTION: This administrative regulation repeals 903 KAR 5:390 which delineates the proper adjudication procedures for determining qualifications of benefits for claimants that are unemployed as a result of a reduction of workforce initiated by the employer. An order issued by the Franklin Circuit Court as a result of Civil Action declared payment of unemployment benefits under this administrative regulation not in compliance with KRS 341.370 and thus, said administrative regulation was an unlawful derogation of said statute.

Section 1. 903 KAR 5:390, Reduction in workforce; no disqualification, is hereby repealed.

MARGARET WHITTET, Commissioner
FONTAINE BANKS, JR., Secretary

APPROVED BY AGENCY: February 8, 1994

FILED WITH LRC: February 25, 1994 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1994, at 9 a.m. at the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by April 16, 1994, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: William K. Moore, Deputy Counsel, Department of Law, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Contact person: Margaret Whittet

(1) Type and number of entities affected: Unemployment Insurance claimants and employers covered by the UI law on a taxing or reimbursement basis.

(a) Direct and indirect costs or savings to those affected:

1. First year: Claimants may not be paid UI benefits when involved in an employer workforce reduction.

2. Continuing costs or savings: Claimants may not receive UI benefits. Employers tax or reimbursing costs may go down.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no means to calculate the number of employers who would initiate a reduction in force or the number of claimants that would be affected.

(b) Reporting and paperwork requirements: No additional requirements.

(2) Effects on the promulgating administrative body: The UI Trust Fund balance might increase, but there would be no significant impact.

(a) Direct and indirect costs or savings: There is no way to forecast the amount benefit charges to the trust fund are based on claims paid.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None available.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed administrative regulation if in conflict: To remove conflict with statute.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: See comments.

(6) Any additional information or comments: An order issued by the Franklin Circuit Court declared 903 KAR 5:390 was not in compliance with statute. Therefore, it must be repealed.

TIERING: Is tiering applied? No. Respectively, all claimants and employers will be treated the same.

REPRINT

COMPILER'S NOTE: 415 KAR 1:110 is being reprinted to correct an error in Section 1(1)(g). When published in the Administrative Register due to being amended after public hearing, the compiler's office failed to include the word **not** in this paragraph.

415 KAR 1:110. Contractor costs.

RELATES TO: KRS 224.60-120, 224.60-130, 224.60-140, 40 CFR Part 280

STATUTORY AUTHORITY: KRS 224.60-120, 224.60-130

NECESSITY AND FUNCTION: KRS 224.60-130 requires the commission to establish a range of amounts to be paid from the fund for the cost of corrective action, and to establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. This regulation establishes the range of amounts that will be paid for the performance of particular aspects of corrective action and the manner of providing bids by contractors to determine eligibility for reimbursement from the fund.

Section 1. Range of Amounts to be Paid by the Fund for the Cost of Performing Corrective Action. (1) The commission shall not pay more than the following amounts for the performance of corrective action by certified contractors:

(a) Pavement removal and replacement not including labor costs:

Asphalt	
Removal	
includes the cost of loading:	
1) asphalt pad, for each 3 inches of thickness, per square yard	$1.30 to $1.60
2) asphalt curbing, per linear foot	$1.25 to $1.55
Replacement	
1) asphalt pad, for each 4 inches of thickness, per square yard	$2.70 to $3.30
2) asphalt curb and gutter, per linear foot	$3.50 to $4.40
Concrete	
Removal	
- includes the cost of loading:	
1) concrete pad, per square yard	
4 inches thick	$1.70 to $2
6 inches thick	$3.25 to $3.95
9 inches thick	$8.20 to $10
10 inches or more thick	$26 to $31
with rebar	add 15%
2) concrete curbing, per linear foot	$4.50 to $5.50
Replacement	
1) concrete, 4 inches thick, per square foot	$2 to $2.80
with rebar	add 15%
2) for each additional inch, per square foot	$0.20 to $0.30
Transportation of asphalt or concrete to disposal facility, per cubic yard, for each 20 miles - mileage must be documented; if closest disposal facility not used, reasonableness of cost must be justified	$6.60 to $8
Disposal fee, per cubic yard, not to exceed actual cost per unit	$12 to $25

(b) Excavation and disposal of contaminated soil, not including labor costs:

Excavation and stockpiling or loading directly to trucks, per cubic yard	$3.15 to $3.85
Install and compact backfill, per cubic yard	$9 to $15
Transportation of contaminated soil to disposal facility, per cubic yard, for each 20 miles - mileage must be documented, if closest disposal facility not used, reasonableness of cost must be justified	$6.60 to $8
Disposal fee, per cubic yard, not to exceed actual cost per unit	$12 to $25

(c) Treatment of soils or water, not including labor costs:

Pump and treat contaminated water and charcoal filtration, per 1,000 gallons	$0.25 to $2.50
Operation of] air stripper, per 1,000 gallons	$0.05 to $0.25
Treatment of contaminated soil by thermal desorber, landfarming, or other treatment of contaminated soil, per cubic yard, not to exceed actual cost per unit	$12 to $25
Disposal of contaminated water in waste-water treatment plan, per gallon, not to exceed actual cost per unit	$0.50 to $1.50

(d) Labor rates, per hour:

Labor rates include all fringes and benefits, and contractor's profits.

Carpenter	$25 to $35
Cement finisher	$25 to $35
Electrician	$25 to $30
Electrical contractor	$30 to $40
Equipment operator	$20 to $30
Laborer	$15 to $20
Master plumber	$30 to $40
Journeyman plumber	$20 to $30
Apprentice plumber	$20 to $25

(e) Geologic and field services labor rates, per hour:

Labor rates include all fringes and benefits, and contractor's profits.

Certified contractor	$75 to $90
Professional engineer	$70 to $80
Engineer-in-training	$45 to $55
Geologist	$45 to $55
Registered geologist	$70 to $80
Draft person	$25 to $35
Environmental technician, trained in sample collection	$35 to $45
Environmental specialist, must have a bachelor of science degree in chemistry, biochemistry, biology, or soil science	$45 to $55
Secretarial	$15 to $20
Mileage, per mile for automobile, pickup truck or utility vehicle	$0.22
Overnight lodging - must be demonstrated to be necessary	$35 to $70

Meals - when overnight stay is necessary	
Breakfast	$4
Lunch $5	
Supper	$11
Long distance telephone calls	Actual cost
Soil gas analysis for VOC (equipment charge), per day	$150

(f) Environmental exploration - does not include labor costs unless so stated:

Mobilization and demobilization of drilling equipment (includes rig, two (2) man crew, and initial off-site steam cleaning):	
1) Auger rig, core rig, or wash rotary rig, per mile, minimum of $200	$2 to $3
2) Air rotary rig, per mile, minimum of $350	$3.50 to $4
Installation of monitoring well, 4 inch diameter per linear foot	$20 to $35
Drilling (excluding monitoring well) per linear foot	$7 to $30
For depths greater than 60 feet, add $2.40 per linear foot.	
Hourly services (rig and two (2) man crew)	
May include drilling, well installation, decontamination, well development, difficult moving, and delay (not related to weather or mechanical breakdown), per hour	$110 to $130
Equipment	
Steam cleaner, per day	$50 to $75
Self-contained steam cleaning unit, per day	$100 to $125
Grout unit, per day	$45 to $75
Water trailer (500 gal.), per day	$50 to $75
Water truck (1000 gal.), per day	$125 to $175
Materials	
Well materials, decontamination supplies, health and safety supplies, grout, well casing and screen, filter pack, well covers, etc.	Actual cost+15%

(g) Sampling analysis, **not** including labor to take sample, sampling materials, transportation of sample, and chain of custody:

Soil Sample	
BTEX (benzene, toluene, ethylbenzene, xylene)	$50 to $120
Method 5030 in conjunction with SW 846 8240, 8260, 8020 or 8021	
Polynuclear Aromatic Hydrocarbons	$150 to $220
Method 3540 or 3550 in conjunction with SW 846 8100, 8270 or 8310	
Total recoverable oil and grease	
Method SW 846 9071	$50 to $60
Lead	
Method SW 846 7421 or 6010	$25 to $45
Water Samples	
BTEX (benzene, toluene, ethylbenzene, xylene)	$50 to $120
Method 5030 in conjunction with SW 846 8240, 8260, 8020 or 8021	
Polynuclear Aromatic Hydrocarbons	$150 to $220
Method 3540 or 3550 in conjunction with SW 846 8100, 8270 or 8310	
Total recoverable oil and grease	$30 to $60
Method SW 846 9070	
Total Lead	$30 to $60
Method SW 846 7421 or 6010	
Sludge and Cleaning Liquid Samples	
Toxicity Characteristic Leading Procedure for the parameters of metals, volatile organics, and Acid/Base/Neutral.	$650 to $750
If the parameter of Pesticides and Herbicides is required	$50
Ignitability	
SW846 Method 9095	$25 to $35
Paint Filter Test	
SW846 Method 1010	$15 to $30

(h) Legal Services

Attorney	
Sole practitioner, per hour	$40
Partner or principle in firm, per hour	$75
Associate in firm, per hour	$60
Paralegal, per hour	$30

(2) An amount in excess of the maximum amount set forth in subsection (1) may be approved by the commission if the contractor demonstrates that the additional cost is necessary to the performance of corrective action and the services or materials are not available at a lower cost.

(3) At the first regular meeting of the commission in each calendar year, the commission shall appoint a committee to review the appropriateness of the range of amounts established by this administrative regulation. The committee shall consist of three (3) members of the commission and the executive director. The committee shall:

(a) Establish a mailing list of persons who want to comment on this issue;

(b) Solicit comments and information from interested persons and persons who contract to perform corrective action;

(c) Conduct a public hearing to receive comment on the cost of corrective action; and

(d) Submit a report to the commission by July 1 of each calendar year recommending changes or revisions to this administrative regulation.

Section 2. Range of Amounts To Be Paid For Items Not Listed In Section 1 of this Administrative Regulation. (1) Items not listed in Section 1 of this administrative regulation are subject to the following qualifications:

(a) Original invoices from manufacturers or retailers shall be supplied to the commission;

(b) Unlisted items shall be subject to a maximum reimbursable amount of fifteen (15) percent above cost, which includes rentals or purchases;

(c) No markups shall be allowed on any pass through costs such as utilities or employee expense accounts; and

(d) Out-of-state travel expenses, including but not limited to air fare, shall not be reimbursed unless demonstrated to be necessary for the performance of corrective action (example: expertise not available within state);

(e) The cost is reasonable and necessary to the performance of corrective action.

(2) Costs for alternative corrective action technologies, such as soil venting, bioremediation, and groundwater treatment systems, shall be subject to the range of costs set forth in this section where appropriate. Additional costs associated with the technology shall be justified as to reasonableness and necessity.

(3) Costs of corrective action performed by an owner or operator as an initial response or an action to prevent or remedy an emergency situation, or as directed by the cabinet, shall be subject to the range of costs set forth in Section 1 of this administrative regulation where appropriate. These costs shall be justified as to reasonableness and necessity.

Section 3. Eligibility Criteria for Persons Who Contract to Perform Corrective Action. To be eligible for payment from the fund, persons who contract to perform corrective action shall be certified according to 415 KAR 1:115 and shall provide a bid proposal to the owner or operator. The bid shall be submitted on the "Bid Proposal Form".

(1) Personnel shall be categorized according to the applicable type of personnel described in Section 1 of this administrative regulation and the appropriate rate applied;

(2) Costs shall be itemized to comply with the cost items listed in Section 1 of this administrative regulation;

(3) Original invoices shall be submitted with a request for payment or reimbursement from the fund;

(4) Documentation and additional information to support the request for payment or reimbursement shall be supplied as requested by commission staff.

Section 4. Certification of Contractor Costs. (1)(a) The commission may issue a request for proposals from individuals or companies engaged in the performance of corrective action for releases from petroleum storage tanks.

(b) The commission shall establish the date by which the proposals shall be submitted in its request for proposals.

(2) The commission shall specify in the notice of the request for proposals the information to be submitted by the individual or company. The information to be supplied shall include:

(a) Verification that the submitter is a certified contractor, or a company employing certified contractors. A company shall include the name and position of its certified contractors;

(b) A statement of qualification of the individual or company, including a statement of relevant experience in the performance of corrective action for releases from petroleum storage tanks;

(c) A list of references, including the name, business address, and telephone number of at least three (3) persons for whom the individual or company has performed corrective action for a release from a petroleum storage tank. If the company has not performed corrective action for at least three (3) persons, a list of persons for whom the certified contractors employed by the company have performed corrective action may be submitted;

(d) A schedule of fees that the individual or company proposes to charge an owner or operator for the performances of corrective action for a release from a petroleum storage tank. The schedule of fees shall set forth a cost for each of the items listed in Section 1 of this administrative regulation. The schedule shall note any differences or variations in listed costs attributable to length of necessary transportation, or other factors. If subcontractors are to be used, the schedule shall specify the maximum cost to be charged by the individual or company for the corrective action activities to be performed by a subcontractor;

(e) A verification by the individual, or an authorized agent of the company, that the proposal is true and accurate, and that the schedule of fees shall be applicable for a period of one (1) year from the date by which proposals shall be submitted to the commission;

(3) The commission shall review all proposals received after the date established by the commission for submittal of proposals. Proposals are to be submitted for the purpose of assisting the commission in the regulation of persons who contract to perform corrective action. These proposals shall not be made available for public inspection until after the date for submittal established by the commission, since to do so would create an unfair advantage for competitors of the individual or company. Proposals may not be amended after the date for submittal, except as provided in subsection (6) of this section.

(4) Commission staff shall review each proposal to verify that the individual or company complies with the requirements for contractor certification, is qualified to perform corrective action for releases from petroleum storage tanks, and the proposed costs comply with the requirements of Section 1 of this administrative regulation.

(5) If the commission verifies that the individual or company complies with the requirements of subsection (4) of the section, the individual or company shall be placed upon a list of approved contractors that shall be made available to owners or operators of petroleum storage tanks upon request.

(6) If the commission verifies a proposal, the individual or company shall not charge the owner or operator more than the listed costs on the schedule of fees unless the individual or company demonstrates to the satisfaction of the commission that:

(a) The increase in costs was beyond the reasonable control of the contractor;

(b) The increase is due to an increase in costs to the contractor, such as an increase in disposal fees or equipment costs, and is supported by adequate documentation; and

(c) The increase is reasonable and necessary to cover the actual costs of performing corrective action.

(7) Claims submitted to the commission by an owner or operator for the costs of corrective action performed by an approved contractor shall be reviewed by the commission staff to determine that the costs were necessary.

Section 5. (1) "Bid Proposal Form (August, 1993)" is incorporated by reference.

(2) This form may be obtained, inspected, or copied at the Petroleum Storage Tank Environmental Assurance Fund Commission, 911 Leawood Drive, Frankfort, Kentucky, (502) 564-5981, 8 a.m. to 4:30 p.m., ET, Monday through Friday.

Section 6. The provisions of this regulation shall be enforced beginning January 1, 1994. (20 Ky.R. 706; Am. 1006; 1612; eff. 12-17-93.)

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the March 7, 1994 Meeting

The March meeting of the Administrative Regulation Review Subcommittee was held on Monday, March 7, 1994 at 6:15 p.m. in Room 131 of the Capitol Annex. Chairman Tom Kerr called the meeting to order, and the secretary called the roll. The minutes of the February 7-8, 1994 meeting were approved.

Present were:

Members: Representative Tom Kerr, Chairman; Senators Tom Smith, Nick Kafoglis, Gene Huff; Representatives Jim Bruce, Woody Allen and James Yates.

Guests: Billy Hunt, James M. Baker, Teacher's Retirement; Jack Damron, Judy Morris, Brenda Priestly, Louis Smith, Bill Seabold, Department of Corrections; Sandra Pullen, Transportation Cabinet; Kevin Noland, Akeel Zaheer, Teresa Howard Wasson, Gary Griessen, Donna DeSpain, Maureen Fitzgerald, Kenneth R. Warlick, Rita Byrd, Preston Lewis, Mike Roscoie, Debbie Hendricks, Nancy Hellringer, Carlene F. Gobert; Department of Education; Carla H. Montgomery, Department of Insurance; Jim McClure, Greg Lawther, Sharon Surbeck, Paul Gibson, Anita Moore, Beth Jurek, Gwen Winters, Sue Howard, Brooke Thomas, Eric Friedlander, Michael Cheek, J.R. Nash, John A. Volpe, Vicki D. Jeffs, Michael W. Wilcoxon, Linda Yeary, Sandra J. Davis, Karen Thomas, Crystal Collins, Ked Fitzpatrick, Jayne Arnold, Nancy C. Blakley, Cabinet for Human Resources; Morris Carter, Joni M. Swift, Vicki Henley, CHADD; Beth L. Jones, Vicki Jo. Reed, DEAR/CLASS ACT; Pamela A. Stephens, West Point Independent; Susan Nutter, Kentucky Speech/Language Hearing Assoication; Debra Harris, Carol Alvey, Ohio County Schools; James Lykins, Director of Special Education; Sherman Hockenberry, Kentucky Ambulance Provider Association; Kenneth R. Knippier, Kentucky Firefighers Association; Mike Porter, Kentucky Dental Association; William E. Cofield, Anna Davis Nall, NAACP; Cindy Rausch; Jim DeSpain; Billie Shepherd; Helen Lewis; Pauline Lewis; Gary R. James; Joan Underwood; Dr. George Georgilis, Kentucky Optometric Association; James M. Manakee, Manakee Professional Medical Service; Michael Wilder, Con-Care Medical Transportation.

LRC Staff: Greg Karambellas, O. Joseph Hood, Tom Troth, Susan Wunderlich, Peggy Jones, Donna Valencia, Susan Eastman, Don Hines.

The Subcommittee determined that the following administrative regulations did not comply with statutory requirements:

Cabinet for Human Resources: Department for Medicaid Services: Medicaid Services

907 KAR 1:027. Payments for dental services. An agency request to defer this administrative regulation was denied by the Subcommittee. Cabinet personnel had requested deferral of this administrative regulation at the February 1994 meeting of the subcommittee to provide further documentation in support of the administrative regulation. No additional information was provided by the Cabinet at the March meeting of the Subcommittee.

Cabinet personnel stated that: (1) KRS 205.560 provides statutory authority for this administrative regulation which: (a) is consistent with legislative intent; and (b) provides for a reduction of payment for dental services because the taxing mechanism for Medicaid payments was removed; (2) a 50% increase in Medicaid payment to be sent back to Medicaid in the form of increased taxes must be eliminated since there is no way to recover the tax under existing law; (3) until July 1, 1993 providers were paid an additional amount based on the taxing mechanism then in place; (4) Medicaid had paid the provider $2 and the provider would have paid back $1 in the form of increased taxes; (5) after July 1, 1993, providers were still receiving $2 but were not reimbursing Medicaid for the extra $1.

Chairman Kerr pointed out that the providers were: (1)(a) participating in Medicaid reimbursement; and (b) not subject to the Medicaid provider tax under House Bill 1; and (2) since the providers are not paying the provider tax, it appears that the Cabinet feels these providers should not benefit from the Medicaid reimbursement.

Senator Smith stated that it was important to know for sure if the dental providers were paying the Medicaid tax.

Mike Porter, Executive Director of the Kentucky Dental Association, responded that dental providers were not currently paying the Medicaid provider tax but that inclusion of dentists in the provider tax was being considered. He added that: (1) 1991 was the last time dentists received a fee increase from Medicaid; (2) dentists had not received a fee increase for twelve years prior to 1991; (3) in some areas the reimbursement levels are good; in other areas they are significantly lower than in other states; (4) the Medicaid program is intended to care for indigent citizens in Kentucky; (5) there are only 76 procedures for which Medicaid will reimburse; (6) the Medicaid dental program is significantly limited; (7) the average dental office in Kentucky has approximately a 69% overhead; (8) reimbursement of 70% of 1989 rates does not allow for adequate reimbursement; (9) dentistry supports the Medicaid program, with over 1000 dentists participating in the dentistry program; and (10) if this decrease in fees is implemented, dentists will leave the program.

In response to a question by Senator Smith, Cabinet personnel stated that: (1) current federal regulations allow dentist and optometrists to be taxed; (2) there is not currently a federal tax on dentists and optometrists; (3) the General Assembly may want to consider all possible providers to be taxed and the rates of taxation at the same time; (4) until July 1, 1993 dentists and optometrists were taxed.

The Subcommittee approved a motion that this administrative regulation was deficient pursuant to KRS 13A.120 for: (1) the reasons contained in the discussion; (2) failure to consider the overhead costs required pursuant to KRS 205.645; and (3) failure to comply with legislative intent.

907 KAR 1:040. Payments for vision care services. A request to defer this administrative regulation was denied by the subcommittee

Dr. George Georgellis, representing the Kentucky Optometric Association., stated that; (1) the Optometric Association is in the same position as the Kentucky Dental Association; (2) while reimbursement levels were universal for all providers across the state, optometry and dentistry were singled out for reductions in fees; (3) federal law prohibits linking tax programs to medical assistance payments; and (4) fees are being reduced for failure to pay a tax that violates federal law.

Cabinet personnel responded that: (1) the action of the Cabinet is not based on whether or not the providers are paying a tax; and (2) the reduction in fees is based upon the fact that the Medicaid reimbursement levels are higher than intended.

Chairman Kerr stated that: (1) the rates being proposed are 70% of the 1989 usual and customary charges; (2) KRS 205.645 clearly provides that the Cabinet must recognize the overhead cost in various specialty areas, which the Cabinet does not appear to be adequately considering; and (3) whether or not there are finances available to adequately consider overhead costs is a separate issue that the General Assembly may want to address.

Cabinet personnel responded that: (1) the Cabinet believes its position is correct; (2) a reimbursement system based on usual and customary charges of all providers includes consideration of overhead costs in the analysis, because usual and customary charges include overhead; (3) the General Assembly may want to further define how overhead is to be considered; (4) the Cabinet is seeking guidance on how the General Assembly wants overhead considered.

Senator Smith stated that he was concerned about a funding mechanism that provided increased fees with the understanding that providers will pay part of the increase back to the state in order to permit the portion paid back to the state to be matched by the federal government.

The Subcommittee approved a motion that this administrative regulation was deficient pursuant to KRS 13A.120 for: (1) the reasons contained in the discussion; (2) failure to consider the overhead costs required pursuant to KRS 205.645; and (3) failure to comply with legislative intent.

The Subcommittee determined that the following administrative regulations, previously found deficient, were no longer deficient and would not be subject to expiration:

Department of Education: Office of Education for Exceptional Children: Exceptional and Handicapped Programs

Chairman Kerr pointed out that: (1) these four administrative regulations were found deficient in September 1993 because: (a) CHADD felt the children were not receiving services in a timely fashion; (b) the Speech and Hearing Association was not satisfied with the criteria in the administrative regulations; and (c) the learner outcomes were not promulgated in the administrative regulation; (2) the concerns of all the parties have been addressed with the exception of the promulgation of the learner outcomes as administrative regulations; (3) the State Board of Elementary and Secondary Education has passed a resolution that the "learner outcomes" which are now called the "academic expectations" are to be submitted to the State Board in May for promulgation as an administrative regulation; (4) these new academic expectations are to be academic in nature and not culturally or socially based; (5) this subcommittee should take the State Board at its word and remove the deficiency.

A motion was adopted removing the deficiency from 707 KAR 1:170, 707 KAR 1:180, 707 KAR 1:190, 707 KAR 1:200.

707 KAR 1:170. Identification of children and youth with disabilities. This administrative regulation was amended to: (1) delete Section 1(5) which defines screening; (2) refer to Section 2(1)(e) in 704 KAR 4:020; and (3) delete the reference to the Kentucky Education Reform Act in Section 3(4).

707 KAR 1:180. Due process procedures.

707 KAR 1:190. Evaluation. Pamela Stephens, West Point Independent School, stated that: (1) the word "completed" should be removed from Section 3 of this administrative regulation; (2) parents would still be assured of assistance from the school system; (3) a more workable schedule is needed for providing that assistance; (4) removal of the word "completed" will not take responsibility away from the school district; (5) needed services should not be withheld, nor should children be harmed by deletion of the word from Section 3; (6) providing a free and appropriate public education is the desire of all school districts.

In response to a question by Chairman Kerr, Ms. Stephens stated that no language needed to be substituted in lieu of the word "completed".

In response to a question from Chairman Kerr, agency personnel stated that: (1) the Department has no position on deletion of the language; (2) the special education administrative regulations were found deficient by the Subcommittee in September in response to a particular advocacy group; (2) the Department worked with that advocacy group to make changes to the administrative regulation; (3) the changes to these administrative regulations alleviated the concerns of the advocacy group; and (4) school districts remained concerned.

Ms. Joni Swift, representing Children with Attention Deficit Disorder (CHADD), asked how much time the school districts needed to complete their referral.

Chairman Kerr asked what the distinction was between the words "completed" and "submitted" in Section 3.

Ms. Stephens, stated that: (1) the word "completed" in Section 3 connotes the completion of classroom interventions to determine if the situation can be improved short of a full blown evaluation; (2) it is impossible to complete these interventions and to refer the child to the appropriate committee within five (5) days.

Ms. Swift stated that: (1) the Department worked with CHADD to come up with the language currently in Section 3; (2) Section 3(1) provides that within five (5) days, someone will go to the child's file and educational history to determine if a full evaluation should be completed; (3) testing was not considered a part of this initial referral; (4) parents simply need help looking at the history of a child; (5) the history is what needs immediate referral.

Senator Smith stated that he: (1) hoped a compromise could be reached concerning the amount of days for referral of the child; and (2) has a grand child that has been diagnosed with ADD.

Teresa Wasson, President of the Kentucky Council for Exceptional Children, stated that: (1) one of the directives given in September was for interested parties to meet in order to work out differences; (2) the CHADD organization and the Department met, but there was not a group meeting of all interested parties; (3) at a hearing on the administrative regulation on January 25, 1994 various individuals testified that the word "completed" appeared to be in conflict with language in other administrative regulations which indicated that "completed" meant classroom interventions were required before a referral was completed; and (4) the Department proposed alternate language but the language was rejected by CHADD.

CHADD representatives stated that: (1) they did not expect a complete file with testings and interventions that have not occurred; and (2) the referral document should be completed with currently existing information.

Ms. Stephens stated that: (1) the information currently existing in a child's file is not the real problem; (2) the problem arises when a parent walks through the door and says that his child has a problem and the school district has done nothing in the way of analysis or testing; (3) classroom intervention cannot occur within five days; and (4) another problem arise if screening of hearing and vision has not occurred.

CHADD representatives responded that: (1) CHADD only wants existing information on the referral document; and (2) if interventions and screening have not occurred, the child's file can be referred back to the school district for the gathering of further data.

Senator Kafoglis stated that it appeared that both sides were saying the same thing but expressing it differently.

In response to a question by Chairman Kerr, Ms. Stephens responded that: (1) a referral document contains the information outlined in Section 3(2)(a)1 through 4; (2) school districts do not want to get in the way of parents making these referrals; (3) the confusion arises in the meaning given to the word "completed."

Chairman Kerr asked why the word "completed" was so important to CHADD. CHADD representatives responded that: (1) the word "completed" needs to be retained because of the school districts have failed to look at the child in a timely fashion; (2) retaining the current language will force the evaluation (ARC) committee to: (a) send the file back for further interventions; (b) request a complete evaluation of the child; or (c) deny the evaluation; and (3) regardless of the option chosen by the evaluation committee, the parent has a right to request a due process hearing.

Ms. Wasson, stated that: (1) the term "completed" refers to interventions; (2) the school districts want to help parents fill out the necessary form; but don't want to be placed in the situation where children are evaluated on demand and labeled disabled.

Senator Smith stated that: (1) expertise for treatment of these children is not always available at the school; (2) outside professional help is often needed; (3) it is too complex an issue to require a complete referral in five days.

Chairman Kerr asked if the parties had attempted to reach a compromise on this issue. Ms. Swift, Ms. Stephens and Ms. Wasson

responded that they had not been able to talk about the issue.

At the request of Chairman Kerr, the parties and subcommittee staff left the meeting room to attempt to reach a compromise on the issue.

Morris Carter, a grandparent, stated that: (1) he started the ADD problem in his family; (2) ADD is hereditary; (3) his family should be on welfare because of the disaster ADD caused; (4) the current special education program does not work; (5) Mr. Carter's granddaughter attends school in Lexington, and while the Fayette County Schools have known about her condition for two months, no action has been taken on his granddaughter's behalf; (6) five days might be too short a time for referral, but two months is too long; (7) the school boards in this state and the department are not doing their job; (8) there are many young people in the state that are being retained in grades because of ADD; (9) the school systems should know that a child is having an education problem when the child is failing; (10) the parents should not have to push and push to try to get anything done for the child; (11) there is something wrong with the system when children continue to fail and poor children cannot get the kind of help they need for this problem; (12) unless the children get the appropriate treatment, they don't have a chance of educational success; (13) if something isn't done to help these disabled children in Kentucky the entire educational system will suffer; (14) he has had ADD all his life and only started taking medication for the problem last year; (15) if the Subcommittee and audience didn't believe the medication works on the elderly, they should ask his wife why she won't let him go without the medication; (16) there is a large percentage of children in this state that have ADD but have not been diagnosed; (17) these children are being told that they are not smart enough to learn but at least they can sit still; (18) a child that is untreated can neither sit still, nor be quiet; (19) the state should not delay evaluation of the child as it has done with his granddaughter; (20) his granddaughter has fallen two months behind in school work because of a failure on the school's part to correct the problem; (21) it is a shame for people in Frankfort to sit here and not know what is going on; (22) the boards of education do not communicate the necessary information to Frankfort, and they are responsible for this failure to communicate.

Senator Kafoglis, stated that: (1) he went to school with Mr. Carter and found him to be a fine gentleman; and (2) Mr. Carter had overcome whatever problems he stated he has had and has had a distinguished career in law enforcement.

Mr. Carter stated that: (1) when promotional exams were given in the police department, his wife would read the various books to him concerning the examination; (2) he could not read the books, or keep his mind focused on the text; (3) his grades in high school attest to the fact that he was not a very good reader.

Nancy Blakely, representing CHADD of the Bluegrass, and Mr. Carter's daughter, stated that: (1) she had also had a struggle with ADD; (2) her daughter Becky was an honor roll student last year in the fifth grade; (3) this year she started school in August and the teachers asked for a conference in September; (4) Becky was experiencing extreme difficulties in all subject areas; (5) classroom modifications or interventions were implemented at that time; (6) the school has been aware that Becky had ADD and has been on medication for the last two years; (7) the interventions implemented in September did not work; (8) all kinds of changes in classroom settings and medications were attempted; (9) she came to the conclusion that perhaps there was another problem, and on November 11, 1993, wrote a letter to the school counselor requesting a special education evaluation; (10) the letter contained all the concerns noted about Becky, including what she had noticed when working with Becky on her homework; (11) on January 6, 1994, she received a call that there would be an ARC meeting to determine if special education assessment was needed; (12) Becky had already done poorly on her report card after being an honor roll student the previous year; (13) all interventions had been incorporated; (14) it was 27 working days from the moment they received the request for evaluation until the school responded to her request; (15) on January 14, 1994 a meeting was held; (16) on February 27, 1994 her daughter received notification that there is no problem with her and she does not need special education; (17) it is now March 7, 1994, and Becky is still doing poorly; (18) Becky has lost a year of her education; (19) Becky has been told she cannot have special tutoring services because she does not qualify; (20) the reason the time period in this administrative regulation is so critical is the school district's propensity to stall and do nothing toward the evaluation; (21) her child has needed tutoring and modifications and her needs have been ignored; (22) Becky has not received a free an appropriate public education; (23) when a parent or a teacher finds a problem there needs to be a mechanism in place to address those concerns; and (24) five days is not an unreasonable time to refer a case so that a meeting can be held.

Senator Smith stated that: (1) he agreed that something needed to be done as soon as possible; but, (2) five days was not long enough to do a complete evaluation.

Ms. Blakely responded that she did not want a full evaluation within five days but she did want some response from the school system within five day.

Beth L. Jones, representing DEAR/CLASS ACT, stated that: (1) she had two daughters with ADHD; (2) lives in far western Kentucky; (3) it has taken three years with one year retention in kindergarten to get one of her daughters tested for ADHD; (4) this three year time period is entirely too long to evaluate a child for disabilities; (5) her other daughter also has ADD and the school system really has done nothing to correct her situation; (6) her children are passing but they are not able to read; (7) something is wrong; (8) a computer program was purchased by the school system to teach her daughter phonics, but the school system will not let her daughter use the system because it might bother the other children.

In response to a question by Chairman Kerr, Ms. Jones responded that the system had headphones but the school still will not let her use the system.

Vicki Jo Reed, stated that: (1) her son is seventeen years old and was diagnosed with ADD a month ago; (2) he has been without help for twelve years; (3) her son has had this problem since kindergarten and has been held back twice; (4) she was ashamed that she didn't know what to do; (5) his teachers told him he was just fine and would make it; (6) he was tested and was told that he was where he ought to be; (7) he is a sophomore in high school and is academically well below what is normal for children his age; (8) unless school systems are forced to assess these children, they will not do it; (9) the only reason he was tested this year is because of Ms. Joni Swift; (10) Ms. Swift assisted her in getting my son tested; (11) part of her son's records are missing; and all his medical records are gone; (12) parents all across Kentucky are having problems with children.

Senator Smith stated that: (1) Ms. Reed's situation sounds very familiar; (2) his grandson has been told that he had no problem; (3) ADD takes specific expertise that may not always be available at the school; (4) teachers need to be aware of this problem and take steps to rectify it; (5) the Department needs to educate its teachers concerning ADD.

Anna Knoll, State Coordinator of Women in the NAACP, stated that: (1) she lives in Western Kentucky; (2) teachers are asking for the manuals for special education, and that they should be provided by the Department who did the training in identifying these special disabilities; (3) the Department is not getting necessary information in the hands of the teachers; (4) half of the committees don't have black representation on the staff; (5) in the Department of Mental Health, Children's Branch, there are no African Americans on staff; (6) African American males are an endangered species, not only in Kentucky but all over the United States; (7) if African American males are not properly tested there will be no more race; (8) there are more African American males in jail than any other race; (9) there are more African American males in jail than there are in college; (10) when will the African American males be represented; (11) in Western Kentucky

there is a big need for help.

Cindy Rausch, spoke regarding 707 KAR 1:170 and 707 KAR 1:180, and stated that: (1) she is concerned about the learner outcome being used to define students as disabled; (2) at the September 1993 meeting, the Department stated that nonmastery of the learner outcomes could be used to classify children as having a disability; (3) the Federal Register, Vol. 57, No. 189, September 29, 1992 p. 44819, 300.500(b) defines "Evaluation" as "procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade or class..."; (4) because of the controversy, asked whether a statement could be included in the administrative regulation excluding the use of the KIRIS assessment.

Department staff stated that: (1) the Department does not mandate the use of the KIRIS assessment on the local school districts; (2) use of the KIRIS assessment would be infrequent at best; and (3) the assessments would be based on the in class observation and testing primarily.

Chairman Kerr pointed out that the KIRIS assessment would likely be changed, given the changes in the learner outcomes. He asked the Department staff to review Ms. Rausch's position and attempt to address those concerns.

This administrative regulation was amended to: (1) delete the reference to KRS 158.6451 and insert Section 2(1)(e) when referring to 703 KAR 4:020, in Section 3(2)(a)3.; (2) delete language in Section 6(1)(b); and (3) amend Section 3 pursuant to the agreement of CHADD, the Kentucky Department of Education and interested school districts. The administrative regulation was amended to: (1) define "completed" in Section 3(1) of the administrative regulation as "completion of a referral document containing the information in Section 3(2)(a)1 through 4"; (2) extend the referral time for a child from five to ten days in Section 3(1); (3) require that the referral include "existing screening data and educational history in Section 3(2)(a)3".

707 KAR 1:200. Eligibility of children and youth with disabilities.

Cabinet for Human Resources: Department for Health Services: Health Services and Facilities

902 KAR 20:004. Certificate of need process. This administrative regulation was amended to require that notice of a certificate of need application be sent to local newspapers, county judge executives and mayors.

Chairman Kerr reminded the Subcommittee this administrative regulation had been found deficient, and asked Senator Kafoglis if this amendment alleviated his previous motion to find this administrative regulation deficient.

Senator Kafoglis stated that: (1) the proposed amendments did not address the concerns he previously raised, but a bill he introduced would take care of those concerns; (2) he has been informed that expiration of this administrative regulation would be devastating to the Cabinet; and (3) he moved that the letter of deficiency be removed.

A motion was adopted removing the finding of deficiency.

The Subcommittee determined that the following administrative regulations, as amended, complied with statutory requirements:

Department of Corrections: Office of the Secretary

501 KAR 6:030. Kentucky State Reformatory. This administrative regulation was grammatically amended in KSR 16-01-01 on page 2, 2 to delete "is" and insert in lieu thereof "shall be" in the second sentence.

501 KAR 6:050. Luther Luckett Correctional Complex. This administrative regulation was amended in various incorporated policies for grammar and clarity.

Transportation Cabinet: Department of Vehicle Regulation: Commercial Driver's License

601 KAR 11:030. Restrictions and endorsements on commercial driver's licenses. Sandy Pullen was present representing the Cabinet. Amendment to this administrative regulation was for the purpose of making changes required by legislation passed in 1992. Those changes are (1) In the Necessity and Function the following is deleted: "KRS 281A.150(8) refers to a "P" restriction which is not established by KRS 281A.170. To ensure that a person is able to use a $20 commercial driver license authorized by KRS 281A.150(8) only to operate the buses identified there, the "S" restriction is expanded in this administrative regulation to include all three types of buses identified in KRS 281A.150(8)." (2) In Section 2. the following is deleted: ", the alpha restrictions shall be the following: "L" - Does not include a class "A" bus; "J" - Does not include a class "A" or "B" bus; "O" - Does not include tractor semi-trailer style vehicles." (3) Section 3 is deleted and Section 4 is renumbered as Section 3.

Department of Insurance: Insurance Contract

806 KAR 14:005. Rate and form filing. This administrative regulation was amended to comply with the format and drafting requirements of KRS 13A.220(4) and 13A.222(4).

Insider Trading of Equity Securities

806 KAR 26:010. Proxies, consents and authorizations. This administrative regulation was amended to comply with: (1) the format and drafting requirements of KRS 13A.220(4) and 13A..222(4); (2) KRS 13A.222(4)(e), by deleting definitions from Section 4 and creating a new Section 1, Definitions; and (3) KRS 13A.224 and 13A.2251, by incorporating Schedule SIS by reference.

Cabinet for Human Resources: Department for Health Services: Radiology

The following three administrative regulations were amended to comply with the format and drafting requirements of KRS 13A.220(4) and 13A.222, and to correct typographical errors.

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

902 KAR 100:073. Use of radionuclides in the healing arts.

902 KAR 100:100. Industrial radiography.

Department of Social Services: Child Welfare

905 KAR 1:030. Selection and approval of adoptive parents. This administrative regulation was amended to clarify certain language pursuant to KRS 13A.222(4)(a). An issue was raised concerning the subjective nature of the standards outlined in Sections 6 and 8 of the administrative regulation. Cabinet personnel responded that: (1) the objective standards for these administrative regulations were found in 905 KAR 1:030; (2) 905 KAR 1:350; (2) the cabinet is completing a topical administrative regulation on adoption; and (3) this administrative regulation will be repealed when the topical administrative regulation is promulgated.

905 KAR 1:180. DSS policy and procedures manual. This administrative regulation was amended to clarify the format of an incorporation by reference pursuant to KRS 13A.222(4)(a).

905 KAR 1:230. Emergency protective services. This administrative regulation was amended to attach the Federal Mandate Comparison Form required by KRS 13A.245.

905 KAR 1:320. Fair hearing. This administrative regulation was amended to: (1) clarify that all records are subject to inspection; and (2) prohibit ex-parte communications.

Block Grants

The following three administrative regulations were amended to: (1) attach the Federal Mandate Comparison Form required by KRS 13A.245; and (2) comply with the format and drafting requirements of KRS 13A.220(4) and 13A.222.

905 KAR 3:020. Technical eligibility.

905 KAR 3:030. Matching requirements.

905 KAR 3:040. Allocation formula.

Adult Services

905 KAR 5:040. Standards for state funded spouse abuse shelters. This administrative regulation was amended to conform to format requirements pursuant to KRS 13A.222(4)(a).

905 KAR 5:050. Funding requirements for spouse abuse shelters. This administrative regulation was amended to conform to provisions of KRS 13A.222(4)(a).

Community Action Agencies

The following two administrative regulations were amended to: (1) attach the Federal Mandate Comparison Form required by KRS 13A.245; and (2) comply with the format and drafting requirements of KRS 13A.220(4) and 13A.222.

905 KAR 6:010. Standards.

905 KAR 6:040. Termination for funding and hearing procedures.

The Subcommittee determined that the following administrative regulations complied with statutory requirements:

Teachers' Retirement System: General Rules

102 KAR 1:035. Employment by retired members.

Department of Corrections: Office of the Secretary

501 KAR 6:020. Corrections policies and procedures. Jack Damron and Judy Morris appeared before the Subcommittee, representing the agency. This administrative regulation was technically amended at the February meeting to insert a comma and correct a typographical error.

Chairman Kerr asked if any differentiation could be made in Class A Felons for cold blooded murder and unintentional murder, in the housing of prisoners.

Jack Damron responded that there was a movement nationally to specific sentences, that the Cabinet was trying to reduce the potential for multiple law suits, and this administrative regulation will treat all Class A Felons alike. He stated that KRS 197.065 requires that the Cabinet "shall classify and segregate prisoners". He also said that the Cabinet was basing this on decades of experience.

Joan Underwood, speaking against the reclassification of current Class A Felons who had worked for reassignment and achieved a clean record while in prison, stated that she believed that the new provisions of classification should go forward, not backward. (They should not apply to prisoners who have worked hard under the old policy to be reassigned.)

Pauline Lewis, representing a relative, spoke briefly to the difference in the range of prisoners who are classified as Class A Felons. She stated that there is a difference between a person who intentionally commits murder and one who accidentally kills someone in an accident.

Billy Shepherd, representing a relative, stated that it costs so much more to house prisoners in prison, than in a half-way house.

Chairman Kerr asked Mr. Damron if all Class A Felons are treated the same, and if there is any gradual reintroduction into society. Mr. Damron responded that they are all treated the same in the fact that they are all housed in prison. He said some are in maximum security and some in medium security. He said all are able to take advantage of educational programs and skills training, but none are gradually reintroduced into society.

Chairman Kerr asked how the Cabinet determines that a Class A Felon go to maximum security or medium security. Judy Morris, with the Cabinet, responded that it was based on a point system.

Chairman Kerr asked Ms. Lewis if there had been parole opportunity for her relative, to which she response that he had been up for parole two times.

Ms. Lewis added that a half-way house prepares prisoners for reintroduction into society, and that they need this preparation.

Chairman Kerr stated that he and the Subcommittee are sympathetic to individual situations, but that the Cabinet has the authority to classify prisoners. He stated that the Subcommittee will call this administrative regulation back up in a few months and ask the Cabinet if they have been able to come up with any other way to distinguish classification.

Department of Education: Office of District Support Services: Pupil Transportation

702 KAR 5:150. Transportation of preschool children.

Bureau for Learning Results Services

703 KAR 4:080. Statewide assessment and accountability program; relating accountability index to school classification (A-1-A-6).

Education Professional Standards Board

Akeel Zaheer, representing the Education Professional Standards Board, appeared before the Subcommittee on behalf of the following administrative regulations dealing with certificates. Chairman Kerr asked when other certificates were going to be promulgated to replace these certificates that are being phased out. Mr. Zaheer said that these certificates would not be necessary to be replaced since they are superfluous.

704 KAR 20:065. Standard high school certificate.

704 KAR 20:085. Standard elementary certificate.

704 KAR 20:150. Standard certificate for school media librarian.

704 KAR 20:270. Standard certificate for teachers of exceptional children.

704 KAR 20:350. Standard certificate for teaching in the middle grades 5-8.

704 KAR 20:360. Standard certificate for teaching in the early elementary grades K-4.

704 KAR 20:370. Standard certificate for teaching music grades K-12.

Department of Housing, Buildings and Construction: Manufactured Homes and Recreational Vehicles

815 KAR 25:030. Certified installers of manufactured housing.

Cabinet for Human Resources: Department for Health Services: Radiology

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

Department of Social Services: Child Welfare

905 KAR 1:050. Approval of subsidies.

905 KAR 1:140. Foster care, adoption assistance.

905 KAR 1:210. Alternative to detention: court resource home. Chairman Kerr pointed out that this administrative regulation appeared to transfer enforcement authority to the Justice Cabinet when the Cabinet for Human Resources has statutory authority for the administrative regulation.

Cabinet personnel pointed out that there would be no enforcement authority for this administrative regulation unless the CHR statute was used.

Chairman Kerr pointed out that the Cabinet is not prohibited from contracting with other agencies for enforcement.

The Subcommittee approved a motion to refer the issue of the delegation by the Cabinet of its authority to LRC, for a determination by the appropriate legislative subcommittee on the need for amendment of the statute.

905 KAR 1:300. Standards for child caring facilities.

905 KAR 1:310. Standards for child placing agencies.

905 KAR 1:330. Child protection services.

Department for Medicaid Services

907 KAR 1:470. Durable medical equipment.

907 KAR 1:472. Payments for durable medical equipment.

The Subcommittee had no objections to emergency administrative regulations which had been filed.

The following administrative regulations were deferred to the April meeting upon request by the Subcommittee and agreed to

by the promulgating agency:

Department of State: Registry of Election Finance: Practice and Procedure

32 KAR 2:160E. Candidate with write-in opposition, revocation of exemption.

32 KAR 2:170. In-kind contributions.

32 KAR 2:180. Extension of credit to candidates, campaign committees, or political issues committee.

32 KAR 2:190. Committee affiliation.

32 KAR 2:200. Allowable campaign expenditures.

OTHER BUSINESS:

Cabinet for Human Resources: Department for Health Services: Health Services and Facilities

902 KAR 20:120. Nonemergency health transportation services. Senator Smith stated that, contrary to the provisions of this administrative regulation, the statutes establishing definitions for ambulances and governing the use of sirens and lights for ambulance and other vehicles do not prohibit the use of lights or sirens for ambulances that may also be categorized as nonemergency vehicles. Agency personnel stated that the Cabinet interpreted applicable statutes as establishing two separate licensure categories, of which only emergency vehicles were permitted to be licensed as ambulances that could be equipped with lights and sirens. Senator Smith and Subcommittee staff pointed out that applicable statutes, such as KRS 211.950(1) and 189.920, do not separate "ambulance" into two categories, emergency and nonemergency; that the licenses granted clearly state that they are licenses for ambulances; and the licenses do not distinguish between emergency and nonemergency vehicle. Agency personnel stated that the licenses do not so distinguish because the Cabinet did not change the language on the license in order to save money. It was pointed out to agency personnel that the licenses clearly provide that they are ambulance licenses.

Senator Smith asked agency personnel if they had considered the situation in which a person being transported in a vehicle the Cabinet considered a nonemergency medical transport underwent a medical emergency. He added that the person's life would be endangered if the vehicle did not have, or was not allowed to use, lights and sirens, and if the operator of the vehicle were required to call another ambulance instead of transporting the person to a hospital for medical treatment. Agency personnel responded that: (1) the nonemergency vehicle did not have appropriately trained personnel or appropriate equipment for emergency medical services; (2) permitting lights and sirens on such vehicles would confuse the public, who might call the provider of nonemergency medical transportation for an emergency for which only vehicles other than nonemergency transportation vehicles should be called. Senator Smith pointed out that the providers of nonemergency medical transportation were prohibited from responding to such calls and had not been known to violate that prohibition, even when called.

Mike Wilder, Con-Care Medical Transportation, and James M. Manakee, Manakee Professional Medical Service, stated that their services were not "taxi" services; that applicable statutes and administrative regulations do not establish the ambulance categories, emergency and nonemergency, with regard to sirens and lights as argued by the Cabinet. They added that the certificate of need and licensing procedures, as well as the application for and the license itself, establish such vehicles as ambulances; their personnel were properly trained and their ambulances were equipped with appropriate equipment, including oxygen.

In response to a question by Senator Huff, agency personnel stated that the licensing forms contained a section stating the category of licensure and language specifying whether the service provided was nonemergency or emergency service, and that use of a nonemergency transportation vehicle for emergency purposes would result in an investigation and Cabinet action. Senator Huff stated that it appeared there were procedures available for action to be taken against a licensee's provision of prohibited services.

Chairman Kerr asked whether 902 KAR 20:115 was still in effect. Agency personnel stated that 902 KAR 20:117 replaced 902 KAR 20:115. Chairman Kerr pointed out that 902 KAR 20:115 was cross-referenced twice in this administrative regulation.

In response to a question by Chairman Kerr, agency personnel stated that a nonemergency transportation vehicle that had picked up a person for a nonemergency medical transport, who then suffered a medical emergency, would be required to call for an ambulance that could provide emergency medical service.

Chairman Kerr stated that response by a nonemergency vehicle service to a call that should have been made to an emergency vehicle service would subject the nonemergency vehicle service licensee to Cabinet sanctions, and that a nonemergency vehicle would be restricted to use of light and siren only in a sudden emergency.

Agency personnel agreed with Chairman Kerr's statement that the real issue was Medicaid payment for an emergency transport by a nonemergency vehicle.

Chairman Kerr stated that the applicable statutes provide that an ambulance was a type of vehicle that could have lights and sirens; that the license is for an ambulance service; and that it was unlikely a court would sustain a citation against a nonemergency vehicle licensee for having lights and sirens. He added that the administrative regulation exceeded statutory authority because applicable statutes did not distinguish between the two types of services and included nonemergency vehicles as ambulances. He suggested that the Cabinet should seek to have applicable statutes amended before it imposed the requirements of this administrative regulation.

Sherman Hockenberry, Kentucky Ambulance Provider Association, and Kenneth R. Knippier, Kentucky Firefighters Association, stated that nonemergency vehicles should not be licensed as ambulances and permitted to have lights and sirens because: (1) they should not serve and could not serve as a full-fledged ambulance service; (2) the emergency medical technician system set up standards for vehicles and personnel involved in emergency medical services, and that such standards would be circumvented by nonemergency vehicle services; (3) the public would be confused as to which service was required for emergency medical situations; (4) nonemergency vehicles do not have either the training, staff, or equipment necessary to provide required emergency medical service, for example, many do not even have stretchers; (5) if a medical emergency occurs in a nonemergency vehicle, competent medical technicians or personnel should be called; (6) since nonemergency vehicles and their personnel cannot provide appropriate medical care, a person would fail to receive such care and could die, for example, a severe cardiac problem requires immediate medical action within ten minutes of the attack, which could not be provided by nonemergency vehicle personnel; (7) if a medical emergency occurs while someone is being transported nonemergency vehicle, the personnel of the vehicle should do what a bus driver would do on a medical emergency, which is to stop and call for medical assistance.

Senator Smith stated that of the six known nonemergency medical service providers, there has been no confusion and none of them have even attempted to perform emergency medical services. He added that: (1) because of the Medicare requirements, reimbursement would not be permitted unless the vehicle was equipped with lights and sirens; (2) if people with nonemergency medical transportation needs are restricted to emergency service vehicles, the cost to them and to Medicare is greater than it would be if nonemergency service were available; and (3) the increase in demand on the emergency vehicle services meant that the needs of many people for nonemergency medical transportation would not be met.

Agency personnel stated that under federal regulations nonemergency services could not meet the requirements for payment under

Medicare because they do not have the proper equipment.

The Subcommittee approved a motion that this administrative regulation did not comply with statutory authority.

The Subcommittee adjourned at 9 p.m. until April 12, 1994 at 4 p.m. or upon adjournment of the House and Senate in Room 131 of the Capitol Annex.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

HOUSE AND SENATE COMMITTEES ON BUSINESS ORGANIZATIONS AND PROFESSIONS
Meetings of February 8, 1994 and February 9, 1994

The Business Organizations and Professions Committees report the following actions on administrative regulations:

Removed the finding of deficiency from 804 KAR 5:070, relating to minors on licensed alcoholic beverage premises. The House Business Organization and Professions Committee voted to remove the deficiency on February 8, 1994, and the Senate Business Organizations and Professions Committee took the same action on February 9, 1994.

On February 8, 1994, the House Business Organizations and Professions Committee, at the request of the Kentucky Racing Commission agreed to defer action on 810 KAR 1:031 & E to allow the Commission time to prepare necessary amendments to the regulation.

SENATE EDUCATION COMMITTEE
Meeting of March 8, 1994

The Senate Education Committee met Tuesday, March 8, 1994, and determined that the following administrative regulations complied with statutory requirements:

Department of Education
701 KAR 5:050 - Summary Hearing Procedures
702 KAR 4:160 - Capital Construction Process
704 KAR 3:285 - Programs for Gifted and Talented Students
707 KAR 1:220 - Placement in the Least Restrictive Environment

HOUSE EDUCATION COMMITTEE
Meeting of March 9, 1994

The House Education Committee met Wednesday, March 9, 1994, and determined that the following administrative regulations complied with statutory requirements:

Department of Education

701 KAR 5:050 - Summary Hearing Procedures
702 KAR 4:160 - Capital Construction Process
704 KAR 3:285 - Programs for Gifted and Talented Students
707 KAR 1:220 - Placement in the Least Restrictive Environment

HOUSE AND SENATE COMMITTEES ON BUSINESS ORGANIZATIONS AND PROFESSIONS
Meetings of February 23, 1994, March 1 , 1994, and March 8 , 1994

The House and Senate Committees on Business Organizations and Professions have reviewed referred regulations and submit the following report:

Regulation	Senate Action	House Action
201 KAR 15:090	Approved (2/23/94)	Approved 3/1/94
201 KAR 30:010	Approved (2/23/94)	Approved 3/1/94
201 KAR 30:030	Approved (2/23/94)	Approved 3/1/94
201 KAR 30:040	Approved (2/23/94)	Approved 3/1/94
201 KAR 30:050	Approved (2/23/94)	Approved 3/1/94
201 KAR 30:140	Approved (2/23/94)	Approved 3/1/94
201 KAR 1:140	Approved (2/23/94) with amendment	Approved 3/8/94 with amendment

HOUSE COMMITTEE ON APPROPRIATIONS AND REVENUE
Meeting of March 8, 1994

The House Committee on Appropriations and Revenue met Thursday, March 8, 1994, and reviewed three Cabinet for Human Resources, Department for Medicaid Services administrative regulations. The committee took the following action:

The Committee determined the following administrative regulations comply with the provisions of KRS Chapter 13A: administrative regulations 907 KAR 1:004, relating to resource and income standard of medically needy, and 907 KAR 1:615, relating to supplemental policy for the Medicaid Program. The committee determined that administrative regulation 907 KAR 1:540, relating to eligibility requirements and benefits for recipients under the Kentucky Hospital Care Program, does not comply with the provisions of KRS Chapter 13A.

SENATE COMMITTEE ON APPROPRIATIONS AND REVENUE
Meeting of February 23, 1994

The Senate Committee on Appropriations and Revenue met Wednesday, February 23, 1994, and reviewed three Cabinet for Human Resources, Department for Medicaid Services administrative regulations. The committee took the following action:

The Committee determined the following administrative regulations comply with the provisions of KRS Chapter 13A: 907 KAR 1:004, relating to resource and income standard of medically needy, 907 KAR 1:540, relating to eligibility requirements and benefits for recipients under the Kentucky Hospital Care Program, and 907 KAR 1:615, relating to supplemental policy for the Medicaid Program.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates J2

The Locator Index lists all regulations published in VOLUME 20 of the Administrative Register from July, 1993 through June, 1994. It also lists the page number on which each regulation is published, the effective date of the regulation after it has completed the review process, and other action which may affect the regulation. NOTE: The regulations listed under VOLUME 19 are those regulations that were originally published in the Volume 19 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1993 bound Volumes were published.

KRS Index J17

The KRS Index is a cross-reference of statutes to which regulations relate. These statute numbers are derived from the RELATES TO line of each regulation submitted for publication in VOLUME 20 of the Administrative Register.

Subject Index J32

The Subject Index is a general index of regulations published in VOLUME 20 of the Administrative Register, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

VOLUME 19

EMERGENCY REGULATIONS: (Note: Emergency regulations expire 120 days from publication or upon replacement or repeal, whichever occurs first)

Regulation Number	20 Ky.R Page No.	Effective Date
302 KAR 20:040E	2596	4-30-93
Expires		9-29-93
302 KAR 20:055E	2600	4-30-93
Expires		9-29-93
302 KAR 20:065E	2602	4-30-93
Expires		9-29-93
302 KAR 20:070E	2604	4-30-93
Expires		9-29-93

ORDINARY REGULATIONS:

201 KAR 20:235	2755	(See Volume 20)
603 KAR 5:230		
Amended	2684	(See Volume 20)
704 KAR 7:120	2539	(See Volume 20)
704 KAR 20:120		
Amended	2316	6-7-93
707 KAR 1:061	2540	(See Volume 20)
707 KAR 1:160	2541	(See Volume 20)
707 KAR 1:170	2543	(See Volume 20)
707 KAR 1:180	2545	(See Volume 20)
707 KAR 1:190	2551	(See Volume 20)
707 KAR 1:200	2554	(See Volume 20)
707 KAR 1:210	2558	(See Volume 20)
707 KAR 1:220	2561	(See Volume 20)
707 KAR 1:230	2564	(See Volume 20)
707 KAR 1:240	2569	(See Volume 20)
707 KAR 1:250	2572	(See Volume 20)
707 KAR 1:260	2574	(See Volume 20)
803 KAR 2:310		
Amended	2736	(See Volume 20)
805 KAR 7:030		
Amended	2740	8-25-93
902 KAR 8:040	2760	(See Volume 20)
902 KAR 8:050	2761	(See Volume 20)
902 KAR 8:060	2763	(See Volume 20)
902 KAR 8:070	2765	(See Volume 20)
902 KAR 8:080	2768	(See Volume 20)
902 KAR 8:090	2770	(See Volume 20)
902 KAR 8:100	2771	(See Volume 20)
902 KAR 8:110	2773	9-3-93
902 KAR 8:120	2774	(See Volume 20)
902 KAR 8:130	2777	9-3-93
902 KAR 8:140	2778	9-3-93
902 KAR 20:004	659	
Amended	2745	(See Volume 20)
908 KAR 2:070	2779	(See Volume 20)

*Statement of Consideration Not Filed by Deadline; Regulation Expired (KRS 13A.280(2))

VOLUME 20

EMERGENCY REGULATIONS: (Note: Emergency regulations expire 120 days from publication or upon replacement or repeal, whichever occurs first)

2 KAR 2:010E	483	8-12-93
Replaced	668	10-13-93
Resubmitted	1756	12-6-93
Expired		2-4-94
Resubmitted	2528	2-15-94
2 KAR 2:020E	1756	12-6-93
Expired		2-4-94
Resubmitted	2528	2-15-94
2 KAR 2:030E	1756	12-6-93
Expired		2-4-94
Resubmitted	2528	2-15-94
9 KAR 1:040E	736	9-9-93
Replaced	1567	12-6-93
11 KAR 3:001E	915	10-4-93
Replaced	1777	1-10-94
31 KAR 5:020E	736	9-15-93
Replaced	869	12-6-93
32 KAR 2:160E	1550	10-22-93
Expired		3-31-93
101 KAR 2:100E	483	8-3-93
Replaced	1568	12-6-93
101 KAR 3:010E	488	8-3-93
Replaced	1573	12-6-93
201 KAR 20:240E	1551	10-22-93
Replaced	2046	1-10-94
301 KAR 2:044E	492	7-30-93
Replaced	596	10-27-93
301 KAR 2:220E	1552	10-27-93
Replaced	1670	2-10-94
301 KAR 2:260E	494	7-30-93
Replaced	679	10-27-93
301 KAR 3:030E	494	7-30-93
Replaced	952	10-27-93
302 KAR 15:010E	4	5-18-93
Expired	1029	10-29-93
401 KAR 42:060E	2530	2-15-94
401 KAR 42:070E	2530	2-15-94
401 KAR 42:080E	2531	2-15-94
415 KAR 1:115E	495	8-13-93
Replaced	1615	12-17-93
501 KAR 6:020E	277	6-24-93
Resubmitted	1758	12-1-93
501 KAR 6:060E	1557	10-19-93
Replaced	1375	1-10-94
501 KAR 6:080E	1759	12-1-93
Replaced	2141	3-14-94

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	20 Ky.R Page No.	Effective Date
501 KAR 6:120E	1558	10-19-93
Replaced	1378	1-10-94
501 KAR 6:130E	2774	3-14-94
601 KAR 1:040E	1560	10-22-93
Replaced	1381	2-10-94
601 KAR 1:101E	1562	10-22-93
Replaced	2330	2-10-94
601 KAR 2:010E	1563	10-22-93
Replaced	1384	2-10-94
601 KAR 9:040E	1564	10-22-93
Replaced	1386	2-10-94
601 KAR 11:040E	228	6-16-93
Replaced	145	9-3-93
780 KAR 3:070E	918	9-21-93
Replaced	2336	2-2-94
780 KAR 6:060E	923	9-21-93
Replaced	2342	2-2-94
806 KAR 2:120E	8	6-15-93
Replaced	247	9-3-93
806 KAR 2:130E	8	6-15-93
Replaced	248	9-3-93
810 KAR 1:031E	496	7-20-93
Expired		12-30-93
902 KAR 8:040E	9	5-19-93
Replaced	511	9-3-93
902 KAR 8:050E	10	5-19-93
Replaced	369	9-3-93
902 KAR 8:060E	11	5-19-93
Replaced	513	9-3-93
902 KAR 8:070E	13	5-19-93
Replaced	371	9-3-93
902 KAR 8:080E	15	5-19-93
Replaced	514	9-3-93
902 KAR 8:090E	17	5-19-93
Replaced	516	9-3-93
902 KAR 8:100E	18	5-19-93
Replaced	517	9-3-93
902 KAR 8:110E	19	5-19-93
Replaced		9-3-93
902 KAR 8:120E	19	5-19-93
Replaced	377	9-3-93
902 KAR 8:130E	23	5-19-93
Replaced		9-3-93
902 KAR 8:140E	23	5-19-93
Replaced		9-3-93
902 KAR 13:090E	1760	12-2-93
Replaced	2641	3-14-94
902 KAR 20:004E	24	5-18-93
Replaced	797	10-13-93
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902 KAR 50:031E	1766	12-2-93
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902 KAR 50:032E	1768	12-2-93
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902 KAR 50:033E	1771	12-2-93
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