

ADMINISTRATIVE REGISTER OF KENTUCKY

LEGISLATIVE RESEARCH COMMISSION FRANKFORT, KENTUCKY

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MEETING NOTICE

The Administrative Regulation Review Subcommittee is scheduled to meet on September 11, 1995. See tentative agenda beginning on page 537 of 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
TENTATIVE AGENDA - September 11, 1995 at 10 a.m.
Room 149, Capitol Annex**

(& E) - means that the emergency administrative regulation has been reviewed previously by the subcommittee

EXECUTIVE BRANCH ETHICS COMMISSION

Ethics Commission

9 KAR 1:021E. Repeal of 9 KAR 1:020, Complaints.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

Teacher Scholarship Loan Program

11 KAR 8:030E. Teacher scholarships.

**PERSONNEL
Department of Personnel**

Classified

101 KAR 2:100E. Leave administrative regulations.

Unclassified

101 KAR 3:010E. Leave administrative regulations.

FINANCE AND ADMINISTRATION CABINET

Kentucky Private Activity Bond Allocation Committee

200 KAR 15:010. Formula for allocation of private activity bonds. (Deferred from August)

Personnel Pilot Program

200 KAR 22:030 & E. Comprehensive Employment Manual of Department of Vocational Rehabilitation for use in the pilot personnel program.

200 KAR 22:040. Comprehensive Employment Manual of the Natural Resources and Environmental Protection Cabinet's Division of Abandoned Lands, Program Development and Program Services Branches, for use in the Pilot Personnel Program.

200 KAR 22:050. Comprehensive Employment Manual of the Natural Resources and Environmental Protection Cabinet's Division of Waste Management, Solid Waste Branch, Permit Review Section 1 (East), for use in the Pilot Personnel Program.

200 KAR 22:060 & E. Comprehensive Employment Manual of the Department of Personnel for use in the Pilot Personnel Program.

200 KAR 22:070. Comprehensive Employment Manual of the Natural Resources and Environmental Protection Cabinet's Division of Water, Water Quality Branch, for use in the Pilot Personnel Program.

GENERAL GOVERNMENT CABINET

Real Estate Commission

201 KAR 11:400. Agency disclosure requirements. (Not Amended After Hearing)

Board of Nursing

201 KAR 20:057. Scope and standards of practice of advanced registered nurse practitioners.

201 KAR 20:162. Procedures for disciplinary hearings pursuant to KRS 314.091.

201 KAR 20:240. Fees for applications and for services. (Deferred from August)

201 KAR 20:410. Expungment of records.

Kentucky Board of Certification of Marriage and Family Therapists

201 KAR 32:010 & E. Definitions.

201 KAR 32:020 & E. Equivalent course of study.

201 KAR 32:030 & E. Fees.

**TOURISM CABINET
Department of Fish and Wildlife Resources**

Game

301 KAR 1:015. Boats and outboard motors; restrictions.

301 KAR 1:085. Mussel shell harvesting.

301 KAR 1:201. Fishing limits.

**ECONOMIC DEVELOPMENT CABINET
Department of Agriculture**

Livestock Sanitation

302 KAR 20:076 & E. Identification of "farm fresh" cattle.

Purchase of Agricultural Conservation Easement Corporation

302 KAR 100:010. Procedures for determining purchasing priority for agricultural conservation easements of other property interests in agricultural lands.

302 KAR 100:020. Procedures for purchasing agricultural conservation easements or other property interests in agricultural lands.

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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Environmental Protection

Underground Storage Tanks

- 401 KAR 42:005. Definitions related to 401 KAR Chapter 42.
- 401 KAR 42:011. Scope of Underground Storage Tank Program.
- 401 KAR 42:020. Performance standards for new UST systems.
- 401 KAR 42:040. Release detection.
- 401 KAR 42:060 & E. Release response and corrective action for UST systems containing petroleum or hazardous substances.
- 401 KAR 42:070 & E. Out-of-service UST systems, temporary closure and permanent closure of UST systems, and change in service of UST systems.
- 401 KAR 42:071. Voluntary closure for facilities that permanently closed a UST system or had a confirmed release prior to April 18, 1994.
- 401 KAR 42:080 & E. Classification of petroleum underground storage tank systems and listing of associated cleanup levels.
- 401 KAR 42:090. Financial responsibility.
- 401 KAR 42:200. Underground storage tank system owner registration fees.

Air Quality - General Administrative Procedures

- 401 KAR 50:065. Conformity of general federal actions.

Environmental Protection

- 401 KAR 100:050. Site characterization, risk assessment, and remedial options. (Amended After Hearing)

JUSTICE CABINET

Division of Charitable Gaming

Charitable Gaming

- 500 KAR 11:030 & E. Charity game ticket standards.
- 500 KAR 11:040 & E. Bingo standards.
- 500 KAR 11:050 & E. Raffle standards.
- 500 KAR 11:060 & E. Tipping prohibited.

Department of Corrections

Class D Felons

- 501 KAR 2:020. Definitions.
- 501 KAR 2:040. Waivers.
- 501 KAR 2:050. Transfer requests.
- 501 KAR 2:060. Procedures for housing of Class D felons.

Office of the Secretary

- 501 KAR 6:080. Department of Corrections manuals.
- 501 KAR 6:170. Green River Correctional Complex.

TRANSPORTATION CABINET

Nonpublic School Transportation

- 600 KAR 5:010 & E. Transportation of nonpublic school students. (Amended After Hearing) (Deferred from August)

Department of Vehicle Regulation

Motor Vehicle Tax

- 601 KAR 9:074. Kentucky highway use license, records, and taxes.

Driver's License

- 601 KAR 12:070. Driving privilege withdrawal for child support nonpayment.

Department of Highways

Traffic

- 603 KAR 5:072. Mandatory annual bus inspection.
- 603 KAR 5:110. Permits for moving overdimensional manufactured homes and boats.

WORKFORCE DEVELOPMENT CABINET

State Board for Adult and Technical Education

Management of the Kentucky Tech System

- 780 KAR 2:010. Administration of vocational-technical education schools.
- 780 KAR 2:020. Appeals process.
- 780 KAR 2:021. Repeal of State Board for Adult and Technical Education regulations: 780 KAR 2:045; 780 KAR 2:050; 780 KAR 2:070; 780 KAR 2:080 and 780 KAR 2:150.
- 780 KAR 2:030. Steering and advisory committees for Kentucky TECH schools primarily serving secondary students.
- 780 KAR 2:035. Advisory boards and committees for Kentucky TECH schools primarily serving postsecondary students.
- 780 KAR 2:040. Live work projects.
- 780 KAR 2:060. Suspension and expulsion of students.
- 780 KAR 2:090. Postsecondary vocational technical school admission priorities.
- 780 KAR 2:100. Attendance policies for postsecondary students in Kentucky TECH schools.
- 780 KAR 2:110. Student medical and accident insurance.
- 780 KAR 2:120. Standard for academic progress for postsecondary students.
- 780 KAR 2:130. Minimum standards of admission for postsecondary students in vocational-technical programs.
- 780 KAR 2:140 & E. Tuition and fees.

Instructional Programs

- 780 KAR 4:010. General standards.
- 780 KAR 4:020. Diploma requirements for postsecondary students.
- 780 KAR 4:030. Standards for secondary programs.
- 780 KAR 4:040. Standards for postsecondary programs.
- 780 KAR 4:050. Certificate requirements for Kentucky TECH students.
- 780 KAR 4:060. Kentucky TECH guarantee.

Veterans' Approval Agency

- 780 KAR 5:010. Institutional courses, approval of.
- 780 KAR 5:020. Apprenticeship and OJT courses, approval of.
- 780 KAR 5:030. Revisions and amendments approval.
- 780 KAR 5:040. Denial or revocation of approval.
- 780 KAR 5:050. Inspection and supervision.

Facilities and Equipment; of the Kentucky TECH System

- 780 KAR 7:010. Definitions.
- 780 KAR 7:020. Area technology center standards.
- 780 KAR 7:030. Regional technology center standards.
- 780 KAR 7:032. Corrections education center standards.
- 780 KAR 7:036. Repeal of State Board for Adult and Technical Education regulations; 780 KAR 7:035 and 7:050.
- 780 KAR 7:040. Facility maintenance.
- 780 KAR 7:060. Equipment inventory.
- 780 KAR 7:070. Equipment insurance.

Vocational and Teacher Education

- 780 KAR 8:011. Repeal of State Board for Adult and Technical Education regulations; 780 KAR 8:010.

Department of Vocational Rehabilitation

Administration

- 781 KAR 1:040. Rehabilitation technology services. (Not Amended After Hearing)

Department for Employment Services

Unemployment Insurance

- 787 KAR 1:010 & E. Application for employer account; reports.
- 787 KAR 1:020 & E. Change of status; discontinuance of business.
- 787 KAR 1:030 & E. Employer contributions.
- 787 KAR 1:040 & E. Posting notice to employees.
- 787 KAR 1:050 & E. Social Security number required of employees.
- 787 KAR 1:060 & E. Separation for cause; reports.
- 787 KAR 1:070 & E. Reasonable time for protesting claim.
- 787 KAR 1:080 & E. Labor dispute or strike; notification.
- 787 KAR 1:090 & E. Claimant's reporting requirements.
- 787 KAR 1:100 & E. Week of unemployment defined.
- 787 KAR 1:110 & E. Appeals.
- 787 KAR 1:120 & E. Fees for representing claimant.
- 787 KAR 1:130 & E. Determination defined.
- 787 KAR 1:140 & E. Unemployment insurance fund payments.
- 787 KAR 1:150 & E. Interstate claimants.
- 787 KAR 1:160 & E. Time extension for reports and notices.
- 787 KAR 1:170 & E. Cash value of board and lodging.
- 787 KAR 1:180 & E. Employer's records.
- 787 KAR 1:190 & E. Recoupment and recovery.
- 787 KAR 1:200 & E. Maximum weekly benefit rate.
- 787 KAR 1:210 & E. Employer contribution rates.
- 787 KAR 1:220 & E. Required reports and due dates.
- 787 KAR 1:230 & E. Due dates.
- 787 KAR 1:240 & E. Fraud disqualifications.
- 787 KAR 1:250 & E. Release of notice of levy.
- 787 KAR 1:260 & E. Voluntary election of coverage.
- 787 KAR 1:270 & E. Covered employment.
- 787 KAR 1:280 & E. Limitation on pension deductions.
- 787 KAR 1:290 & E. Contract construction rates.
- 787 KAR 1:300 & E. Successorship.
- 787 KAR 1:310 & E. Claimant profiling.

Employment Services

- 787 KAR 2:010 & E. Veterans' benefits.
- 787 KAR 2:020 & E. Confidentiality of records of the Department for Employment Services.
- 787 KAR 2:030 & E. Classifying a person as unemployed; appeals.

Department for Employment Services

Office of Training and Reemployment

- 788 KAR 2:010 & E. Job Training Partnership Act.

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LABOR CABINET

Occupational Safety and Health

- 803 KAR 2:320E. Adoption of 29 CFR Part 1910.1000-.1500.
- 803 KAR 2:403E. Adoption of 29 CFR Part 1926.50-.66.
- 803 KAR 2:425E. Adoption of 29 CFR Part 1926.1100-.1148.
- 803 KAR 2:500E. Adoption of 29 CFR Part 1915, 1917, 1918 and 1919, Maritime employment.

Department of Workers' Claims

- 803 KAR 25:190. Utilization review and medical bill audit. (Amended After Hearing) (Deferred from August)

PUBLIC PROTECTION AND REGULATION CABINET

Public Service Commission

Utilities

- 807 KAR 5:013. Management and operation audits.

Department of Housing, Buildings and Construction

Heating, Ventilation, and Air Conditioning Licensing Requirements

- 815 KAR 8:040 & E. Heating, ventilation and air conditioning (HVAC) contractor application reviews.

Standards of Safety

- 815 KAR 10:050. Kentucky Fire Prevention Code. (Repeals 815 KAR 10:040)

CABINET FOR HUMAN RESOURCES

Department for Health Services

Emergency Medical Services and Ambulance Service Providers

- 902 KAR 14:070 (& E). License procedures and fee schedule for ambulance providers and tiered response emergency medical services. (Emergency found deficient by ARRS, 7/10/95)
- 902 KAR 14:080 (& E). Basic and advanced life support ground ambulance providers. (Repeals 902 KAR 20:117) (Emergency found deficient by ARRS, 7/10/95)
- 902 KAR 14:090 (& E). Air ambulance providers. (Repeals 902 KAR 20:155) (Emergency found deficient by ARRS, 7/10/95)

Health Services and Facilities

- 902 KAR 20:270. Mobile health services.

Department for Social Insurance

Public Assistance

- 904 KAR 2:006. Technical requirements; AFDC.
- 904 KAR 2:060. Delegation of power for oaths and affirmations.

Food Stamp Program

- 904 KAR 3:020. Financial requirements.
- 904 KAR 3:050 & E. Claims and additional administrative provisions.
- 904 KAR 3:060 & E. Administrative disqualification hearings and penalties.
- 904 KAR 3:070. Fair hearings.

Department for Social Services

Children's Residential Services

- 905 KAR 7:250 & E. Kentucky educational collaborative for state agency children.

Department for Medicaid Services

Medicaid Services

- 907 KAR 1:009E. Physicians' services.
- 907 KAR 1:010E. Payments for physicians' services.
- 907 KAR 1:025. Payments for nursing facility and intermediate care facility for the mentally retarded services. (Deferred from July)
- 907 KAR 1:060E. Medical transportation. (Repeals 907 KAR 1:420)
- 907 KAR 1:061E. Payments for transportation services.

KENTUCKY HEALTH POLICY BOARD

Administration

- 909 KAR 1:021E. Updated 1992-1995 State Health Plan. (Deferred from August)
- 909 KAR 1:055E. Certificate of need expenditure minimums. (Repeals 902 KAR 20:136) (Deferred from August)
- 909 KAR 1:080 (& E). Accountable health plan certification. (Public Hearing in July)
- 909 KAR 1:090 (& E). Establishment of the Kentucky risk assessment and risk adjustment system. (Written Comments Received)

ADMINISTRATIVE REGULATION REVIEW PROCEDURE
(Also see KRS Chapter 13A)

Notice of Intent

Administrative bodies shall file with the Regulations Compiler a Notice of Intent to promulgate an administrative regulation, including date, time and place of a public hearing on the subject matter to which the administrative regulation applies. This Notice of Intent, along with the public hearing information, shall be published in the Administrative Register. This Notice has to be filed and published in the Administrative Register, and the public hearing held or cancelled, prior to the filing of an administrative regulation.

After the scheduled hearing date, if held, the administrative body shall file with the Regulations Compiler a Statement of Consideration, setting forth a summary of the comments made at the public hearing, and the responses by the administrative body. This Statement shall not be published in the Administrative Register.

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.

NOTICES OF INTENT TO PROMULGATE ADMINISTRATIVE REGULATIONS

FINANCE AND ADMINISTRATION CABINET
Office of the Secretary

Date: July 13, 1995
Finance and Administration Cabinet
Office of the Secretary

- (1) **200 KAR 22:080**, Comprehensive employment manual of the Kentucky Veterans Center for use in the Pilot Personnel Program.
- (2) The Finance and Administration Cabinet intends to promulgate the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m. in Room 386, Capitol Annex Building, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and
 2. A minimum of five persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Gail Prewitt, Office of the Secretary, Finance and Administration Cabinet, Room 383, Capitol Annex Building, Frankfort, Kentucky 40601.
- (b) On a request for a public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file the request may obtain a request form from the Office of the Secretary at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of the above-cited administrative regulation is contained in KRS 18A.430(1)(a), (b), and (c).
 - (b) The proposed regulation will promulgate the comprehensive employment manual of the Kentucky Veterans Center for use in the Pilot Personnel Program as required by KRS 18A.430(1).
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 18A.430(1)(a) provides that each pilot agency participating in the Pilot Personnel Program authorized by KRS 18A.400 to 18A.450 shall develop comprehensive employment manuals establishing conditions of employment for employees in the Pilot Personnel Program. KRS 18A.430(1)(b) requires that the employment manuals be promulgated by administrative regulation. According to KRS 18A.430(1)(c), the head of the agency in which the pilot program is located shall be responsible for preparing the regulation and submitting it to the Secretary of the Finance and Administration Cabinet for promulgation. This regulation will promulgate the comprehensive employment manual of the Kentucky Veterans Center for use in the Pilot Personnel Program.
 - (d) The benefit expected from this proposed administrative regulation is as follows: The comprehensive employment manual will specify the terms and conditions of employment for employees of the Kentucky Veterans Center, which is participating in the Pilot Personnel Program, as required by KRS 18A.430(1).
 - (e) This administrative regulation will be implemented by the Personnel Steering Committee by notifying the Kentucky Veterans Center when the regulation is made effective, with a recommendation that the comprehensive employment manual be made available to all employees participating in the Pilot Personnel Program.

KENTUCKY LICENSING BOARD FOR SPECIALISTS IN HEARING INSTRUMENTS

Date: August 10, 1995
Kentucky Licensing Board for Specialists in Hearing Instruments

- (1) Regulation Number and Title: **201 KAR 7:040**. Examinations.
- (2) The Kentucky Licensing Board for Specialists in Hearing Instruments intends to amend the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 1995, at 10:45 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Licensing Board for Specialists in Hearing Instruments at the address listed above.

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(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to examinations is KRS 334.150.

(b) The administrative regulation that the board intends to promulgate will amend 201 KAR 7:040 as follows: It will change the passing score on all portions of the examination from seventy-five (75) percent to seventy (70) percent.

(c) The necessity and function of the proposed administrative regulation is as follows: The purpose of this administrative regulation is to clarify and delineate the procedures for administering examinations.

(d) The benefits expected from administrative regulation are: The change in the passing score will allow more candidates to achieve a passing score on the examination and will improve compliance with KRS 334.060.

(e) The administrative regulation will be implemented as follows: The new passing score will be used for the first administration of the examination after the effective date of the amended administrative regulation.

KENTUCKY BOARD OF VETERINARY EXAMINERS

Date: August 10, 1995

Kentucky Board of Veterinary Examiners

(1) Regulation Number and Title: **201 KAR 16:050**. Continuing education.

(2) The Kentucky Board of Veterinary Examiners intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 1995, at 11:30 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, requests this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(c) If a request for a public hearing, is not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Veterinary Examiners at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to continuing education is KRS 321.235 and 321.211(7).

(b) The administrative regulation that the board intends to promulgate will amend 201 KAR 16:050 as follows: It will require veterinary technologists and veterinary technicians to obtain six (6) hours of continuing education annually in order to renew their registration.

(c) The necessity and function of the proposed administrative regulation is as follows: Pursuant to KRS 321.211(7), the board may require that a person applying for renewal or reinstatement to show evidence of completion of continuing education. This administrative regulation sets forth those requirements concerning required continuing education hours relating to the practice of veterinary medicine.

(d) The benefits expected from administrative regulation are: All credentialed individuals will now be required to receive continuing education as condition of renewal.

(e) The administrative regulation will be implemented as follows: The requirement will begin with the renewal which is due on or before October 1, 1996.

KENTUCKY STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Date: August 15, 1995

Kentucky State Board of Registration for Professional Engineers and Land Surveyors

(1) Subject matter of new administrative regulation, **201 KAR 18:129**, is the repeal of 201 KAR 18:130, 201 KAR 18:160, and 201 KAR 18:200.

(2) The Kentucky State Board of Registration for Professional Engineers and Land Surveyors intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 1995, at 10 a.m., at the Board Office located at the Kentucky Engineering Center, 160 Democrat Drive, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kentucky Engineering Center, 160 Democrat Drive, Frankfort, Kentucky 40601.

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- (b) On a request for public hearing, a person shall state:
 - 1. "I agree to attend the public hearing."; or
 - 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky State Board of Registration for Professional Engineers and Land Surveyors at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of an administrative regulation relating to disciplinary hearing procedure is KRS 322.290.
 - (b) The administrative regulation that the Kentucky State Board of Registration for Professional Engineers and Land Surveyors intends to promulgate will repeal 201 KAR 18:130, 201 KAR 18:160, and 201 KAR 18:200.
 - (c) The necessity and function of the proposed administrative regulation is as follows:
 - 1. 201 KAR 18:131, was adopted to replace 201 KAR 18:130, which, inadvertently, was not repealed.
 - 2. The board has determined that mortgage inspections do not furnish adequate protection for the public; that the public does not adequately understand the distinction between mortgage inspections and boundary surveys.
 - 3. Since 201 KAR 18:200 is to be repealed, 201 KAR 18:160 serves no regulatory purpose.
 - (d) The benefits expected are as follows:
 - 1. Licensees will not be confused as to which disciplinary procedure shall prevail in their cases, after 201 KAR 18:130 is repealed.
 - 2. The elimination of 201 KAR 18:200 would furnish greater protection to mortgage lenders and borrowers.
 - 3. Since 201 KAR 18:160 has meaning only as long as 201 KAR 18:200 remains in effect, it will remove a pointless administrative regulation from the books.
 - (e) The administrative regulation will be implemented as follows:
 - (a) No disciplinary hearings will be held under 201 KAR 18:130.
 - (b) No mortgage inspections would be permitted.
 - (c) No waivers for boundary surveys would be permitted.

KENTUCKY BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS

Date: August 14, 1995

Kentucky Board of Registration for Professional Geologists

- (1) The subject matter of the proposed administrative regulation, **201 KAR 31:050**, is renewal of registration as a geologist.
- (2) The Kentucky Board of Registration for Professional Geologists intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 1995, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
 - (b) If 5 persons, or an administrative body or association, requests this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.
 - (c) If a request for a public hearing, is not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.
 - (b) On a request for public hearing, a person shall state:
 - 1. "I agree to attend the public hearing."; or
 - 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Registration for Professional Geologists at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of an administrative regulation relating to renewal of registration is KRS 322A.060.
 - (b) The administrative regulation that the board intends to promulgate will not amend an existing administrative regulation. It will establish the requirements for the renewal of registration to engage in the public practice of geology.
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 322A.060 provides that the board shall promulgate administrative regulations establishing procedures for annual renewal of licenses. This administrative regulation establishes those procedures.
 - (d) The benefits expected from administrative regulation are: The fees from renewal of registration will provide a continuing source of funding for the ongoing activities of the board.
 - (e) The administrative regulation will be implemented as follows: The proposed administrative regulation will establish the procedures for a registered geologist to follow in order to renew their registration. It will require that each person registered as a professional geologist renew their registration prior to October 1 of each year. It also provides for late renewal during a ninety day grace period provided for in KRS 322A.060. Finally, it provides the policy for renewal after completion of the ninety day grace period.

KENTUCKY BOARD OF LICENSURE AND CERTIFICATION FOR DIETITIANS AND NUTRITIONISTS

Date: August 14, 1995

Kentucky Board of Licensure and Certification for Dietitians and Nutritionists

(1) The subject matter of the proposed administrative regulation, **201 KAR 33:010**, is the fees that must be paid for application, certification, licensure, and renewal.

(2) The Kentucky Board of Licensure and Certification for Dietitians and Nutritionists intends to promulgate an administrative regulation governing the subjected matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 1995, at 9 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, requests this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(c) If a request for a public hearing, is not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to fees is KRS 310.041(1) and (5).

(b) The administrative regulation that the board intends to promulgate will not amend an existing administrative regulation. It sets forth in detail all fees charged by the board regarding licensure and certification.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation is necessitated by KRS 310.041(5) and 310.050 and sets forth in detail all fees charged by the board.

(d) The benefits expected from administrative regulation are: The applicants, licensees, and certificate holders will all know the fees that they will be required to pay in all areas.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will establish the application fees, renewal fees and penalties, and the duplicate license fees that have to be paid.

Date: August 14, 1995

Kentucky Board of Licensure and Certification for Dietitians and Nutritionists

(1) The subject matter of the proposed administrative regulation, **201 KAR 33:020**, is the requirements for renewal of certification as a nutritionist or licensure as a dietitian.

(2) The Kentucky Board of Licensure and Certification for Dietitians and Nutritionists intends to promulgate an administrative regulation governing the subjected matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 1995, at 9 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, requests this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(c) If a request for a public hearing, is not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to fees is KRS 310.041 310.050.

(b) The administrative regulation that the board intends to promulgate will not amend an existing administrative regulation. It establishes the requirements for renewal of certification as a nutritionist and licensure as a dietitian.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 310.050 provides that the board shall promulgate administrative regulations establishing procedures for annual renewal of licenses. This administrative regulation establishes those

procedures.

(d) The benefits expected from administrative regulation are: The licensees and certificate holders will all know the procedures that they will be required to follow in order to renew their credential(s).

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will require persons licensed as a dietitian or certified as a nutritionist to renew their license or certificate. Licenses or certificates not renewed each year shall expire. Persons requesting renewal of their licensure or certification shall comply with the continuing education requirements of KRS 310.050(3) and as specified by promulgation of an administrative regulation. There will be a sixty (60) day grace period during which time individuals may renew their license or certificate upon payment of the renewal fee plus a late renewal fee. The person holding the license or certificate may continue to practice during the sixty (60) day grace period. Licenses or certificates not renewed before the end of the grace period shall be automatically revoked as specified by KRS 310.050. Upon revocation, the licensee shall no longer be eligible to practice in the Commonwealth and shall be sent notice at the last known address available to the board that their credential has been revoked and that they shall cease and desist practice. After the sixty (60) day grace period, an individual with a license or certificate which has been automatically revoked due to failure to renew, may have their license or certificate reinstated upon payment of the renewal fee plus a reinstatement fee and documentation that they have successfully complied with the continuing education requirements.

Date: August 14, 1995

Kentucky Board of Licensure and Certification for Dietitians and Nutritionists

(1) The subject matter of the proposed administrative regulation, **201 KAR 33:030**, is the requirements for continuing education for certified nutritionists or licensed dietitians.

(2) The Kentucky Board of Licensure and Certification for Dietitians and Nutritionists intends to promulgate an administrative regulation governing the subjected matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 1995, at 9 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, requests this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(c) If a request for a public hearing, is not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to fees is KRS 310.041(1) and 310.050(3).

(b) The administrative regulation that the board intends to promulgate will not amend an existing administrative regulation. It establishes the requirements for continuing education for persons holding certification as a nutritionist and licensure as a dietitian.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 310.050 requires persons holding certification as a nutritionist and licensure as a dietitian to acquire continuing education as a condition for renewal. This administrative regulation will establish those requirements.

(d) The benefits expected from administrative regulation are: The licensees and certificate holders will all know the requirements for continuing education that they will be required to follow in order to renew their credential(s).

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will require persons licensed as a dietitian or certified as a nutritionist to obtain continuing education in order to renew their license or certificate. Licenses or certificates not renewed each year shall expire. Persons requesting renewal of their licensure or certification shall obtain fifteen (15) hours of continuing education each year. If a new licensee or certificate holder is licensed or certified during the year, the licensee or certificate holder shall be exempt from meeting continuing education requirements for the first license or certification renewal. Hours of continuing education credit may be obtained by attending and participating in a continuing education activity which has prior approval by the board. No more than fifteen (15) hours of continuing education may be carried over into the next continuing education period.

Date: August 14, 1995

Kentucky Board of Licensure and Certification for Dietitians and Nutritionists

(1) The subject matter of the proposed administrative regulation, **201 KAR 33:040**, is the compensation of board members.

(2) The Kentucky Board of Licensure and Certification for Dietitians and Nutritionists intends to promulgate an administrative regulation governing the subjected matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 1995, at 9 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, requests this public hearing, and agree in writing to be present at this public

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hearing, it will be held as scheduled.

(c) If a request for a public hearing, is not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to fees is KRS 310.020(5) and 310.041(1).

(b) The administrative regulation that the board intends to promulgate will not amend an existing administrative regulation. It establishes the per diem compensation of board members.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 310.020(5) requires the board to set the compensation for board members by administrative regulation. This administrative regulation will establish that amount.

(d) The benefits expected from administrative regulation are: The board members will be able to be compensated for their work as mandated by the law.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will set the per diem compensation of board members.

DEPARTMENT OF AGRICULTURE

Date: July 27, 1995

Department of Agriculture

(1) The regulation to be amended is **302 KAR 20:115**, Identification of vesicular stomatitis.

(2) The Department of Agriculture intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 10 a.m., at Capital Plaza Tower, 7th Floor, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Capital Plaza Tower, 7th Floor, 500 Mero Street, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of Agriculture at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to 302 KAR 20:115 is KRS Chapter 257.

(b) The administrative regulation that the Department of Agriculture intends to promulgate will not amend 302 KAR 20:115 and is a new administrative regulation. This regulation sets forth the requirement for entry into Kentucky livestock exposed to vesicular stomatitis.

(c) The necessity and function of the proposed administrative regulation is as follows: The same as (b).

(d) The benefits expected from administrative regulation are: This regulation furthers Kentucky health and disease control initiatives for livestock.

(e) The administrative regulation will be implemented as follows:

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Environmental Protection

Date: August 15, 1995

Natural Resources and Environmental Protection Cabinet

Department for Environmental Protection

(1) **401 KAR 100:010**, General administrative hearing practice provisions.

(2) The Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, at 1 p.m. E.T., at the Fifth Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky.

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(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kathryn M. Hargraves, Manager, Natural Resources and Environmental Protection, Legal Branch, Office of Legal Services, 5th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Office of Legal Services at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to general administrative hearing practice provisions is KRS 151.125, 151.182, 151.184, 151.186, 151.297, 224.10-100, 224.10-410, 224.10-420, 224.10-430, 224.10-440, 224.10-470, 224.40-310.

(b) The administrative regulation that the Department for Environmental Protection intends to promulgate will amend 401 KAR 100:010, General administrative hearing practice provisions. Section 14(5) describes the burden of proof in hearings on orders to abate and alleviate. The Administrative Regulation Review Subcommittee found that this subsection does not comport with KRS Chapter 13A. The Department for Environmental Protection will delete this subsection in its entirety, so that the burden of proof will be governed by the authorizing statute itself, KRS 224.10-410.

(c) The necessity and function of the proposed administrative regulation is as follows: The necessity and function of the amendment to 401 KAR 100:010 is to correct the deficiency identified by the Administrative Regulation Review Subcommittee.

(d) The benefits expected from administrative regulation are: Removal of the deficiency identified by the Administrative Regulation Review Subcommittee.

(e) The administrative regulation will be implemented as follows: 401 KAR 100:010 will continue to be implemented as part of the rules of administrative procedure governing environmental protection cases heard by the Natural Resources and Environmental Protection Cabinet's Office of Administrative Hearings. 401 KAR 100:010 does not apply to surface mining cases; those cases are governed by Title 405, Kentucky Administrative Regulations.

JUSTICE CABINET Department of Corrections

Date: August 14, 1995

Justice Cabinet

Department of Corrections

(1) Regulation Number and Title: **501 KAR 6:020**, Department of Corrections: Transportation of inmates to funerals or bedside visits, transportation of inmates, special management inmates, involuntary psychotropic medication policy, inmate grievance procedure, meritorious good time, restoration of forfeited good time, assessment center operations, inmate conflicts, preparole progress reports, referral procedure for inmates adjudicated guilty but mentally ill, protective custody, inmate furloughs.

(2) The Justice Cabinet, Department of Corrections intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m., in the Auditorium, in the State Office Building, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Justice Cabinet, Department of Corrections, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of Corrections at the address listed.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 196.035 and 197.020.

(b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 6:020, as follows:

1. Transportation of inmates to funerals or bedside visits (9.4) shall be amended to clarify the circumstances under which an inmate may be transported for visits due to illness or death of family members.

2. Transportation of inmates (9.9) shall be amended to streamline the procedures for transporting inmates.

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3. Special management inmates (10.2) shall be amended to reflect the procedure for placing inmates in temporary holding cells.
4. Involuntary psychotropic medication policy (13.7) shall be added to provide procedures to forcibly treat an inmate with antipsychotic medication when the inmate is in danger to himself or others and when it is in his medical interest.
5. Inmate grievance procedures (14.6) shall be amended to reflect that the court may now hold in abeyance any litigation involving an issue an inmate could have pursued through the grievance system and did not. The revision shall affect the established time limits within which an inmate has to file a grievance.
6. Meritorious good time (15.3) shall be amended to clarify the procedure for recommendations for awards of meritorious good time.
7. Restoration of forfeited good time (15-05-01) shall be amended to provide that inmates returned to the institution as parole violators shall not be immediately eligible for restoration of forfeited good time.
8. Assessment center operations (17.2) shall be amended to reflect the current practice of reporting operational matters to the warden.
9. Inmate conflicts (18.3) shall be added to reflect the procedure for investigating and documenting conflicts between inmates.
10. Preparole progress reports (18.10) shall be amended to clarify the procedure for sending information to the Parole Board.
11. Referral procedure for inmates adjudicated guilty but mentally ill (18.12) shall be amended to reflect the procedure for referring inmates to the Kentucky Correctional Psychiatric Center for evaluation.
12. Protective custody (18.15) shall be amended to reflect current procedures for classification of inmates to protective custody.
13. Inmate furloughs (25.4) shall be amended to make this policy consistent with other policies.
- (c) The necessity and function of the proposed administrative regulation is: To provide consistent policies among all Department of Corrections entities and compliance with state and federal statutes.
- (d) The benefits expected from administrative regulation are: To provide consistent policies among all Department of Corrections entities and to most efficiently use departmental resources.
- (e) The administrative regulation will be implemented as follows: By promulgating and enforcing the components of the various policies to provide consistent policy for the department.

Date: August 14, 1995

Justice Cabinet

Department of Corrections

- (1) Regulation Number and Title: **501 KAR 6:030**, Kentucky State Reformatory: Inmate grievance, volunteer services.
- (2) The Justice Cabinet, Department of Corrections intends to amend the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m., in the Auditorium, in the State Office Building, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association agree, in writing, to be present at the public hearing.
- (b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.
- (c) If a request for a public hearing is not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Justice Cabinet, Department of Corrections, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Department of Corrections at the address listed.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of this administrative regulation is KRS 196.035 and 197.020.
- (b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 6:030, as follows:
 1. Inmate grievance procedure (14-00-04) shall be amended in accordance with the court order issued by the U.S. District Court, Eastern and Western Districts.
 2. Volunteer services program (26-00-01) shall be amended to reflect new guidelines throughout the policy.
- (c) The necessity and function of the proposed administrative regulation is: To update operating procedures at Kentucky State Reformatory to comply with OSHA Standards, American Correctional Association Standards and Department of Corrections Policies and Procedures.
- (d) The benefits expected from administrative regulation are: To comply with OSHA Standards, American Correctional Association Standards and Department of Corrections Policies and Procedures.
- (e) The administrative regulation will be implemented as follows: It shall be implemented by having staff comply with operational procedures and standards noted in policy changes.

Date: August 14, 1995

Justice Cabinet

Department of Corrections

- (1) Regulation Number and Title: **501 KAR 6:090**, Frankfort Career Development Center: Duties and responsibilities of FCDC duty officers, organization and assignment of responsibilities, fire safety practices, inmates rights and responsibilities, personal property control, authorized inmate personal property, social services program.

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(2) The Justice Cabinet, Department of Corrections intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m., in the Auditorium, in the State Office Building, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Justice Cabinet, Department of Corrections, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of Corrections at the address listed.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 196.035 and 197.020.

(b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 6:090, as follows:

1. Duties and responsibilities of FCDC duty officer (01-05-01) shall be deleted entirely due to this regulation being a duplication of CPP 1.9.

2. Organization and assignment of responsibilities (01-09-01) shall be amended to indicate the lines of authority for staff.

3. Fire safety practices (08-01-01) shall be amended to ensure compliance with applicable federal, state, and local safety and prevention standards.

4. Inmates rights and responsibilities (14-03-01) shall be amended to ensure that inmates rights and responsibilities are in continued compliance with American Accreditation Association Standards and Corrections Policies and Procedures.

5. Personal property control (17-01-01) shall be amended to ensure proper procedures are followed in property control. The attachments were created to enhance the accountability of property.

6. Authorized inmate personal property (17-01-02) was created to establish guidelines for authorized inmate property.

7. Social services program (24-01-01) shall be amended to ensure the social services program is in continued compliance with American Correctional Association Standards.

(c) The necessity and function of the proposed administrative regulation is: To update operating procedures at Frankfort Career Development Center to comply with OSHA Standards, American Correctional Association Standards and Department of Corrections Policies and Procedures.

(d) The benefits expected from administrative regulation are: To comply with OSHA Standards, American Correctional Association Standards and Department of Corrections Policies and Procedures.

(e) The administrative regulation will be implemented as follows: It shall be implemented by having staff comply with operational procedures and standards noted in policy changes.

Date: August 14, 1995

Justice Cabinet

Department of Corrections

(1) Regulation Number and Title: **501 KAR 6:110, Roederer Correctional Complex: Self-administered medication program, extended and special visits, vocational horticulture program, cooperation with outside bodies; including courts, governmental, legislative, executive, and community agencies, employee training and development, search policy/disposition of contraband, collection, preservation, and identification of physical evidence, food service: general guidelines, health maintenance services: sick call and pill call, inmate visiting, inmate personal property and property control, job assignments, inmate clubs and organizations, inmate discharge procedure.**

(2) The Justice Cabinet, Department of Corrections intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m., in the Auditorium, in the State Office Building, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Justice Cabinet, Department of Corrections, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of Corrections at the address listed.

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(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 196.035 and 197.020.

(b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 6:110, as follows:

1. Cooperation with outside bodies; including courts, governmental, legislative, executive, and community agencies (01-10-01)

shall be amended to reflect new guidelines established within the institution.

2. Employee training and development (04-01-01) shall be amended to reflect new guidelines established within the institution.

3. Search policy/disposition of contraband (09-06-01) shall be amended to reflect new guidelines established within the institution.

4. Collection, preservation, and identification of physical evidence (09-06-02) shall be amended to reflect new guidelines established within the institution.

5. Food service: general guidelines (11-01-01) shall be amended to reflect new guidelines established within the institution.

6. Health maintenance services: sick call and pill call (13-02-01) shall be amended to reflect new guidelines established within the institution.

7. Self-administered medication program (13-07-04) shall be established as a new policy which dictates the procedures regarding our self administered medication program.

8. Inmate visiting (16-01-01) shall be amended to reflect new guidelines established within the institution and also reflects deleted information contained in a newly established procedure.

9. Extended and special visits (16-01-03) shall be established as a new policy which dictates the procedures regarding special and extended visits at this institution.

10. Inmate personal property and property control (17-03-01) shall be amended to reflect new guidelines established within the institution.

11. Job assignments (19-01-01) shall be amended to reflect new guidelines established within the institution.

12. Vocation horticulture program (20-01-03) shall be established as a new policy which dictates the procedures regarding our newly established horticulture program.

13. Inmate clubs and organizations (22-03-01) shall be amended to reflect new guidelines established within the institution.

14. Inmate discharge procedure (25-05-01) shall be amended to reflect new operational procedures within the institution.

(c) The necessity and function of the proposed administrative regulation is: To update operating procedures at Roederer Correctional Complex to comply with OSHA Standards, American Correctional Association Standards and Department of Corrections Policies and Procedures.

(d) The benefits expected from administrative regulation are: To comply with OSHA Standards, American Correctional Association Standards and Department of Corrections Policies and Procedures.

(e) The administrative regulation will be implemented as follows: It shall be implemented by having staff comply with operational procedures and standards noted in policy changes.

Date: August 14, 1995

Justice Cabinet

Department of Corrections

(1) Regulation Number and Title: **501 KAR 6:120**, Blackburn Correctional Complex: Duty officer and officer in charge, relationships with the public, media and other agencies, public information and news media access, inmate access to BCC staff, fiscal management: accounting procedures, fiscal management: budget, property inventory, purchasing, inmate personal accounts, firearms training, educational assistance program, rules and regulations for dormitories, inmate correspondence, classification of the inmate, inmate work programs, college programs, educational program evaluation, education program planning, academic and vocational curriculum, library services, audio or video tape court transcripts, citizen involvement and volunteer services program.

(2) The Justice Cabinet, Department of Corrections intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m., in the Auditorium, in the State Office Building, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Justice Cabinet, Department of Corrections, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of Corrections at the address listed.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 196.035 and 197.020.

(b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 6:120, as follows:

1. Duty officer and officer in charge (01-05-01) shall be deleted due to this regulation being a duplication of CPP 1.9.

2. Relationships with public, media and other agencies (01-13-01) shall be amended to reflect media inquiries being reported to the Public Information Officer, all news releases being approved by the Warden and to add a new ACA Standard.

3. Public information and news media access (01-13-02) shall be created to establish the procedures to handle the news media in

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both emergency and nonemergency events.

4. Inmate access to BCC staff (01-19-01) shall be amended to include the Deputy Warden of Programs and the Deputy Warden of Security to visit the institutional living and activity areas at least weekly and a revised attachment for reporting this activity.

5. Fiscal management: accounting procedures (02-02-02) shall be amended to reflect the change in posting of money orders to inmate accounts.

6. Fiscal management: budget (02-02-04) shall be amended to correct a typographical error.

7. Property inventory (02-05-01) shall be amended to change the phrase of "Inventory Card" to "Inventory System".

8. Purchasing (02-06-01) shall be amended to include a requisition form for purchases and a new form for office supplies.

9. Inmate personal accounts (02-07-01) shall be amended to reflect the change in the Inmate Disbursement Form.

10. Firearms training (04-02-01) shall be amended to reflect the change in Basic Preservice Training for Firearms, and minor word changes throughout to bring policy into compliance with LRC regulations.

11. Educational assistance program (040-03-01) shall be amended to delete the duplication of material contained in CPP 4.4, and minor word changes throughout to bring policy into compliance with LRC regulations and to convert second edition ACA standards to third edition standards.

12. Rules and regulations for dormitories (15-03-01) shall be amended to delete a CPP reference change, and new guidelines established within the institution.

13. Inmate correspondence (16-03-03) shall be amended to include video and audio court transcripts as legal and privileged mail, and reflect new guidelines established within the institution.

14. Classification: institutional classification and reclassification (18-01-01) shall be amended to reflect how classification is being handled, title change, changes in attachments, and deletion of several CPP's as references.

15. Inmate work programs (19-01-01) shall be amended to reflect the change in Correctional Industries pay scale.

16. College programs (20-02-01) shall be deleted as the Pell Grants are no longer available to inmates.

17. Educational program evaluation (20-04-01) shall be amended to change the name of the Vocational School to Kentucky Tech-Blackburn, minor word changes throughout the policy to bring into compliance with LRC regulations and to convert second edition ACA standards to third edition standards.

18. Education program planning (20-05-01) shall be amended to reflect new guidelines established within the institution, to bring into compliance with LRC regulations and to convert second edition ACA standards to third edition standards.

19. Academic and vocational curriculum (20-06-01) shall be amended to reflect new guidelines established within the institution and to bring into compliance with LRC regulations and to convert second edition ACA standards to third edition standards.

20. Library services (21-01-01) shall be amended to reflect new guidelines established within the institution, minor word changes throughout to bring policy into compliance with LRC regulations, and to convert second edition ACA standards to third edition standards.

21. Audio or video tape court transcripts (21-01-02) shall be established as a new policy to implement the storage for audio and video tape court transcripts and how inmates may have access to these tapes.

22. Citizen involvement and volunteer services program (26-01-01) shall be amended to delete the words District 9 Parole Office Supervisor.

(c) The necessity and function of the proposed administrative regulation is: To update operating procedures at Blackburn Correctional Complex to comply with OSHA Standards, American Correctional Association Standards and Department of Corrections Policies and Procedures.

(d) The benefits expected from administrative regulation are: To comply with OSHA Standards, American Correctional Association Standards and Department of Corrections Policies and Procedures.

(e) The administrative regulation will be implemented as follows: It shall be implemented by having staff comply with operational procedures and standards noted in policy changes.

DEPARTMENT OF STATE POLICE

Date: August 1, 1995

Department of State Police

(1) The subject matter of this regulation, **502 KAR 45:145**, is the manner in which officers may receive merit pay awards.

(2) The Department of State Police intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 1995, at 10 a.m., at 919 Versailles Road, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: 919 Versailles Road, Frankfort, Kentucky 40601, attention - Jean Ann Gabbard, Personnel Manager.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of State Police at the address listed above.

(7) Information relating to the proposed administrative regulation:

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(a) The statutory authority for the promulgation of an administrative regulation relating to a merit pay program is KRS 16.050 and 16.080.

(b) The administrative regulation that the Kentucky Department of State Police intends to promulgate is a new administrative regulation. It will provide merit pay awards for officers similar to those now awarded to other state employees.

(c) The necessity and function of the proposed administrative regulation is as follows: To provide a needed mechanism for the department to award its officers merit pay awards.

(d) The benefits expected from administrative regulation are: To allow the department to award those officers who excel in the performance of their duties.

(e) The administrative regulation will be implemented as follows:

TRANSPORTATION CABINET

Date: September 1, 1995

Transportation Cabinet

(1) 600 KAR Chapter 6 relating to professional engineering and related services. Administrative regulations 600 KAR 6:010, 600 KAR 6:020, 600 KAR 6:030, 600 KAR 6:040, 600 KAR 6:050, 600 KAR 6:060, 600 KAR 6:070, 600 KAR 6:080, 600 KAR 6:090, and 6:100 are to be promulgated.

(2) The Kentucky Transportation Cabinet intends to promulgate a new chapter of administrative regulations dealing with the procedures the Transportation Cabinet and engineering firms must follow in the prequalification, procurement, contracting, recordkeeping, accounting standards, and auditing of professional engineering and related services. The series of administrative regulations will replace the existing administrative regulation 600 KAR 1:101 which needs to be divided into individual topics relating to professional engineering and related services. The Transportation Cabinet will evaluate certain items in the negotiation of a contract, e.g., whether a cost will be a direct cost, or an indirect cost (overhead cost), and how specific costs such as computer time and printing may be charged. The principles to be followed by the Transportation Cabinet in auditing the engineering firms will also be considered. Other items will be essentially the same as now in 600 KAR 1:101.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995 at 1 p.m. local prevailing time, at 501 High Street, 4th Floor Hearing Room, Frankfort, Kentucky 40622.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sandra G. Pullen, 501 High Street, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Transportation Cabinet at the address listed above.

(7) Information relating to the proposed administrative regulation is as follows:

(a) The statutory authority for the promulgation of administrative regulations relating to professional engineering and related services is KRS 45A.800 through 45A.835, 23 USC, 23 CFR 172, 49 CFR 18; and 48 CFR 31.

(b) The administrative regulations that the Transportation Cabinet intends to promulgate are new administrative regulations.

(c) The necessity and functions of the proposed new administrative regulations relating to professional engineering and related services are: These administrative regulations specify the procedures to be followed by the Transportation Cabinet when prequalifying, contracting, or auditing professional engineering or related services firms. They implement the provisions of KRS 45A.800 to 45A.835. In addition, because of interest expressed by the engineering community, the Transportation Cabinet is attempting to include more information relating to acceptable methods of accounting on the part of engineering firms and standardized methods of auditing on the part of the Transportation Cabinet.

(d) The benefits expected are: Better understanding in the engineering community of the financial recordkeeping expectations of the Kentucky Transportation Cabinet, as well as uniformity in the manner engineering firm audits are performed by the Transportation Cabinet; and ease of following the requirements of the administrative regulations since, even though the administrative regulations will be closely related, each will only deal with one topic.

(8) If any proposed participant has a disability for which the Transportation Cabinet needs to make an accommodation, Sandra G. Pullen should be contacted at the above address by September 20, 1995. Her telephone number is 502-564-4890.

TRANSPORTATION CABINET

Date: September 1, 1995

Transportation Cabinet

(1) 601 KAR 1:005 relating to the federal motor carrier safety regulations.

(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation updating the adopted federal regulations governing the safe operation of commercial motor vehicles in Kentucky. In addition, the Transportation Cabinet intends to list the types of medically licensed persons in Kentucky who meet the definition of "medical examiner" pursuant to 49 CFR 390.5 and who are

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allowed to perform motor carrier safety physical examinations.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995 at 3 p.m. local prevailing time, at 501 High Street, Room 1003, Frankfort, Kentucky 40622.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sandra G. Pullen, 501 High Street, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Transportation Cabinet at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the safety of commercial motor vehicles and their operators is KRS 138.665, 281.600, 281.730, 281.750, and Title 49 CFR Parts 40, 382-383, 390-397.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend an existing administrative regulation.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation is necessary to set forth the safety requirements that KRS 281.600 allows the Transportation Cabinet to establish. Further, these safety requirements are imposed by US DOT on commercial vehicles operating in interstate commerce and most commercial vehicles operating in intrastate commerce. By promulgating these federal regulations in a state administrative regulation, the Transportation Cabinet's motor vehicle enforcement officers can enforce the federal regulations as required by federal mandate.

(d) The benefits expected are increased safety on the public highways of Kentucky and uniformity with the federal government and other states' motor carrier safety requirements.

(8) Any person with a disability for which the Transportation Cabinet needs to make an accommodation in order for the person to participate in the public comment hearing should notify Sandra G. Pullen at the above-mentioned address no later than September 15, 1995.

DEPARTMENT OF EDUCATION State Board for Elementary and Secondary Education

Date: August 14, 1995

State Board for Elementary and Secondary Education

(1) **702 KAR 3:245**, School council allocation formula, proposed amendment. This administrative regulation is necessary to guide the way in which school district funds shall be allocated to each school council.

(2) The State Board for Elementary and Secondary Education intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 10 a.m., in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to Mr. Kevin Noland, Associate Commissioner, Department of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to amend an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of Education at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the amendment of an administrative regulation relating to school council allocations is KRS 156.070 and 160.345.

(b) The administrative regulation that the State Board for Elementary and Secondary Education intends to amend is an existing administrative regulation.

(c) The necessity and function of the existing administrative regulation is to guide the way in which school district funds shall be allocated to school councils.

(d) The benefits expected from the administrative regulation are to guide the way in which school district funds shall be allocated to school councils.

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Date: August 14, 1995

State Board for Elementary and Secondary Education

(1) **702 KAR 3:246**, School council allocation formula using KETS Accounting System. This administrative regulation is necessary to use the new KETS accounting system.

(2) The State Board for Elementary and Secondary Education intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 10 a.m., in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to Mr. Kevin Noland, Associate Commissioner, Department of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Department of Education at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the amendment of an administrative regulation relating to school council allocations is KRS 156.070 and 160.345.

(b) The administrative regulation that the Department of Education intends to promulgate is a new administrative regulation.

(c) The necessity and function of the new administrative regulation is to guide the way to use the new KETS accounting system.

(d) The benefits expected from the administrative regulation are to guide the way to use the new KETS accounting system.

KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

Date: August 7, 1995

Kentucky Workers' Compensation Funding Commission (KWFCF)

(1) **803 KAR 30:010**. The proposed administrative regulation will establish and prescribe the methods, procedures and forms to be used: (a) to calculate, report and remit special fund assessments, and (b) to satisfy other reporting requirements, all as set out in KRS Chapter 342.

(2) The KWFCF intends to promulgate an administrative regulation governing the subject matter above listed.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 10 a.m. at the offices of the Kentucky Workers' Compensation Funding Commission, 42 Millcreek Park, Frankfort, Kentucky, 40602-1220.

(4)(a) The public hearing will be held if:

1. It is requested in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kentucky Workers' Compensation Funding Commission, 42 Millcreek Park, P.O. Box 1220, Frankfort, Kentucky 40602-1220.

(b) On a request for a public hearing, a person shall state:

1. "I agree to attend the public hearing" or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the KWFCF at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 342.1223(3)(F).

(b) The administrative regulation that the KWFCF intends to promulgate will not amend an existing administrative regulation. It will codify existing methods, forms and procedures used by taxpayers to calculate, report and remit special fund assessments to the KWFCF. Specifically, it will identify and define workers' compensation insurance "premium" subject to special fund assessments as well as "premium" that is not subject to assessment. It will provide that assessments on premiums received and refunds of premium by insurance companies and group self-insurers shall be calculated at the assessment rate in effect on the effective date of the policy or the effective date of the group self-insurance year for which the premium is collected or refunded, regardless of the date the premium is actually received or returned. The regulation further specifies the procedure to be followed by self-insured groups which elect to report and calculate their assessments in the same manner as insurance companies. The regulation sets out the manner in which carriers may take credit for refunds and also specifies the disposition to be made of assessment overcharges in those instances in which a carrier is unable to return the overcharges to the insured. Finally, the regulation specifies and describes audit procedures, audit information required to be supplied by taxpayers, audit protest and resolution procedures, and the forms, reports, information and data required to be submitted to the KWFCF.

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(c) The necessity and function of the proposed administrative regulation is as follows: Will comply with the requirements of KRS Chapter 13A, by codification through an administrative regulation the procedures and forms utilized in the administration of the special fund assessment levied by KRS 342.122.

(d) The benefits expected from the proposed administrative regulation are: Provides for uniform assessment among entities subject to special fund assessments, thus eliminating the use of the special fund assessment as a marketing tool by insurance companies and groups competing against one another. Uniform assessment will provide a level playing field for all. In addition, increased efficiency and accountability in all aspects of the administration of the special fund assessment program are anticipated.

(e) The administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, all entities subject to assessment shall comply with the provisions of this regulation as part of the administration of the special fund assessment levied by KRS 342.122.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Date: July 20, 1995

Department of Alcoholic Beverage Control

(1) The subject matter of this administrative regulation, **804 KAR 4:320**, is a license to permit charities to sell distilled spirits and wine at auction.

(2) The Department of Alcoholic Beverage Control intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Wednesday, September 27, 1995, at 10 a.m., in the Hearing Room of the Department of Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to Wednesday, September 27, 1995, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Gordon Goad, Kentucky Department of Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desires to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Department of Alcoholic Beverage Control at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of the administrative regulation relating to the subject matter of the administrative regulation is KRS 241.060 and 243.030(7), (16) and (28).

(b) The administrative regulation that the Department of Alcoholic Beverage Control intends to promulgate will not amend an existing administrative regulation. The proposed administrative regulation will create a new temporary liquor license to permit the auction of distilled spirits and wine by charities.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 243.030 lists the specific kinds of licenses relating to distilled spirits and wine and authorizes such other special licenses as the board may find necessary. This administrative regulation provides for the issuance of a special temporary "distilled spirits and wine auction license" to charitable or nonprofit organizations. There presently is no license under which a charitable auction can be held.

(d) The benefits expected from the administrative regulation are: To permit charitable or nonprofit organizations to purchase, transport, receive, possess, store, sell, and deliver distilled spirits and wine to be sold at auction, or by gift or donation for the purpose of a charity auction.

(e) The administrative regulation will be implemented as follows: It shall be implemented by having staff comply with operational procedures and standards noted in the regulation.

PUBLIC SERVICE COMMISSION

Date: August 2, 1995

Kentucky Public Service Commission

(1) Regulation Number and Title: **807 KAR 5:076**. Alternative rate adjustment procedure for small utilities.

(2) The Kentucky Public Service Commission intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 28, 1995, at 10 a.m., Eastern Daylight Time, in Hearing Room 1, 730 Schenkel Lane, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Mr. Don Mills, Executive Director, Kentucky Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Public Service Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the alternative rate adjustment procedure is KRS Chapter 13A, 278.040(3), and 278.190.

(b) The administrative regulation that the Kentucky Public Service Commission intends to promulgate will amend 807 KAR 5:076, Alternative rate adjustment procedure for small utilities. Section 1 will be amended to increase the number of utilities permitted to use the alternative rate adjustment procedure. Section 2 will be amended to permit the commission to consider written field reports prepared by its staff in making its decision. Section 5 of the existing regulation, which provides that the Attorney General's Division of Consumer Protection will automatically be deemed to be an intervening party in each alternative rate adjustment case, will be deleted. Section 6 of the existing regulation, which requires the commission and intervenors to request additional information within 40 days of filing, and which requires the utility to respond within 21 days of receiving the request, will be deleted. The existing Section 7, renumbered Section 5, will be amended to require intervenors to file any request for a hearing in writing. A new Section 7 will permit the commission to allow deviations from the regulation upon a showing of good cause. The existing Section 8, most of which reiterates requirements prescribed by KRS 278.190, and the first sentence of which repeats a provision in Section 2 of the amended regulation, will be deleted. Section 9, which permits the commission to grant extensions of time, will be deleted since such deviation is covered by the new Section 7.

(c) The necessity and function of the proposed administrative regulation is as follows: At present, the regulation classifies relatively few utilities as "small" and unnecessarily limits the usefulness of the alternative rate adjustment procedure. Increasing the number of the utilities which are permitted to use this procedure will decrease the expense and paperwork associated with filings for rate adjustments. The amendment to Section 2 will render more complete the record upon which the commission will base its decisions. Deletion of Section 5 will decrease the expense and paperwork of the utilities in that the Attorney General's office will no longer be deemed an automatic intervenor in each case. The Attorney General's Public Service Litigation Branch will continue to receive copies of applications pursuant to Section 3 and may intervene upon request. The new Section 5 requirement that requests for hearing be made in writing will serve to clarify the record in each case. The deletion of Section 6 will remove time limitations which may, in some cases, be unrealistic. The addition of the new Section 7 will allow the commission to be flexible in situations where a party has good cause for requesting a deviation from regulatory procedure. The deletion of Sections 8 and 9 will simplify the regulation and avoid unnecessary repetition of requirements prescribed elsewhere. Various changes in the regulatory language will clarify and simplify the regulation and bring it into conformity with the drafting rules prescribed in KRS 13A.222.

(d) The benefits expected from the proposed amendments to the administrative regulation are: The amendments will clarify and simplify the regulation, both verbally and procedurally, as well as bring it into conformity with KRS Chapter 13A. In addition, the amendments will make the alternative rate adjustment procedure available to additional small utilities and will decrease the expense and paperwork associated with the procedure.

(e) The administrative regulation will be implemented as follows: Additional small utilities will file for rate adjustments using a simplified and less expensive procedure than that currently available to them.

**PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction**

Date: August 8, 1995

Public Protection and Regulation Cabinet

Department of Housing, Buildings and Construction

(1) Regulation Number and Title: **815 KAR 8:010**; Master heating, ventilation, and air conditioning (HVAC) contractor licensing requirements.

(2) The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Thursday, September 28, 1995, at 10 a.m., local time, in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five (5) persons or an administrative body or an association having at least five (5) members; and

2. A minimum of five (5) persons or the administrative body or association agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

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(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the department's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 198B.654.

(b) The department intends to amend this administrative regulation by deleting all language and references to the grandfather clause from the regulation and from Form HVAC 1 and also delete Form HVAC 1(a), application for grandfathering.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 198B.658 requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations to coordinate and administer the HVAC Act requiring persons engaged in the business of heating, ventilation and air conditioning (HVAC) contracting to be licensed. This administrative regulation sets forth the required proof of experience, examination, fees, application form and other administrative requirements for licensing HVAC contractors.

(d) The benefits expected from this administrative regulation are: That the public will be better protected by the licensing of qualified HVAC contractors. The grandfather clause has expired and it is confusing to keep the language.

(e) This administrative regulation will be implemented by the Department of Housing, Buildings and Construction.

Date: August 8, 1995

Public Protection and Regulation Cabinet

Department of Housing, Buildings and Construction

(1) Regulation Number and Title: **815 KAR 8:020**; Journeyman heating, ventilation, and air conditioning (HVAC) mechanic licensing requirements.

(2) The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Thursday, September 28, 1995, at 10 a.m., local time, in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five (5) persons or an administrative body or an association having at least five (5) members; and

2. A minimum of five (5) persons or the administrative body or association agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the department's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 198B.654.

(b) The department intends to amend this administrative regulation by deleting all language and references to the grandfather clause from the regulation and from Form HVAC 2 and also delete Form HVAC 2(a) because time for application of the grandfather clause has past.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 198B.654 requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations requiring persons engaged in the business of heating, ventilation and air conditioning (HVAC) installation and repair to be licensed. This administrative regulation sets forth the required proof of experience, examination, fees, application form and other administrative requirements for licensing journeyman HVAC mechanics.

(d) The benefits expected from this administrative regulation are: This administrative regulation will establish a cohesive program for qualifying journeyman and providing for appropriate supervision by master contractors and for apprentices. The public will be protected by having a state agency to assist in oversight of code complying installations. The grandfather clause has expired and it is confusing to keep the language.

(e) This administrative regulation will be implemented by the Department of Housing, Buildings and Construction.

Date: August 8, 1995

Public Protection and Regulation Cabinet

Department of Housing, Buildings and Construction

(1) Regulation Number and Title: **815 KAR 20:020**; Parts or materials list.

(2) The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for 10 a.m., local time, on Thursday, September 28, 1995, in the Department's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

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1. It is requested, in writing, by at least five (5) persons or an administrative body or an association having at least five (5) members; and

2. A minimum of five (5) persons or the administrative body or association agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U. S. Highway 127 South, Suite #1, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a persons shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the department's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 318.130.

(b) The department intends to amend Section 5 of this administrative regulation by including two (2) new products approved by the State Plumbing Code Committee, i.e., an Acutemp Instantaneous Water Heater manufactured by Keltech, Inc. and a one-step CPVC cement for joining copper called "Flowguard Gold."

(c) The necessity and function of the proposed administrative regulation is as follows: The function of this administrative regulation is to allow the department to promptly permit the use of new parts or materials.

(d) The benefits expected from this administrative regulation are: To allow the use of newly approved products.

(e) This administrative regulation will be implemented by state plumbing inspectors.

Date: August 8, 1995

Public Protection and Regulation Cabinet

Department of Housing, Buildings and Construction

(1) Regulation Number and Title: **815 KAR 20:078**; Storage and installation of SDR 11, CPVC plastic pipe and fittings.

(2) The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for 10 a.m., local time, on Thursday, September 28, 1995, in the Department's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five (5) persons or an administrative body or an association having at least five (5) members; and

2. A minimum of five (5) persons or the administrative body or association agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U. S. Highway 127 South, Suite #1, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a persons shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the department's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 319.130.

(b) The department intends to amend Section 2(1)(c) by allowing the use of a newly developed product that has been deemed equal to that previously required for connecting pipe.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation relates to the method needed for storage, handling and installation of Standard Dimension Ratio (SDR) 11, Chlorinated Poly(Vinyl Chloride) (CPVC) Plastic Pipe and Fittings.

(d) The benefits expected from this administrative regulation are: Equal quality at a small savings in material and labor to the user.

(e) This administrative regulation will be implemented by the Division of Plumbing's plumbing inspectors.

Date: August 8, 1995

Public Protection and Regulation Cabinet

Department of Housing, Buildings and Construction

(1) Regulation Number and Title: **815 KAR 20:120**; Water supply and distribution.

(2) The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for 10

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a.m., local time, on Thursday, September 28, 1995, in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least five (5) persons, or an administrative body, or an association having at least five (5) members; and
 2. A minimum of five (5) persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 28, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the department's general counsel at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 318.130.

(b) The department intends to amend 815 KAR 20:120, Water supply and distribution by amending Section 10 to allow the use of CPVC water piping underground beneath a building.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation relates to the types of piping, pipe sizes for a potable water supply system and the methods to be used to protect and control it as well as identify and publish the manufacturer's specification number of the material accepted in those installations.

(d) The benefits expected from this administrative regulation are: To achieve equal quality at a small savings.

(e) This administrative regulation will be implemented by plan review and inspection by the Kentucky Division of Plumbing inspectors.

CABINET FOR HUMAN RESOURCES Department for Health Services

Date: August 15, 1995

Cabinet for Human Resources

Department for Health Services

Division of State & Local Health

Administration/Local Program Support Branch

(1) **902 KAR 8:021**, Administrative policy manual for local health departments.

(2) The Cabinet for Human Resources, Department for Health Services, Division of State and Local Health Administration, intends to promulgate an administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995 at 9 a.m. in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995 the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William K. Moore, Jr., Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4-West, Frankfort, Kentucky 40621, (502) 564-7900.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from: Administrative Regulation Coordinator, Department for Health Services, Commissioner's Office, 275 East Main Street, Frankfort, Kentucky 40621 or by calling (502) 564-8966 between the hours of 8 a.m. and 4:30 pm Monday through Friday.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans with Disabilities Act. Persons requesting assistance regarding Cabinet for Human Resources' regulations may call toll free 1-800-372-2973 (VTDD).

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to administrative policies for Kentucky's local public health departments is KRS 211.170.

(b) The administrative regulation that the Department for Health Services, Division of State and Local Health Administration intends to promulgate will set forth uniform administrative policies for Kentucky's local health departments and will repeal 902 KAR 8:020.

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(c) The necessity and function of the proposed administrative regulation is as follows: The administrative regulation will streamline and consolidate the administrative requirements placed on Kentucky's local public health departments by the various Department for Health Services' programs.

(d) The benefits expected from this proposed administrative regulation are: Local health departments will be able to refer to one single manual for guidance and direction.

(e) The administrative regulation will be implemented as follows: The Department for Health Services will provide technical assistance, consultation, and training to all local health departments on interpreting and implementing the uniform manual developed through this administrative regulation.

Date: September 1, 1995
Cabinet for Human Resources
Department for Health Services

(1) **902 KAR 55:025**. Schedule III substances.

(2) The Cabinet for Human Resources, Department for Health Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 E. Main St., Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

(1) It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

(2) A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William K. Moore, Jr., Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900.

(b) On a request for public hearing, a person shall state:

(1) "I agree to attend the public hearing."; or

(2) "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form by writing the Administrative Regulation Coordinator, Commissioner's Office, Department for Health Services, 275 E. Main St., Frankfort, Kentucky 40621, or by calling (502) 564-3970 between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Human Resources' regulations may call toll free 1-800-372-2973 (VTDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to adding, deleting or rescheduling substances is KRS 194.050, 211.090, 218A.020, 218A.080, 218A.250.

(b) The administrative regulation that the Department for Health Services intends to promulgate will amend 902 KAR 55:025, Schedule III substances. It will add two substances to the list of schedule III controlled substances: butorphanol and nalbuphine.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 218A.020 authorizes the Cabinet for Human Resources to add substances to or delete or reschedule substances enumerated in KRS Chapter 218A. After considering the criteria set forth in KRS 218A.020 and 218A.080, the Cabinet for Human Resources designates the substances set forth in this administrative regulation as Schedule III controlled substances.

(d) The benefits expected from administrative regulation are: better control and better recordkeeping for substances likely to be abused and misused.

Date: September 1, 1995
Department for Health Services

(1) **902 KAR 55:040**, Excluded over-the-counter products.

(2) The Department for Health Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995 at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main St., Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

(1) It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

(2) A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William K. Moore, Jr., Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900.

(b) On a request for public hearing, a person shall state:

(1) "I agree to attend the public hearing."; or

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(2) "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form by writing the Administrative Regulation Coordinator, Commissioner's Office, Department for Health Services, 275 E. Main St., Frankfort, Kentucky 40621, or by calling (502) 564-3970 between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Human Resources' regulations may call toll free 1-800-372-2973 (VTDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to excluded over-the-counter products is KRS 194.050, 211.090, 218A.020(3), 218A.090(4)(i) and 218A.250.

(b) The administrative regulation that the Department for Health Services intends to promulgate will amend 902 KAR 55:040, Excluded over-the-counter products. It will revise the date of the citation for the list of over-the-counter products that are exempt from the provisions of KRS Chapter 218A, the Controlled Substances Act. The list itself is unchanged. Also minor errors will be corrected.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 218A.020(4) and 218A.090(4)(i) authorize the Cabinet for Human Resources to exclude products that may be lawfully sold over the counter (without prescription) from the provisions of KRS Chapter 218A relating to controlled substances. The purpose of this administrative regulation is to exclude certain over-the-counter products from the provisions of KRS Chapter 218A.

(d) The benefits expected from administrative regulation are: conformity with federal regulation and correct grammatical or wording errors.

Date: September 1, 1995

Department for Health Services

(1) **902 KAR 55:045**, Exempt prescription products.

(2) The Department for Health Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main St., Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

(1) It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

(2) A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William K. Moore, Jr., Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900.

(b) On a request for public hearing, a person shall state:

(1) "I agree to attend the public hearing."; or

(2) "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form by writing the Administrative Regulation Coordinator, Commissioner's Office, Department for Health Services, 275 E. Main St., Frankfort, Kentucky 40621, or by calling (502) 564-3970 between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Human Resources' regulations may call toll free 1-800-372-2973 (VTDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to exempt prescription products is KRS 194.050, 211.090, 218A.020(3) and 218A.250.

(b) The administrative regulation that the Department for Health Services intends to promulgate will amend 902 KAR 55:045, Exempt prescription products. It will revise the date of the citation for the list of prescription products that are exempt from the provisions of KRS Chapter 218A, the Controlled Substances Act. The list itself is unchanged. Also a minor change in wording will be included.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 218A.020(3) provides that if any controlled substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice is given to the Cabinet for Human Resources, the Cabinet for Human Resources may similarly control the substance under KRS Chapter 218A by administrative regulation. The purpose of this administrative regulation is to exempt certain stimulant or depressant products from the provisions of KRS Chapter 218A that have been exempted pursuant to federal regulation.

(d) The benefits expected from administrative regulation are: Conformity with federal regulation and elimination of unnecessary recordkeeping.

Date: September 1, 1995

Department for Health Services

(1) **902 KAR 55:090**, Exempt anabolic steroid products.

(2) The Department for Health Services intends to promulgate an administrative regulation governing the subject matter listed

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above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main St., Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

(1) It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

(2) A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William K. Moore, Jr., Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900.

(b) On a request for public hearing, a person shall state:

(1) "I agree to attend the public hearing."; or

(2) "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form by writing the Administrative Regulation Coordinator, Commissioner's Office, Department for Health Services, 275 E. Main St., Frankfort, Kentucky 40621, or by calling (502) 564-3970 between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Human Resources' regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to exempt anabolic steroids is KRS 218A.010 to 218A.030; 218A.080 to 218A.090; 21 CFR 1306.13; 21 CFR 1308.34.

(b) The administrative regulation that the Department for Health Services intends to promulgate will amend 902 KAR 55:090, Exempt anabolic steroid products. It will revise the date of the citation for the list of anabolic steroid products that are exempt from the provisions of KRS Chapter 218A, the Controlled Substances Act. The list itself is unchanged.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 218A.020(3) provides that if any controlled substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice is given to the Cabinet for Human Resources, the Cabinet for Human Resources may similarly control the substance under KRS Chapter 218A by administrative regulation. The purpose of this administrative regulation is to exempt certain anabolic steroid products from the provisions of KRS Chapter 218A that have been exempted pursuant to federal regulation.

(d) The benefits expected from administrative regulation are: Conformity with federal regulation and elimination of unnecessary recordkeeping.

Department for Social Insurance

Date: August 15, 1995

Cabinet for Human Resources

Department for Social Insurance

Division of Management and Development

(1) **904 KAR 2:431.** Repeal of 904 KAR 2:430.

(2) Cabinet for Human Resources, Department for Social Insurance intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995 at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William K. Moore, Jr., Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Social Insurance, Division of Management and Development, 275 East Main Street, Frankfort, Kentucky 40621.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Human Resources' regulations may call toll free 1-800-372-2973 (V/TDD).

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(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the repeal of an administrative regulation relating to supplemental policy for money payment programs is KRS 194.050.

(b) The administrative regulation that the Department for Social Insurance intends to promulgate will repeal 904 KAR 2:430. The repeal administrative regulation is 904 KAR 2:431.

(c) The necessity and function of the proposed administrative regulation is as follows: Information contained in 904 KAR 2:430 has now been incorporated in the appropriate topical administrative regulations.

(d) The benefits expected from administrative regulation are: 904 KAR 2:430 is no longer needed since the information is now contained in the appropriate topical regulations.

Date: August 15, 1995

Cabinet for Human Resources

Department for Social Insurance

Division of Management and Development

(1) **904 KAR 3:111**. Repeal of 904 KAR 3:110.

(2) Cabinet for Human Resources, Department for Social Insurance intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995 at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William K. Moore, Jr., Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Social Insurance, Division of Management and Development, 275 East Main Street, Frankfort, Kentucky 40621.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the repeal of an administrative regulation relating to supplemental policy for money payment programs is KRS 194.050.

(b) The administrative regulation that the Department for Social Insurance intends to promulgate will repeal 904 KAR 3:110. The repeal administrative regulation is 904 KAR 3:111.

(c) The necessity and function of the proposed administrative regulation is as follows: Information contained in 904 KAR 3:110 has now been incorporated in the appropriate topical administrative regulations.

(d) The benefits expected from administrative regulation are: 904 KAR 3:110 is no longer needed since the information is now contained in the appropriate topical regulations.

Department for Medicaid Services

Date: August 15, 1995

Cabinet for Human Resources

Department for Medicaid Services

(1) **907 KAR 1:045**. Payments for mental health center services.

(2) The Department for Medicaid Services intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m. in the Department for Health Services Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is required in writing by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agrees, in writing, to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William K. Moore, Jr., Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort Kentucky 40621, (502) 564-7900.

(b) On a request for a public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

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(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate administrative regulations governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulations Coordinator, Department for Medicaid Services, Division of Program Management, 275 East Main Street, Frankfort, Kentucky 40621.

(c) NOTE: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans with Disabilities Act. Persons requesting assistance regarding Cabinet for Human Resources' regulations may call toll free 1-800-372-2973 (VTDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to payments for mental health center services is 42 CFR 447.325 and 42 USC 1396a-d.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:045, Section 1(2). It will revise the incorporated material to clarify planning and recordkeeping requirements and to increase due process rights of subcontractors in relation to reimbursement appeals.

(c) The necessity and function of the revised administrative regulation is as follows: To comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry, and to set forth the method for determining amounts payable by the cabinet for mental health center services.

(d) The benefits expected from the administrative regulation are: To increase standardization of applications for funding as well as recordkeeping and assure there is a clear and consistent basis for decisions affecting reimbursements.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Human Resources' regulations may call toll free 1-800-372-2973 (VTDD).

Department for Mental Health/Mental Retardation Services

Date: August 2, 1995

Cabinet for Human Resources

Department for Mental Health/Mental Retardation Services

(1) **908 KAR 1:310.** Administrative procedures for DUI facilities and programs.

(2) The Department for Mental Health/Mental Retardation Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William K. Moore, Jr., Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Mental Health and Mental Retardation Services, Division of Administration & Financial Management, 275 East Main Street, Frankfort, Kentucky 40621.

(c) NOTE: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Human Resources' regulations may call toll free 1-800-372-2973 (VTDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to administrative procedures for DUI facilities and programs is KRS 194.050 and 189A.040.

(b) The administrative regulation that the Department for Mental Health and Mental Retardation Services intends to promulgate will amend administrative regulation 908 KAR 1:310. It will change the assessment instrument currently mandated for use by all agencies operating programs delivering services to individuals convicted of driving under the influence. The assessment instrument is used during the assessment process in conjunction with a face to face personal interview for the purpose of evaluating an individual's level of impairment due to the use of alcohol or other drugs in order to make an appropriate referral for education or treatment.

(c) The necessity and function of the proposed administrative regulation is as follows: The driver risk inventory assessment instrument that is currently mandated for use by all agencies operating programs delivering services to individuals convicted of driving under the influence has been evaluated by an independent researcher. The research report indicated that the driver risk inventory DUI assessment instrument may not be adequate to serve the purposes of the DUI Program, and it is recommended that another assessment instrument be selected. Therefore, the Department for Mental Health/Mental Retardation Services will be selecting a new assessment instrument.

(d) The benefits expected from the administrative regulation are: Changing the assessment instrument to one determined to more adequately serve the purposes of the DUI Program is expected to result in more appropriate referrals to education and treatment. Making

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appropriate referrals and improving client matches with education and treatment programs should improve the effectiveness of the services received by individuals convicted of driving under the influence and reduce recidivism rates in the Commonwealth of Kentucky.

Date: August 2, 1995

Cabinet for Human Resources

Department for Mental Health/Mental Retardation Services

(1) **908 KAR 1:311.** Repeal of Department for Mental Health and Mental Retardation Services administrative regulations: 908 KAR 1:010, 908 KAR 1:020, 908 KAR 1:030, 908 KAR 1:040, 908 KAR 1:050, 908 KAR 1:060, 908 KAR 1:070, 908 KAR 1:080, 908 KAR 1:090, 908 KAR 1:100, 908 KAR 1:110, 908 KAR 1:120, 908 KAR 1:130, 908 KAR 1:140, and 908 KAR 1:260.

(2) The Department for Mental Health/Mental Retardation Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William K. Moore, Jr., Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Mental Health and Mental Retardation Services, Division of Administration & Financial Management, 275 East Main Street, Frankfort, Kentucky 40621.

(c) NOTE: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Human Resources' regulations may call toll free 1-800-372-2973 (VTDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the repeal of administrative regulations for nonmedical alcohol treatment and education center programs and drug abuse treatment and education centers is KRS 194.050, KRS Chapters 210 and 222.

(b) The administrative regulation that the Department for Mental Health and Mental Retardation Services intends to promulgate will not amend an existing administrative regulation. It will repeal the licensure standards currently in effect for agencies operating both alcohol and other drug abuse prevention, education and treatment programs.

(c) The necessity and function of the proposed administrative regulation is as follows: 908 KAR 1:010, 1:020, 1:030, 1:040, 1:050, 1:060, 1:070, 1:080, 1:090, 1:100, 1:110, 1:120, 1:130, 1:140, and 1:260 are no longer necessary in that the regulatory language, regarding licensing procedures, administrative standards and program standards for the operation of detoxification, residential treatment, residential transitional treatment, outpatient treatment, intensive outpatient treatment, education and prevention programs by nonmedical alcohol treatment and education centers and drug abuse treatment and education centers contained in these administrative regulations, shall be merged and provided for in new administrative regulations the Department for Mental Health and Mental Retardation Services intends to promulgate.

(d) The benefits expected from the administrative regulation are: To create a single set of licensure standards for agencies operating both alcohol and other drug abuse prevention, education and treatment programs. Two (2) new administrative regulations are being proposed to replace the administrative regulations being repealed.

Date: August 2, 1995

Cabinet for Human Resources

Department for Mental Health/Mental Retardation Services

(1) **908 KAR 1:350.** Licensing procedures and standards for the operation of alcohol and other drug abuse prevention programs.

(2) The Department for Mental Health/Mental Retardation Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William K. Moore, Jr., Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502)

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564-7900.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Mental Health and Mental Retardation Services, Division of Administration & Financial Management, 275 East Main Street, Frankfort, Kentucky 40621.

(c) NOTE: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Human Resources' regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to licensing procedures and standards for agencies operating alcohol and other drug abuse prevention program is KRS 194.050 and 222.231.

(b) The administrative regulation that the Department for Mental Health and Mental Retardation Services intends to promulgate will not amend an existing administrative regulation. It will provide for a single prevention license for agencies operating both alcohol and other drug abuse prevention programs as mandated by KRS 222.231, a new statute enacted in the regular session of the 1994 legislature.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation provides licensure requirements and minimum standards for the operation of alcohol and other drug abuse prevention programs.

(d) The benefits expected from the administrative regulation are: The licensure standards are intended to protect the consumer and improve the quality of prevention services which should result in a more positive alcohol and drug related health outcome.

Date: August 2, 1995

Cabinet for Human Resources

Department for Mental Health/Mental Retardation Services

(1) **908 KAR 1:360.** Licensing procedures and standards for alcohol and other drug abuse agencies operating education and treatment programs.

(2) The Department for Mental Health/Mental Retardation Services intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 20 days prior to September 29, 1995, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: William K. Moore, Jr., Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Mental Health and Mental Retardation Services, Division of Administration & Financial Management, 275 East Main Street, Frankfort, Kentucky 40621.

(c) NOTE: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Human Resources' regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the licensing procedures and standards for alcohol and other drug abuse agencies operating education and treatment programs is KRS 194.050 and 222.231.

(b) The administrative regulation that the Department for Mental Health and Mental Retardation Services intends to promulgate will not amend an existing administrative regulation. It will provide for a single set of licensure standards for agencies operating both alcohol and other drug abuse education and treatment programs, as mandated by KRS 222.231, a new statute enacted in the regular session of the 1994 legislature.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation provides licensure requirements which establish minimum standards for the operation of education, outpatient, intensive outpatient, detoxification, residential treatment and residential transitional treatment programs administered by alcohol and other drug abuse agencies.

(d) The benefits expected from the administrative regulation are: The combined licensure standards are intended to improve the quality of services delivered to alcohol and other drug abuse clients particularly with the increase in requirements related to staff credentials, supervision and training. Enhancing the quality of services provided to these clients should assist in decreasing the abuse of alcohol and other drugs in the state, thereby improving the health and safety of the citizens of the Commonwealth.

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KENTUCKY HEALTH POLICY BOARD

Date: August 14, 1995

Kentucky Health Policy Board

(1) **909 KAR 1:100**: Provider network certification. The subject matter of the proposed administrative regulation is the provider network certification.

(2) The board intends to promulgate an administrative regulation that incorporates the provider network certification by reference.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 29, 1995 at 2 p.m. EDT at the Kentucky Health Policy Board, 909 Leawood Drive, Frankfort, Kentucky in the first floor Hearing Room.

(4)(a) The public hearing will be held if:

- and
1. It is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and
 2. A minimum of five persons, or the administrative body or association, agree in writing to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 20 days prior to September 29, 1995, 2 p.m. EDT, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to: Jack B. Hall, Chairman, Kentucky Health Policy Board, 909 Leawood Drive, Frankfort, Kentucky 40601.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Kentucky Health Policy Board at the above address.

(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding the Kentucky Health Policy Board's administrative regulations may call toll free 1-800-648-6056 (V/TDD for hearing impaired) or 1-800-648-6057.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the provider network certification is found in KRS 216.2905(a) and (b), 304.17A-010(12) and 100(5).

(b) The necessity and function of the proposed administrative regulation is as follows: The Kentucky Health Policy Board is required to establish criteria for provider networks.

(c) The benefit expected from this administrative regulation is to enable the board to carry out its statutory mandate to implement the program.

(d) The proposed administrative regulation will be implemented by making the provider network certification available upon request to interested persons.

EMERGENCY ADMINISTRATIVE REGULATIONS NOW IN EFFECT

(NOTE: Emergency administrative regulations expire 170 days from publication or upon replacement, repeal, or withdrawal)

STATEMENT OF EMERGENCY
302 KAR 20:115E

This emergency administrative regulation prevents the spread of vesicular stomatitis into Kentucky. This disease has recently been detected in the United States and is a threat to the state's livestock and disease control. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

BRERETON JONES, Governor
ED LOGSDON, Commissioner

GENERAL GOVERNMENT CABINET
Kentucky Department of Agriculture

302 KAR 20:115E. Vesicular stomatitis.

RELATES TO: KRS 257.030

STATUTORY AUTHORITY: KRS 257.030

EFFECTIVE: July 28, 1995

NECESSITY AND FUNCTION: Sets forth the requirements for entry into Kentucky livestock that has been exposed to vesicular stomatitis.

Section 1. General Provisions. (1) Prohibited entry into Kentucky.

(a) Livestock, wild or exotic animals shall not be permitted entry into Kentucky from any state in which vesicular stomatitis has been diagnosed.

(b) Livestock, wild or exotic animals shall not be permitted entry into Kentucky which have been in any state, during the thirty (30) days prior to the animal's entry into Kentucky, which has had vesicular stomatitis diagnosed in the state.

(c) Livestock, wild or exotic animals shall not be permitted entry into Kentucky from any state which does not have in place adequate requirements, as determined by the chief livestock health official in Kentucky, governing the entry of such animals from states which have had vesicular stomatitis diagnosed.

(2) Vaccination.

(a) Livestock, wild or exotic animals in Kentucky shall not be vaccinated with an autogenous vesicular stomatitis virus vaccine and issued a conditional license by the United States Department of Agriculture's Animal and Plant Health Inspection Service.

(b) Livestock, wild or exotic animals which have been vaccinated with an autogenous vesicular stomatitis virus vaccine and issued a conditional license by the USDA's Animal and Plant Health Inspection Service shall not be permitted entry into Kentucky.

(3) Testing. All equidae, including suckling foals, originating from a state which has a common border with a state in which vesicular stomatitis has been diagnosed, shall be negative to a serum neutralization test for the New Jersey strain of vesicular stomatitis thirty (30) days prior to the entry. The testing must be completed in a laboratory approved by the USDA's National Veterinary Services Laboratory. The certificate of veterinary inspection shall include the following:

(a) Testing laboratory;

(b) Test date;

(c) Accession number;

(d) Test results; and

(e) Complete name, address, city and state of both the consignor and consignee.

(4) Other requirements. All other entry requirements as found in

302 KAR 20:040 shall be met in full.

ED LOGSDON, Chairman

APPROVED BY AGENCY: July 28, 1995

FILED WITH LRC: July 28, 1995 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Dr. D. L. Notter, State Veterinarian

(1) Type and number of entities affected: All livestock, wild or exotic animals.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No effects on the cost of living.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No effects on cost of doing business.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: Minimal requirements. A certificate of veterinary inspection is required.

2. Second and subsequent years: Same requirements.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Current personnel will be used to enforce.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: Same

(b) Reporting and paperwork requirements:

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Existing personnel will be used for enforcement.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on: No public comments were received.

(a) Geographical area in which administrative regulation will be implemented: No public comments were received.

(b) Kentucky: Same

(7) Assessment of alternative methods; reasons why alternatives were rejected: The state veterinarian has recommended these requirements as being the best alternative.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This regulation furthers Kentucky health and disease control initiatives.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes, possibly.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. All livestock owners will be

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treated the same.

REGULATORY IMPACT ANALYSIS

STATEMENT OF EMERGENCY 502 KAR 45:145E

No provisions exist to provide a merit pay program for officers of the Department of State Police. This administrative regulation provides the mechanism for a merit pay program. This administrative regulation establishes guidelines and provides for the Merit Pay Program. This administrative regulation will be replaced by an ordinary administrative regulation to be filed with the Regulations Compiler on August 15, 1995.

BRERETON JONES, Governor
PAUL F. ISAACS, Commissioner

DEPARTMENT OF STATE POLICE

502 KAR 45:145E. Merit Pay Program.

RELATES TO: KRS 16.040, 16.050, 16.080

STATUTORY AUTHORITY: KRS 16.050, 16.080

EFFECTIVE: August 1, 1995

NECESSITY AND FUNCTION: KRS 16.050 sets forth the compensation provisions for officers of the Department of State Police. KRS 16.040 and 16.080 vests in the commissioner the authority to adopt administrative regulations relating to the compensation of officers. This administrative regulation establishes the procedure to be used to provide a merit pay program for officers of the Department of State Police.

Section 1. The Commissioner of the Department of State Police may utilize up to fifty (50) percent of funds saved through a combination of high performance levels and staff reduction to grant merit pay awards to officers. Merit pay awards shall be contingent upon the availability of surplus funds within the commissioner's budget and shall be within the sole discretion of the commissioner. A merit pay award shall equal two (2) percent of the officer's pay and shall be paid in a lump sum.

Section 2. The officer meets the standards of the Merit Pay Program adopted by the commissioner to include:

- (1) Attainment of physical fitness standards.
- (2) No more than one (1) assessable SP accident during the twelve (12) month period.
- (3) No disciplinary action resulting in an official written reprimand, reduction in pay or grade, or involuntary suspension from duty with or without pay.
- (4) No more than forty (40) sick hours taken during the twelve (12) month period, excluding absences due to duty related injuries.
- (5) An officer must receive an overall average rating of "above standard" (ninety (90) percent or more) on the officer inspection reports completed during each twelve (12) month evaluation period.

Section 3. An officer shall be eligible for only one (1) merit pay award in a twelve (12) month period.

Section 4. In order to grant a merit pay award, the commissioner shall submit the personnel action form and written justification.

PAUL F. ISAACS, Commissioner
APPROVED BY AGENCY: August 1, 1995
FILED WITH LRC: August 1, 1995 at 2 p.m.

Contact Person: Jean Ann Gabbard

(1) Type and number of entities affected: All sworn officers of the Department of State Police.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None anticipated.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None seen.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: No significant compliance, reporting or reporting changes are anticipated.

1. First year following implementation: Not applicable.

2. Second and subsequent years: Not applicable.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No significant savings or costs anticipated.

1. First year: Not applicable.

2. Continuing costs or savings: Not applicable.

3. Additional factors increasing or decreasing costs: Not applicable.

(b) Reporting and paperwork requirements:

(4) Assessment of anticipated effect on state and local revenues: No significant impact is seen.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Current, budgeted funds are to be used for implementation. There are no enforcement costs.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on: There is no economic impact anticipated at this time.

(a) Geographical area in which administrative regulation will be implemented: Not applicable.

(b) Kentucky: Not applicable.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were proposed.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No public health or environmental impact seen.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(10) Any additional information or comments: This amendment is designed to permit appointing authorities greater flexibility in regarding employees for performance and to enable them to be more competitive in recruiting and retaining highly qualified employees.

(11) TIERING: Is tiering applied? No. This administrative regulation applies only to sworn officers of the Department of State Police.

STATEMENT OF EMERGENCY
702 KAR 3:245E

This emergency administrative regulation, as approved by the Kentucky Board of Education, establishes a formula by which the allocation of funds available for school councils is calculated by local school districts as required by KRS 160.345. The administrative regulation is intended for use by local districts using the Kentucky Uniform Financial Accounting System. The administrative regulation sets forth mechanisms to determine funding for certified and classified staff, instructional supplies, materials, travel and equipment and any other available district funds. Allocations are required to be made to school councils by March 1 each year. The March 1 allocations may be adjusted by September 15 for changes in enrollment, increases in the salary schedule and other salary adjustments as provided in this emergency administrative regulation. The adjustment period is important to the allocation process in that it provides districts and councils with the most recent data available. This emergency administrative regulation is necessary to allow for the adjustment period for the 1995-96 school year. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be filed concurrently with the Legislative Research Commission.

BRERETON C. JONES, Governor
JOSEPH W. KELLY, Chairman

EDUCATION, ARTS, AND HUMANITIES CABINET
Department of Education
Office of District Support Services

702 KAR 3:245E. School council allocation formula: Kentucky Uniform School Financial Accounting System.

RELATES TO: KRS 160.345

STATUTORY AUTHORITY: KRS 156.070, 160.345

EFFECTIVE: August 15, 1995

NECESSITY AND FUNCTION: KRS 160.345(8) mandates that the Kentucky [State] Board of [for Elementary and Secondary] Education adopt a formula by administrative regulation which guides the way in which school district funds shall be allocated to each school council. This administrative regulation is designed for use by local school districts utilizing the Kentucky Uniform Financial Accounting System per 702 KAR 3:120. [702 KAR 3:240 is no longer required because it is being replaced by 702 KAR 3:245.]

Section 1. Definitions. (1) "Categorical programs" means programs under which funding and uses for the funding are specifically set by the funding authority.

(2) "Instructional supplies and ~~[-] materials, travel, and equipment~~" means items that are consumed or worn out in the instructional process to include [the following codes, as set forth in the "Kentucky School Financial Accounting System," which is incorporated by reference in 702 KAR 3:120]:

(a) Library books ~~[- codes: 251.01, 251.04, 252.01, 252.04];~~

(b) Periodicals and newspapers ~~[- codes: 253.01, 253.04, 254.01];~~

(c) Library supplies ~~[- codes: 255.01, 255.03, 256.01, 256.03];~~

(d) Audio visual material and equipment ~~[- codes: 257.01, 257.04, 258.01, 258.04];~~

(e) Supplementary books ~~[- codes: 263.01, 263.04, 264.01, 264.04];~~

(f) Reference materials;

(g) Instructional software; and

(h) ~~[(#)] Teaching supplies to include paper products. [- codes: 265.01, 266.01];~~

(3) " ~~[(g)]~~ Instructional equipment" means initial or additional furniture, fixtures, and equipment for instruction which may be

purchased, leased, or rented. "Instructional equipment" shall not mean computer laboratories, or the initial inventory of a new school plant. [other than computer laboratories - codes: 231, 741.01, 871.01, 1272; and]

(4) " ~~[(#)]~~ Instructional travel" means travel for all personnel and their assistants, including travel in connection with everyday instructional activities and travel to conventions, meetings and workshops. ~~[- code: 267.~~

"Instructional supplies, materials, travel, and equipment" shall not mean technology-related expenditures for computer laboratories, the initial inventory of a new school plant, and any one (1) time expenditures that the district made to address specific school needs.]

(5) ~~[(#)]~~ "District average teacher's salary" means the total of all teacher salaries for 185 days in noncategorical programs in the district divided by the number of teachers in the noncategorical programs in the district.

Section 2. The local school district shall provide to school councils established by January 30 an allocation for the next budget year by March 1 of each year in accordance with this administrative regulation.

Section 3. The local school district shall calculate the funds available for distribution to school councils by excluding the proposed district-wide expenditures for the following areas from the draft district budget:

(1) The 100 Expenditure Series, Administration.

(2) Any instructional service provided to all schools from the district level or for "categorical programs" of the 200 Expenditure Series, Instruction, including exceptional children services and itinerant teachers.

(3) The 300 Expenditure Series, Attendance, except for noncategorical school-based employees and specified supplies.

(4) The 400 Expenditure Series, Health Services, except for noncategorical school-based employees and specified supplies.

(5) The 500 Expenditure Series, Transportation.

(6) The 600 Expenditure Series, Operation of Plant, except for noncategorical school-based employees and specified supplies [personnel assigned to schools].

(7) The 700 Expenditure Series, Maintenance of Plant, except for funds set aside in code 741.01 for replacement of instructional equipment at the school level. Any portion of 741.01 used for instructional service provided on a district level to all schools or paid for by categorical programs may also be excluded.

(8) The 800 Expenditure Series, Fixed Charges, except for fringe benefits for noncategorical personnel assigned to schools.

(9) The 900 Expenditure Series, School Food Services.

(10) The 1100 Expenditure Series, Community Services.

(11) The 1200 Expenditure Series, Capital Outlay, except for the funds [that may be] set aside in an allocation for new instructional equipment. Any portion of [and] code 1272 used for instructional equipment provided on a school level to all schools for categorical programs, furnishing new school buildings, or for Kentucky Education Technology System (KETS) matching funds may also be excluded. [designated for each school.]

(12) The 1300 Expenditure Series, Debt Service.

(13) The 1400 Expenditure Series, Below the Line.

(14) All payments for extra duty and extended employment in all codes.

Section 4. Allocation for Certified Staff. (1) A board staffing policy or guideline shall be established to determine the number of allocated positions for each school. To determine the allocation to school councils for certified staff, the district shall provide sufficient funds:

(a) To meet class size caps established in KRS 157.360 based on the projected full-time equivalent enrollment for the upcoming school year; and

(b) To meet other classroom teaching and certified staff positions not included in paragraph (a) of this subsection that are generated by the local board certified staffing policy.

(2) Each district shall file a copy of the staffing policy or guidelines with the Division of School-based Decision Making by July 1, 1995. Any revisions shall be submitted within thirty (30) days of action. [Local boards shall establish a certified staffing policy to determine the allocation of certified staff to local schools.]

(2) To determine the allocation to school councils for certified staff, the district shall provide sufficient funds:

(a) To meet class size caps established in KRS 157.360 based on the projected full time equivalent enrollment for the upcoming school year; and

(b) To meet other classroom teaching and certified staff positions not included in subsection (1)(a) that are generated by the local board certified staffing policy.]

(3) Funds for positions allocated in subsection (1) of this section shall be [allocated] based on the previous year's actual 185 day salary and associated fringe benefits except sick, personal, or emergency leave adjusted by changes in rank, additional year of experience, and changes in the district's salary schedule for each existing staff member.

(4) Funds for new and vacant certified staff positions shall be based on a minimum of ninety-five (95) percent of the district's average 185 day certified salary and associated fringe benefits except sick, personal, or emergency leave adjusted for changes in the district's salary schedule for noncategorical staff paid in the previous year.

(5) If the actual salary of new certified personnel is less than ninety-five (95) percent of the certified district average salary, the difference shall revert to the district budget for possible reallocation under Section 7 of this administrative regulation.

(6) Any adjustments to the allocation due to increases in salary schedules, salary adjustments, or increases or decreases in enrollment shall be made by September 15. Notification to councils of adjustments is required only if adjustments represent changes in staffing due to enrollment increases or decreases.

Section 5. Allocation for Classified Staff. (1) A board staffing policy or guidelines shall be established to determine the number of allocated positions for each school. Each district shall file a copy of the staffing policy or guidelines with the Division of School-based Decision Making by July 1, 1995. Any revisions shall be submitted within thirty (30) days of action. [Local boards shall establish a classified staffing policy to determine the allocation of classified staff to local schools.]

(2) Funds shall be provided for all school based classified positions in noncategorical programs generated by the local board classified staffing policy using the previous year's salary adjusted for any district-wide increase.

(3) Funds shall be allocated for fringe benefit amounts except for sick, personal, or emergency leave for each classified staff member.

(4) Funds for new or vacant positions shall be based on ninety-five (95) percent of the district's average classified salary for that personnel job class and associated fringe benefits except for sick, personal, or emergency leave for noncategorical staff adjusted for any district-wide increase.

(5) If the actual salary of new classified personnel is less than ninety-five (95) percent of the classified district average salary, the difference shall revert to the district budget for possible reallocation under Section 7 of this administrative regulation.

(6) Any adjustments to the allocation due to increases in salary schedules, salary adjustments, or increases or decreases in enrollment shall be made by September 15. Notification to councils of adjustments is required only if adjustments represent changes in staffing due to enrollment increases or decreases.

Section 6. Instructional Supplies, Materials, Travel, and Equipment. (1) For instructional supplies, materials, travel, and equipment school councils shall receive a minimum [ae] allocation of three and one-half (3 1/2) percent of the statewide guaranteed base funding level for Support Education Excellence in Kentucky (SEEK) based on prior year final average daily attendance. [based on the prior year district average expenditure adjusted by the current year's percent change in Support Education Excellence in Kentucky (SEEK) funding for each pupil based on the projected full time equivalent enrollment.]

(2) The amount generated in subsection (1) of this section shall be adjusted [utilizing the enrollment data] at the end of the second school month for changes in average daily attendance and projected funding for SEEK. Adjustments prior to the end of the second school month for the 1995-96 school year shall use enrollment data and apply to the original allocations made by March 1, 1995. Subsection (1) of this section shall not apply for the 1995-96 school year.

(3) Allocations under subsections (1) and (2) of this section shall not include funds for operating expenses, including utilities, or for health and safety requirements of schools.

Section 7. Distribution of the Balance. (1) The balance between the amount generated in Sections 4, 5, and 6 of this administrative regulation and the amount available for distribution to school councils from Section 3 of this administrative regulation shall be distributed in one (1) of the following manners:

(a) An amount per prior year final average daily attendance [projected full time equivalent enrollment];

(b) Based on pupil needs identified by school councils and [ae] designated by the local school board. Money provided under this subsection shall be used only for the needs identified by the council and designated by the board; [or]

(c) A combination of subsections (a) and (b) of this section.

(2) An adjustment may be made to allocations under subsection (1) of this section at the end of the second school month for changes in average daily attendance and projected funding for SEEK.

(3) [(2)] If Sections 4, 5, and 6 of this administrative regulation generate more funds than are available in Section 3 of this administrative regulation for distribution to school councils, the local board shall make every reasonable effort to make up the deficit.

Section 8. Nothing in this administrative regulation shall prohibit the district from providing funds to school councils in excess of the allocation amounts generated by Sections 4, 5, and 6 of this administrative regulation or other operational and capital outlay items.

Section 9. Each year school councils shall review the budgets for all categorical programs and provide comments to the local board prior to the adoption of the budgets. The district board of education shall develop allocation procedures for professional development funds pursuant to KRS 160.345(8).

Section 10. No school council allocation by the district shall result in a proposed expenditure that would cause the district budget to hold in reserve less than the required amount set by KRS 160.470.

Section 11. Nothing in this administrative regulation shall prohibit districts from passing on to school councils any reduction in state and local revenues.

Section 12. The Kentucky Board of Education may approve requests from local school districts annually to use an alternative formula to allocate funds to schools. Local school districts requesting approval to use an alternative process shall submit written documentation that the formula would generate funding equal to or greater than the amount provided to school councils under Section 3 of this administrative regulation. All requests shall be received by the Division of Finance by October 1 preceding the allocation year. Any

alternative process approved by the Kentucky Board of Education shall be subject to subsequent review.

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

Kevin M. Noland
Acting Commissioner of Education

JOSEPH W. KELLY, Chairman

APPROVED BY AGENCY: August 14, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Contact: Kyna Koch, Director

(1) Type and number of entities affected: 176 districts.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: None

(6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would occur, explain detrimental effect: This regulation does not relate to the environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping or duplicative: 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:

(10) Any additional information or comments:

(11) 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.

STATEMENT OF EMERGENCY

702 KAR 3:246E

This emergency administrative regulation, as approved by the Kentucky Board of Education, establishes a formula by which the allocation of funds available for school councils is calculated by local school districts as required by KRS 160.345. The administrative regulation is intended for use by local districts using the KETS District Administrative System Chart of Accounts. The administrative regulation sets forth mechanisms to determine funding for certified and classified staff, instructional supplies, materials, travel and equipment and any other available district funds. Allocations are required to be made to school councils by March 1 each year. The March 1 allocations may be adjusted by September 15 for changes in enrollment, increases in the salary schedule and other salary adjustments as provided in this emergency administrative regulation. The adjustment period is important to the allocation process in that it provides districts and councils with the most recent data available. This emergency administrative regulation is necessary to allow for the adjustment period for the 1995-96 school year. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be filed concurrently with the Legislative Research Commission.

BRERETON C. JONES, Governor

JOSEPH W. KELLY, Chairman

EDUCATION, ARTS, AND HUMANITIES CABINET

Department of Education

Office of District Support Services

702 KAR 3:246E. School council allocation formula: KETS District Administrative System Chart of Accounts.

RELATES TO: KRS 160.345

STATUTORY AUTHORITY: KRS 156.070, 160.345

EFFECTIVE: August 15, 1995

NECESSITY AND FUNCTION: KRS 160.345(8) mandates that the Kentucky Board of Education adopt a formula by administrative regulation which guides the way in which school district funds shall be allocated to each school council. This administrative regulation is designed for use by local school districts utilizing the Kentucky Education Technology System (KETS) District Administrative System Chart of Accounts per 702 KAR 3:120.

Section 1. Definitions. (1) "Categorical programs" means programs under which funding and uses for the funding are specifically set by the funding authority.

(2) "Instructional supplies and materials" means items that are consumed or worn out in the instructional process to include: (a) Library books;

(b) Periodicals and newspapers;

(c) Library supplies;

(d) Audio visual material and equipment;

(e) Supplementary books;

(f) Reference materials;

(g) Instructional software; and

(h) Teaching supplies to include paper products.

(3) "Instructional equipment" means initial or additional furniture, fixtures, and equipment for instruction which may be purchased, leased, or rented. "Instructional equipment" shall not mean computer laboratories, or the initial inventory of a new school plant.

(4) "Instructional travel" means travel for all personnel and their assistants, including travel in connection with everyday instructional activities and travel to conventions, meetings and workshops.

(5) "District average teacher's salary" means the total of all teacher salaries for 185 days in noncategorical programs in the

district divided by the number of teachers in the noncategorical programs in the district.

Section 2. The local school district shall provide to school councils established by January 30 an allocation for the next budget year by March 1 of each year in accordance with this administrative regulation.

Section 3. The local school district shall calculate the funds available for distribution to school councils using only the general fund and by excluding the following proposed district-wide expenditures from the general fund in the district draft budget:

- (a) Function 1200, home and hospital.
- (b) Function 1900, other instructional programs.
- (c) Function 2100, student support services, except for school based employees and specified supplies.
- (d) Function 2210, instructional staff support services, improvement of instruction, central office staff and supplies only.
- (e) Function 2300, district administration support services.
- (f) Function 2500, business support services.
- (g) Function 2600, plant operation and maintenance, except for school based employees and specified supplies.
- (h) Function 2700, student transportation.
- (i) Function 2800, central office support services.
- (j) Function 3000, noninstructional services.
- (k) Function 4000, facilities acquisition and construction services.
- (l) Function 5000, other.
- (m) All expenditures for extra duty and extended employment, exceptional children services, and itinerant teachers in all codes.

Section 4. Allocation for Certified Staff. (1) A board staffing policy or guidelines shall be established to determine the number of allocated positions for each school. To determine the allocation to school councils for certified staff, the district shall provide sufficient funds:

(a) To meet class size caps established in KRS 157.360 based on the projected full-time equivalent enrollment for the upcoming school year; and

(b) To meet other classroom teaching and certified staff positions not included in paragraph (a) of this subsection that are generated by the local board certified staffing policy.

(2) Each district shall file a copy of the staffing policy or guidelines with the Division of School-based Decision Making by July 1. Any revisions shall be submitted within thirty (30) days of action.

(3) Funds for positions allocated in subsection (1) of this section shall be based on the previous year's actual 185 day salary and associated fringe benefits except sick, personal, or emergency leave adjusted by changes in rank, additional year of experience, and changes in the district's salary schedule for each existing staff member.

(4) Funds for new and vacant certified staff positions shall be based on a minimum of ninety-five (95) percent of the district's average 185 day certified salary and associated fringe benefits except sick, personal, or emergency leave adjusted for changes in the district's salary schedule for noncategorical staff paid in the previous year.

(5) If the actual salary of new certified personnel is less than ninety-five (95) percent of the certified district average salary, the difference shall revert to the district budget for possible reallocation under Section 7 of this administrative regulation.

(6) Any adjustments to the allocation due to increases in salary schedules, salary adjustments, or increases or decreases in enrollment shall be made by September 15. Notification to councils of adjustments is required only if adjustments represent changes in staffing due to enrollment increases or decreases.

Section 5. Allocation for Classified Staff. (1) A board staffing

policy or guidelines shall be established to determine the number of allocated positions for each school. Each district shall file a copy of the staffing policy or guidelines with the Division of School-based Decision Making by July 1, 1995. Any revisions shall be submitted within thirty (30) days of action.

(2) Funds shall be provided for all school based classified positions in noncategorical programs generated by the local board classified staffing policy using the previous year's salary adjusted for any districtwide increase.

(3) Funds shall be allocated for fringe benefit amounts except for sick, personal, or emergency leave for each classified staff member.

(4) Funds for new or vacant positions shall be based on ninety-five (95) percent of the district's average classified salary for that personnel job class and associated fringe benefits except for sick, personal, or emergency leave for noncategorical staff adjusted for any districtwide increase.

(5) If the actual salary of new classified personnel is less than ninety-five (95) percent of the classified district average salary, the difference shall revert to the district budget for possible reallocation under Section 7 of this administrative regulation.

(6) Any adjustments to the allocation due to increases in salary schedules, salary adjustments, or increases or decreases in enrollment shall be made by September 15. Notification to councils of adjustments is required only if adjustments represent changes in staffing due to enrollment increases or decreases.

Section 6. Instructional Supplies, Materials, Travel, and Equipment. (1) For instructional supplies, materials, travel, and equipment school councils shall receive a minimum allocation of three and one-half (3 1/2) percent of the statewide guaranteed base funding level for Support Education Excellence in Kentucky (SEEK) based on prior year final average daily attendance.

(2) The amount generated in subsection (1) of this section shall be adjusted at the end of the second school month for changes in average daily attendance and projected funding for SEEK. Adjustments prior to the end of the second school month for the 1995-96 school year shall use enrollment data and apply to the original allocations made by March 1, 1995. Subsection (1) of this section shall not apply for the 1995-96 school year.

(3) Allocations under subsections (1) and (2) of this section shall not include funds for operating expenses, including utilities, or for health and safety requirements of schools.

Section 7. Distribution of the Balance. (1) The balance between the amount generated in Sections 4, 5, and 6 of this administrative regulation and the amount available for distribution to school councils from Section 3 of this administrative regulation shall be distributed in one (1) of the following manners:

(a) An amount per prior year final average daily attendance;

(b) Based on pupil needs identified by school councils and designated by the local school board. Money provided under this subsection shall be used only for the needs identified by the council and designated by the board;

(c) A combination of paragraphs (a) and (b) of this subsection.

(2) An adjustment may be made to allocations under subsection (1) of this section at the end of the second school month for changes in average daily attendance and projected funding for SEEK.

(3) If Sections 4, 5, and 6 of this administrative regulation generate more funds than are available in Section 3 of this administrative regulation for distribution to school councils, the local board shall make every reasonable effort to make up the deficit.

Section 8. Nothing in this administrative regulation shall prohibit the district from providing funds to school councils in excess of the allocation amounts generated by Sections 4, 5, and 6 of this administrative regulation or other operational and capital outlay items.

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Section 9. Each year school councils shall review the budgets for all categorical programs and provide comments to the local board prior to the adoption of the budgets. The district board of education shall develop allocation procedures for professional development funds pursuant to KRS 160.345(8).

Section 10. No school council allocation by the district shall result in a proposed expenditure that would cause the district budget to hold in reserve less than the required amount set by KRS 160.470.

Section 11. Nothing in this administrative regulation shall prohibit districts from passing on to school councils any reduction in state and local revenues.

Section 12. The Kentucky Board of Education may approve requests from local school districts annually to use an alternative formula to allocate funds to schools. Local school districts requesting approval to use an alternative process shall submit written documentation that the formula would generate funding equal to or greater than the amount provided to school councils under Section 3 of this administrative regulation. All requests shall be received by the Division of Finance by October 1 preceding the allocation year. Any alternative process approved by the Kentucky Board of Education shall be subject to subsequent review.

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

Kevin M. Noland
Acting Commissioner of Education

JOSEPH W. KELLY, Chairman
APPROVED BY AGENCY: August 14, 1995
FILED WITH LRC: August 15, 1995 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kyna Koch, Director

- (1) Type and number of entities affected: 176 districts.
- (2) Direct and indirect costs or savings on the:
 - (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None
 - (b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None
 - (c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
 1. First year following implementation: None
 2. Second and subsequent years: None
- (3) 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
- (4) Assessment of anticipated effect on state and local revenues:
None
- (5) Source of revenue to be used for implementation and enforcement of administrative regulation: None
- (6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:
 - (a) Geographical area in which administrative regulation will be implemented: None

- (b) Kentucky: None
- (7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives.
- (8) Assessment of expected benefits:
 - (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None
 - (b) State whether a detrimental effect on environment and public health would result if not implemented: None
 - (c) If detrimental effect would occur, explain detrimental effect: This regulation does not relate to the environment or public health.
- (9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping or duplicative: 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:
- (10) 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.

STATEMENT OF EMERGENCY 804 KAR 4:320E

804 KAR 4:320E should be enacted as an emergency administrative regulation because it is a unique administrative regulation. This administrative regulation establishes a special temporary "distilled spirits and wine auction license". There presently is no alcoholic beverage license under which a charitable auction may auction alcoholic beverages. It is necessary to promulgate this emergency administrative regulation because it has been determined that there is an emergency and an immediate need for this license by charitable or nonprofit organizations. Except as otherwise stated in the administrative regulation, all restrictions and prohibitions that apply to a distilled spirits and wine license shall also apply to a special temporary distilled spirits and wine auction license. This license will assist charities in raising badly needed funds. These funds will provide for medical research, food and clothing for the disadvantaged, housing, etc. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be filed with the Regulations Compiler on July 25, 1995.

BRERETON C. JONES, Governor
EDWARD HOLMES, Secretary
D. B. GRUGIN, Commissioner, Chairman

PUBLIC PROTECTION AND REGULATION CABINET Department of Alcoholic Beverage Control

804 KAR 4:320E. Special temporary distilled spirits and wine auction license.

RELATES TO: KRS 243.030(7), (16)
STATUTORY AUTHORITY: KRS 241.060, 243.030(28)
EFFECTIVE: July 25, 1995
NECESSITY AND FUNCTION: KRS 243.030 lists the specific kinds of licenses relating to distilled spirits and wine and authorizes such other special licenses as the board may find necessary. This administrative regulation provides for the issuance of a special temporary "distilled spirits and wine auction license" to charitable, nonprofit corporations. There presently is no license under which a charitable auction can be held.

Section 1. A special temporary distilled spirits and wine auction license may be issued to a charitable organization or nonprofit organization.

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Section 2. Applications for the special temporary distilled spirits and wine auction license shall be on a form provided by ABC and shall be filed with the board no later than five (5) working days prior to the date for which the license is requested. It shall read:

SPECIAL TEMPORARY DISTILLED SPIRITS AND WINE AUCTION LICENSE

Organization name:

Address:

Location of auction:

Duration of license: From _____, 19__ through _____, 19__.

Contact Person: Gordon Goad, General Counsel, Kentucky Department of Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky 40601.

Section 3. A special temporary distilled spirits and wine auction license shall authorize the charitable organization or nonprofit organization to:

(1) Purchase, transport, receive, possess, store, sell, and deliver distilled spirits and wine to be sold at auction; and

(2) Obtain distilled spirits and wine from distillers, vintners, wholesalers, retailers, or by gift or donation for the purpose of charity, distilled spirits and wine auctions.

Section 4. Each wine auction conducted by a charitable organization or nonprofit organization shall be conducted only on the days and only during the hours that the sale of alcoholic beverages is otherwise authorized in the location where the auction is held.

Section 5. No special temporary distilled spirits and wine auction license shall be issued for any period longer than thirty (30) days. During this period, only one (1) auction shall be held.

Section 6. The charitable organization or nonprofit organization possessing a special temporary distilled spirits and wine auction license shall post a copy of the license at the location of the wine auction.

Section 7. All restrictions and prohibitions applying to a distilled spirits and wine retail package license, not inconsistent with this section, shall apply to a special temporary distilled spirits and wine auction license.

Section 8. The fee for this license shall be set as provided in KRS 243.030. For purposes of that statute, this license is a "special temporary license".

D. B. GRUGIN, Commissioner

EDWARD HOLMES, Secretary

APPROVED BY AGENCY: July 20, 1995

FILED WITH LRC: July 25, 1995 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Contact person: Gordon Goad

(1) Type and number of entities affected: All distillers, vintners, wholesalers, and retailers licensed to sell distilled spirits and wine in Kentucky.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments have been received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments have been

received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: Minimal paperwork. Anticipate 10 to 15 applications.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body: No new employees anticipated.

(a) Direct and indirect costs or savings:

1. First year: Minimal costs for purchase of application forms.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees paid for by applicants.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No public comments received.

(b) Kentucky: No public comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No existing regulation under which a charitable auction can be held.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on enforcement and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not applied because this regulation will be applied equally to all entities statewide.

STATEMENT OF EMERGENCY

904 KAR 2:460E

On July 21, 1995, the President made Low Income Home Energy Assistance Program (LIHEAP) emergency funds available to states most severely affected by the heat. Kentucky received a share of these funds to provide immediate relief from the heat. At least ninety (90) percent of the funds must be obligated by September 30, 1995. In order to prevent the potential loss of lives of the elderly and those with a medical condition that could be exacerbated during hot weather to the point of becoming life threatening and to implement the program beginning August 7, 1995, the agency is requesting that this emergency administrative regulation be effective immediately. An ordinary administrative regulation will not be filed with the Regulations Compiler because at least ninety (90) percent of the funds must be obligated and the program will end September 30, 1995.

BRERETON C. JONES, Governor
MASTEN CHILDERS II, Secretary

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management and Development

904 KAR 2:460E. Summer Cooling Program.

RELATES TO: KRS 194.050, 42 USC 8621 et. seq., 904 KAR 2:116

STATUTORY AUTHORITY: KRS 194.050, 42 USC 8621 et seq.

EFFECTIVE: August 7, 1995

NECESSITY AND FUNCTION: This emergency administrative regulation establishes the criteria and procedures for a summer cooling program. Emergency funds from the Department of Health and Human Services have been made available to provide relief to those low income households most severely affected by the heat. The program will have two (2) components, subsidy and emergency cooling.

Section 1. Application Period. (1) Applications for cooling subsidy shall be taken from August 7 through August 15, 1995 at sites designated in each county by the local community action agency.

(2) Applications for emergency cooling shall be taken from August 7 through September 30, 1995 or until funds are expended.

Section 2. Eligibility Criteria. (1) In order to be eligible for assistance a household shall:

(a) Have a gross income at or below 110 percent of the federal poverty income guidelines;

(b) Be responsible for electric utility costs; and

(c) Have a member age sixty-five (65) or older; or

(d) Have a member with a medical condition that requires cooling to prevent further deterioration. Documentation of the medical condition shall comply with Section 3 of this administrative regulation.

(2)(a) The household's total liquid assets at the time of application shall not exceed \$1,500; or

(b) If a member of the household has a medical condition which requires liquid resources to be accessed regularly for medical and living expenses, total liquid assets shall not exceed \$4,000.

Documentation of the medical condition shall comply with Section 3 of this administrative regulation.

Section 3. Documentation. (1) Households applying for subsidy benefits with no member age sixty-five (65) or older shall present a statement from a doctor, public health nurse, or home health nurse certifying the existence of a medical condition which requires cooling.

(2) Households applying for emergency cooling shall present a signed statement from a doctor, a public health nurse or a home health nurse specifying the health condition of the household member for which an air conditioner is being requested and that the condition will be exacerbated during hot weather to the point of becoming life threatening.

Section 4. Benefits. (1) Benefits for subsidy shall be determined based on the household's level of poverty and shall be made to the household's electric provider or to the landlord, if cooling costs are included in the rent.

(2) Benefit levels shall be as follows:

(a) Households zero - fifty-five (55) percent of poverty: seventy-five (75) dollars.

(b) Households fifty-six (56) percent - 110 percent of poverty: fifty-five (55) dollars.

(3) Air conditioners shall be made available to those households where a life threatening medical condition exists. The condition must be documented as provided in Section 3(2) of this administrative regulation.

Section 5. Right to a Fair Hearing. Any individual who has been

denied assistance or whose application has not been acted upon with reasonable promptness has a right to request and receive a fair hearing in accordance with 904 KAR 2:055.

Section 6. Provider Responsibilities. Any provider accepting payment for services provided to eligible recipients shall comply with the following:

(1) In the normal billing process the household shall be charged the difference between the actual cost of the electricity used and the amount of payment made through this program;

(2) Recipients shall be treated the same as households not receiving benefits;

(3) The household on whose behalf benefits are paid shall not be discriminated against, either in the cost of goods supplied or the services provided; and

(4) A landlord shall not increase the rent of recipient households due to receipt of this payment.

JOHN L. CLAYTON, Commissioner

MASTEN CHILDERS II, Secretary

APPROVED BY AGENCY: August 2, 1995

FILED WITH LRC: August 7, 1995

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Marty Mason, Director

(1) Type and number of entities affected: The summer cooling program will provide one-time payment benefits to an electric utility or a landlord if cooling costs are included in the rent or air conditioners where there is a medical condition that has been documented cooling is required. To be eligible, the household must be responsible for electric utility costs, be at or below 110% of the federal poverty level, have a member who is 65 years or older or have a member who has a medical condition that could be life threatening without cooling. Approximately 40,000 eligible households will be assisted by the 23 community action agencies that will operate the program statewide.

(2) Direct and indirect cost or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: Since this is an emergency administrative regulation and will not be replaced by an ordinary regulation, no Notice of Intent was filed and no public hearing held.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: Since this is an emergency administrative regulation and will not be replaced by an ordinary regulation, no Notice of Intent was filed and no public hearing held.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: The service providers are required to accept applications, determine eligibility, benefit amounts, issue vouchers, reimburse vendors, conduct an outreach program, submit reports to the contracting agency, and obtain an annual audit. These requirements will neither increase nor decrease the costs. Cost of the program is determined by the federal appropriation; the cost of administration is relative to the allocation - not to exceed 10% of the grant.

2. Second and subsequent years: Since this is a one-time allotment of funds for an emergency situation, there will be no effect on subsequent years.

(3) Effects on the promulgating administrative body: The Department for Social Insurance shall be responsible for the overall administration of the summer cooling program. The department recently received \$5.39 million from the federal Department of Health and Human Services for this program. As allowed by the LIHEAP

block grant rules, 15% of the funds will be set aside for weatherization purposes. Of the remaining funds up to 10% is available for administration and the remainder is available for cooling benefits. These administrative and benefit funds are contracted out through the Kentucky Association for Community Action (KACA) to the 23 community action agencies that will operate the program statewide. Funds for this program are entirely federal funds.

(a) Direct and indirect cost or savings: Up to 10% of available funds may be used for administration.

1. First year: Normal costs associated with administration of this program and contract management shall be incurred.

2. Continuing cost or savings: There will not be any continuing costs or savings.

3. Additional factors increasing or decreasing costs: The Department for Social Insurance is not aware of additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: All applicants shall complete an application and provide documentation to verify eligibility. The local administering agencies shall report services provided, submit invoices necessary for reimbursement and shall be subject to reporting and paperwork requirements necessary for appropriate administration of the Summer Cooling Program including audits. The Department for Social Insurance shall collect and analyze data on households receiving assistance and report such to the Department for Health and Human Services.

(4) Assessment of anticipated effect on state and local revenues: The Summer Cooling Program shall have little impact upon state or local revenues. Increased tax revenues will be generated from the sale of air conditioners or receipt of cooling assistance benefits.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on: Since this is an emergency administrative regulation and will not be replaced by an ordinary regulation, no Notice of Intent was filed and no public hearing held. Benefits are available to be paid to electric utilities or landlords where cooling cost is included in the rent and to purchase air conditioners. Administrative funds will be available to the community action agencies to operate the program.

(a) Geographical area in which administrative regulation will be implemented: Statewide

(b) Kentucky:

(7) Assessment of alternative methods; reasons why alternatives were rejected: The funds were allocated by the Department of Health and Human Services to assist in relief of the extreme summer heat. In accordance with LIHEAP Block Grant rules, 15% of the funds will be set aside for weatherization purposes.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Implementation of the Summer Cooling Program will have a positive effect on the public health of the low income eligible population in that they will receive benefits to maintain a cooling source or will be assisted in having a cooling source. The extreme heat will be less of a threat to their lives and their health.

(b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on the health of low-income families would result if the program is not implemented.

(c) If detrimental effect would result, explain detrimental effect: If the Summer Cooling Program is not implemented, a number of elderly individuals or individuals with a medical condition may be in a life threatening situation by having insufficient cooling during the summer.

(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication: No statute, administrative regulation or governmental policy is in conflict,

overlapping or a duplication of the Summer Cooling Program.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Federal statutes mandate that eligibility requirements be in a like manner on a statewide basis; therefore, tiering is prohibited.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This regulation will affect cities which own and operate electric utilities.

3. State the aspect or service of local government to which this administrative regulation relates. Municipal electric utilities.

4. How does this administrative regulation affect the local government or any service it provides? The provision of benefits helps low income households pay for and maintain electricity. Municipal utilities, and thus the cities, will benefit through reductions in the amount of payments in arrears and through helping households to maintain service.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL Law 97-35 as amended, and 45 CFR 96.

2. State compliance standards. This regulation specifies income eligibility at 110 percent of poverty. It also provides for local administration by community action agencies.

3. Minimum or uniform standards contained in the federal mandate. The federal statute permits income eligibility to range between 110 percent and 150 percent of poverty. Outreach activities must be conducted to assure that eligible households, especially those with elderly, or with medical condition, or both are made aware of assistance. The designation of local agencies administering similar low income energy assistance programs shall be given priority for selection.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. The block grant concept permits state flexibility within broad guidelines contained in the statute. In order to target assistance to the most needy and vulnerable, the state has adopted the minimum income eligibility criteria permitted under the statute, those 65 years of age or older and those with a medical condition that could be life threatening without cooling.

5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. Due to the limited amount of funds, it is necessary to target assistance to those households most in need and most vulnerable, the elderly and those with a medical conditions that could become life threatening without cooling.

STATEMENT OF EMERGENCY 909 KAR 1:100E

This emergency administrative regulation is necessary to allow the Kentucky Health Purchasing Alliance to contract with provider networks as accountable health plans pursuant to KRS 304.17A-030 and to meet the deadline of January 1, 1996 for mandatory participation of public sector employees in the Alliance. Timely processing of applications is essential to implement these requirements by the statutory deadline.

BRERETON C. JONES, Governor
JACK B. HALL, Chairman

KENTUCKY HEALTH POLICY BOARD

909 KAR 1:100E. Provider network certification.

RELATES TO: KRS 304.17A

STATUTORY AUTHORITY: KRS 216.2905(a), (b), 304.17A-010(12), 304.17A-100(5)

EFFECTIVE: August 15, 1995

NECESSITY AND FUNCTION: These administrative regulations set out the criteria for provider networks authorized by KRS 304.17A-010(12) and 100(5).

Section 1. Definitions. (1) "Board" means the Kentucky Health Policy Board, as defined by KRS 216.2903.

(2) "Copayment" means an amount an enrollee must pay in order to receive a specific service which is not fully prepaid.

(3) "Deductible" means the amount an enrollee is responsible to pay out-of-pocket before the provider network begins to pay the costs associated with treatment.

(4) "Enrollee" means an individual who is covered by a provider network.

(5) "Evidence of coverage" means a statement of the essential features and services of the provider network coverage which is given to the enrollee by the provider network.

(6) "Insurer" has the same meaning as set out in KRS 304.17A-010(12) and 100(5).

(7) "Net worth" means the excess of total admitted assets over total liabilities, but the liabilities shall not include fully subordinated debt.

(8) "Participating provider" means a provider as defined in subsection (10) of this section who, under a contract with the provider network has agreed to provide health care services to enrollees with an expectation of receiving payment, other than copayment or deductible, directly or indirectly from the provider network.

(9) "Provider" means any physician, hospital or other person licensed or otherwise authorized to furnish health care services and includes partnership, professional service association, trust or corporation of providers.

(10) "Provider network" means a provider sponsored integrated health delivery network which is owned, governed and managed by providers, which undertakes to provide the full range of health care services in compliance with this administrative regulation.

(11) "Uncovered expenditures" means the costs to the provider network for health care services that are the obligation of the provider network for health care services not provided by participating providers.

Section 2. Establishment of Provider Networks. (1) No provider network shall operate in Kentucky without a certificate of authority from the board.

(2) Each application for a certificate of authority shall be filed in duplicate on a form prescribed by the board and verified by an officer or authorized representative of the applicant, and shall set forth or be accompanied by the following:

(a) A copy of the organizational documents of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments thereto;

(b) A copy of the bylaws, rules and administrative regulations, or similar document, if any, regulating the conduct of the internal affairs of the applicant, including the manner in which the provider owners and employees of the provider network will provide services to enrollees;

(c) A list of the names, addresses, official positions and biographi-

cal information of the persons who are to be responsible for the conduct of the affairs and day-to-day operations of the applicant, including all members of the board of directors, board of trustees, executive committee or other governing board or committee and the principal officers in the case of a corporation, or the partners or members in the case of a partnership or professional service association and the names and addresses of each owner of five (5) percent or more of the provider network. The provider network shall provide for enrollee participation on the governing body;

(d) A copy of any contract form made or to be made between any class of providers and the provider network and a copy of any contract made or to be made between third party administrators, marketing consultants or persons listed in paragraph (c) of this subsection and the provider network;

(e) A copy of the form of evidence of coverage to be issued to the enrollees, which includes the provider network's plan rules;

(f) Financial statements showing the applicant's assets, liabilities and sources of financial support. Include both a copy of the applicant's most recent (regular) certified financial statement and an unaudited current financial statement;

(g) A financial feasibility plan which includes detailed enrollment projections, the methodology for determining premium rates to be charged during the first twelve (12) months of operations certified by an actuary or other qualified person, a projection of balance sheets, cash flow statements showing any capital expenditures, purchase and sale of investments and deposits with the state, and income and expense statements anticipated from the start of operations until the organization has had net income for at least one (1) year, and a statement as to the sources of working capital as well as other sources of funding;

(h) A statement or map reasonably describing the counties to be served and written assurance that health services will be provided to enrollees within thirty (30) miles of residence, unless those services are not available;

(i) A description of the internal grievance procedures to be utilized for the investigation and resolution of enrollee and provider complaints and grievances;

(j) A description of the proposed quality assurance program, including the formal organizational structure, methods for developing criteria, procedures for comprehensive evaluation of the quality of care rendered to enrollees, and processes to initiate corrective action and reevaluation when deficiencies in provider or organizational performance are identified;

(k) A description of the procedures to be implemented to meet the protection against insolvency requirements in Section 9 of this administrative regulation;

(l) A list of the names, addresses, and license numbers of all providers with which the provider network has agreements;

(m) Such other information as the board may require to make the determinations required in Section 3 of this administrative regulation.

Section 3. Issuance of Certificate of Authority. (1) The board shall within forty-five (45) days of receipt of the application issue a certificate of authority to any person filing a completed application upon receiving a fee in the amount of \$500 and upon the board being satisfied that:

(2) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy and possess good reputations;

(3) The provider network will effectively provide the full range of health care services on a prepaid basis, except for copayments and/or deductibles; and

(4) The provider network is in compliance with these administrative regulations.

Section 4. Fidelity Bond. A provider network shall maintain in force a fidelity bond or fidelity insurance in an amount not less than \$250,000 on employees and officers, directors and partners who

receive, collect, disburse or invest funds of the provider network.

Section 5. Quality Assurance Program. The provider network shall establish procedures to assure that the health care services provided to enrollees shall be rendered under reasonable standards of quality of care consistent with prevailing professionally recognized standards of medical practice and board-approved practice parameters. Such procedures shall include mechanisms to assure availability, accessibility and continuity of care.

Section 6. Grievance Procedures. Every provider network shall establish and maintain a grievance procedure which has been approved by the board, to provide procedures for the effective resolution of grievances initiated by enrollees and providers.

Section 7. Annual Report. (1) Every provider network shall annually, on or before the first of March, file a report verified by at least two (2) principal officers, with the board covering the preceding calendar year. Such report shall include:

- (a) An audited financial statement;
- (b) A list of providers who have executed contracts with the provider network, including those who are owners or who are employed by the provider network;
- (c) A description and supporting documentation of any change in governance or operation of the provider network; and
- (d) A summary of all grievances, including final dispositions.

(2) The board may require such additional reports as are deemed necessary and appropriate to enable the board to carry out its duties under this administrative regulation.

Section 8. Investments. Funds of a provider network shall be invested only in accordance with KRS Chapter 304, Subtitle 7.

Section 9. Protection Against Insolvency. (1) Net worth requirements:

(a) Before issuing any certificate of authority, the board shall require that the provider network have an initial net worth of \$1,500,000 and shall thereafter maintain the minimum net worth required under paragraph (b) of this subsection.

(b) Every provider network must maintain a minimum net worth equal to the greater of:

- 1. \$1,000,000; or
- 2. Two (2) percent of annual premium revenues as reported on the most recent annual financial statement filed with the board on the first \$150,000,000 of premiums and one (1) percent of annual premiums on the premiums in excess of \$150,000,000; or
- 3. An amount equal to the sum of three (3) months uncovered health care expenditures as reported on the most recent financial statement filed with the Kentucky Health Policy Board; or
- 4. An amount equal to the sum of eight (8) percent of annual health care expenditures except those paid on a capitated basis or managed hospital payment basis as reported on the most recent financial statement filed with the board.

(c) In determining net worth, no debt shall be considered fully subordinated unless the subordination clause is in a form acceptable to the board. Any interest obligation relating to the repayment of any subordinated debt must be similarly subordinated.

1. The interest expenses relating to the repayment of any fully subordinated debt shall be considered covered expenses.

2. Any debt incurred by a note meeting the requirements of this section, and otherwise acceptable to the board, shall not be considered a liability and shall be recorded as equity.

(2) Deposit requirements.

(a) Unless otherwise provided below, each provider network shall deposit with the board or, at the discretion of the board, with any organization or trustee acceptable to the board through which a custodial or controlled account is utilized, cash, securities, or any

combination of these or other measures that are acceptable to it which at all times shall have a value of not less than \$300,000.

(b) The deposit shall be an admitted asset of the provider network in the determination of net worth.

(c) All income from deposits shall be an asset of the provider network. A provider network that has made a securities deposit may withdraw that deposit or any part thereof after making a substitute deposit of cash, securities, or any combination of these or other measures of equal amount and value. Any securities shall be approved by the board before being deposited or substituted.

(d) The deposit shall be used to protect the interests of the provider network's enrollees and to assure continuation of health care services to enrollees of a provider network which is in rehabilitation or conservation. The board may use the deposit for administrative costs directly attributable to a receivership or liquidation. If the provider network is placed in receivership or liquidation, the deposit shall be an asset subject to the provisions of KRS Chapter 304, Subtitle 33.

(3) Liabilities. Every provider network shall, when determining liabilities, include an amount estimated in the aggregate to provide for any unearned premium and for the payment of all claims for health care expenditures which have been incurred, whether reported or unreported, which are unpaid and for which the provider network is or may be liable, and to provide for the expense of adjustment or settlement of such claims.

(4) Hold harmless.

(a) Every contract between a provider network and a participating provider of health care services shall be in writing and shall set forth that in the event the provider network fails to pay for health care services as set forth in the contract, the enrollee shall not be liable to the provider for any sums owed by the provider network.

(b) In the event that the participating provider contract has not been reduced to writing as required by this subsection or that the contract fails to contain the required prohibition, the participating provider shall not collect or attempt to collect from the enrollee sums owed by the provider network.

(5) Continuation of benefits.

(a) Each provider network shall have a plan for handling insolvency which guarantees the continuation of benefits for the duration of the contract period for which premiums have been paid and continuation of benefits to members who are confined on the date of insolvency in an inpatient facility until their discharge or expiration of benefits.

Section 10. Uncovered Expenditures Insolvency Deposit. If at any time uncovered expenditures exceed ten (10) percent of total health care expenditures, a provider network shall place an uncovered expenditures insolvency deposit with the board or with any organization or trustee acceptable to the board through which a custodial or controlled account is maintained, cash or securities that are acceptable to the board. Such deposit shall at all times have a fair market value in an amount of 120 percent of the provider networks outstanding liability for uncovered expenditures for enrollees, including incurred but not reported claims, and shall be calculated as of the first day of the month and maintained for the remainder of the month. The provider network shall file a report within forty-five (45) days of the end of the calendar quarter with information sufficient to demonstrate compliance with this section.

Section 11. Enrollment Period, Replacement Coverage in the Event of Insolvency. In the event of an insolvency of a provider network and upon order of the board, all other insurers that offer coverage shall offer enrollees of the insolvent provider network a thirty (30) day enrollment period commencing upon the date of insolvency. Each insurer shall offer such enrollees of the insolvent provider network the same coverages and rates that it offers to its other enrollees.

Section 12. Filing Requirements for Rating Information. (1) No premium rate may be used until a schedule of premium rates has been filed with and approved by the board. All premium rates shall conform to the board's modified community rating methodology and shall not be excessive, inadequate or unfairly discriminatory.

(2) The board shall approve the schedule of premium rates if the requirements of subsection (1) of this section are met. If the board disapproves such filing, it shall notify the provider network. In the notice, the board shall specify the reasons for the disapproval. A hearing will be conducted within thirty (30) days after a request in writing by the person filing. If the board does not take action on such premium rate schedule within thirty (30) days of the filing of such schedule, it shall be deemed approved.

Section 13. Regulation of Agents for Provider Networks. (1) Any person who engages in the solicitation or enrollment of persons in a provider network shall be licensed the same as other agents of health insurance under KRS Chapter 304, Subtitle 9.

(2) An agent license is not required for a regular salaried officer or employee of a provider network who devotes substantially all of his time to activities other than the taking or transmitting of applications or membership fees or premiums, or who receives no commission or other compensation directly dependent upon the business obtained and who does not solicit or accept from the public applications for the provider network.

Section 14. Examinations. (1) The board, or its designee, may make an examination of the affairs of any provider network and providers with whom such organization has contracts, agreements or other arrangements as often as is reasonably necessary for the protection of the interests of the people of this state but not less frequently than once every three (3) years.

(2) Every provider network and provider shall submit its books and records for such examinations and in every way facilitate the completion of the examination. For the purpose of examinations, the board, or its designee, may administer oaths to, and examine the officers and agents of, the provider network and the principals of such providers concerning their business.

(3) The expenses of examinations under this section shall be assessed against the provider network being examined and remitted to the board.

(4) In lieu of such examination, the board may accept the report of an examination made by the appropriate regulatory authority of another state.

Section 15. Suspension or Revocation of Certificate of Authority.

(1) Any certificate of authority issued under these administrative regulations may be suspended or revoked, and any application for a certificate of authority may be denied, if the board finds that any of the conditions listed below exist:

(a) The provider network is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in any other information submitted under Section 2 of this administrative regulation, unless amendments to such submissions have been filed with and approved by the board;

(b) The provider network issues an evidence of coverage for health care services which do not conform to the standard benefit plans approved by the board or charges premiums other than those approved by the board;

(c) The provider network does not provide a full range of health care services;

(d) The provider network is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(e) The provider network has failed to correct, within the time prescribed by subsection (2) of this section, any deficiency occurring due to such provider network's prescribed minimum net worth being

impaired;

(f) The provider network or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(g) The continued operation of the provider network would be hazardous to its enrollees; or

(h) The provider network has otherwise failed substantially to comply with these administrative regulations.

(2) The following shall pertain when insufficient net worth is maintained: Whenever the board finds that the net worth maintained by any provider network subject to the provisions of these administrative regulations is less than the minimum net worth required to be maintained by Section 9 of this administrative regulation, it shall give written notice to the provider network of the amount of deficiency and require:

(a) Filing with the board a plan for correction of the deficiency acceptable to the board; and

(b) Correction of the deficiency within a reasonable time, not to exceed sixty (60) days.

Section 16. Rehabilitation, Liquidation or Conservation of Provider Networks. Any rehabilitation, liquidation or conservation of a provider network shall be conducted under the supervision of the board or its designee in the manner provided in KRS Chapter 304, Subtitle 33, the law governing the rehabilitation, liquidation or conservation of insurance companies. The board or its designee shall have the same authority granted to the Kentucky Commissioner of Insurance in KRS Chapter 304, Subtitle 33.

Section 17. Approval of Change of Ownership. Any substantial change in ownership, governance or operation of the provider network must be approved by the board.

JACK B. HALL, Chairman

APPROVED BY AGENCY: August 14, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Jack B. Hall

(1) Type and number of entities affected: All provider networks.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented and to the extent available from the public comments received: There is no anticipated impact on the cost of living and employment in any geographical area in the Commonwealth as a result of this administrative regulation.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments have been received from the public indicating that the cost of doing business will be affected by this administrative regulation.

(c) Compliance, reporting and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: Provider networks will be required to file applications with the Kentucky Health Policy Board for approval to operate.

2. Second and subsequent years: Provider networks will be required to file annual statements regarding financial status, ownership, and grievances.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation will not result in any new costs or savings to the promulgating body.

2. Continuing costs or savings: See above.

3. Additional factors increasing or decreasing costs: See above.

(b) Reporting and paperwork requirements: The Kentucky Health Policy Board will be required to evaluate and approve or deny applications from provider networks. In addition, the Kentucky Health Policy Board will review annual reports filed by provider networks.

(4) Assessment of anticipated effect on state and local revenue: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budget of the Commonwealth as established by House Bill 2 enacted by the 1994 General Assembly; application fees.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographic area in which administrative regulation will be implemented: No public comments have been received, and no economic effects are expected.

(b) Kentucky: See above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were available. KRS Chapter 304.17A-010(12) and 100(5) require the Kentucky Health Policy Board to establish criteria for provider networks.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: One of the goals of the Kentucky Health Reform Act is to improve the health status of all Kentuckians. The provider network criteria and application process are intended to meet specified standards of financial viability and quality care.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: Because certification is a mandatory precondition to the provision of services by provider networks to members of the Kentucky Health Purchasing Alliance, failure to implement this administrative regulation would preclude the Alliance from contracting with provider networks for services.

(c) If detrimental effect would result, explain detrimental effect: See above.

(9) 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

(10) Any additional information or comments: N/A

(11) TIERING: Is tiering applied? Tiering was not applied because this administrative regulation applies equally to all entities statewide.

ADMINISTRATIVE REGULATIONS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

COMPILER'S NOTE: The administrative regulations published in this section of the Administrative Register were amended by the promulgating agency and the Administrative Regulation Review Subcommittee on August 7, 1995, unless otherwise noted.

COMPILER'S NOTE: The following two administrative regulations, 9 KAR 1:010 and 9 KAR 1:040, were amended by the promulgating administrative agency and the Interim Joint Committee on State Government, and became effective on July 26, 1995.

OFFICE OF THE GOVERNOR
Executive Branch Ethics Commission
(As Amended)

9 KAR 1:010. Statement of financial disclosure.

RELATES TO: KRS 11A.050

STATUTORY AUTHORITY: KRS 11A.050(2), (3), 11A.110(3), (4)

NECESSITY AND FUNCTION: KRS 11A.050 mandates that each officer as defined in KRS 11A.010(7), ~~and~~ public servant as listed in KRS 11A.010(9)(a)-(i), and candidate for the public offices listed in KRS 11A.010(9)(a)-(i) file a statement of financial disclosure with the commission. KRS 11A.050(2) requires the commission to prescribe the form for the statement of financial disclosure. This administrative regulation prescribes the form and incorporates it by reference.

Section 1. Definition. (1) "Candidates" ~~is defined by KRS 11A.010(13). [for public offices] means candidates for the public offices listed in KRS 11A.010(9)-(i)]~~

(2) "Officer" is defined by KRS 11A.010(7).

(3) "Public servants" is defined by KRS 11A.010(9). ~~[[The "Statement of Financial Disclosure" and the "Instructions for Filing a Statement of Financial Disclosure" are [form is] incorporated by reference.]~~

Section 2. (1) The statement of financial disclosure required of officers and public servants by KRS 11A.050(1) shall be filed on Ethics Commission form "Statement of Financial Disclosure".

(2) Candidates ~~[for public offices]~~ shall file a statement of financial disclosure on Ethics Commission form "Statement of Financial Disclosure". ~~[These required to file are officers as defined in KRS 11A.010(7), [and] public servants [as] listed in KRS 11A.010(9)(a)-(i), and candidates for the public offices listed in KRS 11A.010(9)(a)-(i).]~~

Section 3. (1) The following documents are incorporated by reference:

(a) "Statement of Financial Disclosure (Rev 030195)"; and

(b) "Instructions for Filing a Statement of Financial Disclosure (Rev 030195)".

(2) These forms may be inspected, copied, or obtained from the Executive Branch Ethics Commission, Room 273 Capitol Annex, 702 Capital Avenue, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday. ~~[The "Statement of Financial Disclosure (Rev. 030195)" and the "Instructions for Filing a Statement of Financial Disclosure (030195)" [(011493)] may be inspected, copied, or obtained from the Executive Branch Ethics Commission, [Room 136, State Capitol, Frankfort, Kentucky 40601,] 8 a.m. to 4:30 p.m., Monday through Friday.]~~

LIVINGSTON TAYLOR, Chairman

APPROVED BY AGENCY: April 27, 1995

FILED WITH LRC: May 15, 1995 at noon

OFFICE OF THE GOVERNOR
Executive Branch Ethics Commission
(As Amended)

9 KAR 1:040. Initial and updated registration statements and registration cards for executive agency lobbyists and lobbyist employers, ~~[lobbying handbook, including registration forms,] expenditure statements, financial disclosure forms, [and] termination forms, and executive agency lobbying handbook.~~

RELATES TO: KRS 11A.211, 11A.216, 11A.221, 11A.231, 11A.233(1), 11A.241(4), (5), 11A.990

STATUTORY AUTHORITY: KRS 11A.110(3), (4), 11A.241(4), (5), (6)

NECESSITY AND FUNCTION: KRS 11A.241(4) requires the Executive Branch Ethics Commission to prescribe the initial registration statement and the termination notice required by KRS 11A.211, the statement of expenditures required by KRS 11A.216, and the statement of financial transactions required by KRS 11A.221. This administrative regulation establishes these forms. KRS 11A.241(6) requires the commission to publish a handbook that explains the provisions of KRS 11A.201 to 11A.246. This administrative regulation establishes that handbook. ~~[KRS 11A.201 to 11A.246 and 11A.990(5) to (9) establishes the requirements for executive agency lobbying, including forms and penalties for violation thereof. This administrative regulation establishes the Initial Registration Form for executive agency lobbyists and their employers, the Updated Registration Statement which includes the Statements of Expenditures and Financial Transactions which are required to be filed three (3) times per year, the Lobbyists Registration Card, and the Termination Form. All of these forms are contained in the Executive Agency Lobbying Handbook, which is also adopted in this administrative regulation.]~~ [The effective date of Senate Bill 7, 1993 (1st Extra. Sess.) Ky. Acts ch. 4, secs. 45 to 55 (to be codified as KRS 11A.201 to 11A.246 and 11A.990(5) to (9)) is September 16, 1993. KRS 11A.211(1) requires the filing of an initial registration statement by an executive agency lobbyist and his employer within ten (10) days following the engagement of an executive agency lobbyist. KRS 11A.211(6) requires the commission to issue a registered executive agency lobbyist a registration card. Engaged executive agency lobbyists and their employers will be required to file initial registration statements with the commission on the effective date of Senate Bill 7. The commission is required to implement the provisions of KRS 11A.201 to 11A.246 by administrative regulation, including the initial registration statement form. This administrative regulation establishes the initial registration form and the registration card.]

Section 1. Definitions. "Regular and substantial basis" means ~~[the] executive agency lobbying activity of more than one (1) time per year~~ regarding a decision that involves state expenditures that exceed \$5,000 per year.

Section 2. Initial Registration Statement. (1) The initial registration statement required by KRS 11A.211 shall be filed on the "Initial Registration Statement" form incorporated by reference in Section 4 of this administrative regulation. ~~[Effective September 16, 1993.]~~ [An "Initial Registration Statement" shall be filed by an engaged executive agency lobbyist and his employer within ten (10) days following the engagement of the lobbyist.]

(2)(a) The brief description of the executive agency decision shall include the subject matter for which an executive agency lobbyist:

1. Has been engaged; or
2. Is responsible.

(b) Subject matters shall include:

1. An award of grant for social services;
2. A lease for office space or equipment;
3. A contract to provide food, clothing, or other consumable products;

4. Any other subject matter. ~~[The brief description of the executive agency decision shall include the subject matter for which an executive agency lobbyist has been engaged or for which he is responsible, such as an award of a grant for social services, a lease for office space or equipment, a contract to provide food, clothing or other consumable products, or a personal service contract.]~~

(3)(a) The signature on the "Initial Registration Statement" which is filed with the commission shall be an original signature in ink other than black ~~[in blue ink]~~.

(b) The ~~["Initial Registration Statement" form and each of the other] forms [which is]~~ incorporated by reference in this administrative regulation ~~[by reference in Section 3]~~ may be reproduced by an executive agency lobbyist or his employer.

Section 3. (1) The updated registration form required by KRS 11A.211(2) shall be filed on the applicable updated registration forms incorporated by reference in Section 4 of this administrative regulation.

(2) The notice of termination required by KRS 11A.211(4) shall be filed on the Termination Notification As Executive Agency Lobbyist Form incorporated by reference in Section 4 of this administrative regulation.

Section 4. ~~[3.]~~ Material Incorporated by Reference.

(1) The following documents are incorporated by reference:

(a) "Executive Agency Lobbyist/Employer Initial Registration Statement (Rev. 030195)"; ~~[(EDEC:EAL:1 9/93)]; and]~~

(b) "Updated Registration Statement - Executive Agency Lobbyist (Rev. 030195)";

(c) "Updated Registration Statement - Employer of Executive Agency Lobbyist (Rev. 030195)";

(d) "Termination Notification as Executive Agency Lobbyist (Rev. 030195)";

(e) Executive Agency Lobbying Handbook (Rev. 030195); and

(f) "Commonwealth of Kentucky Registration Card Executive Agency Lobbyist (9/93)".

(2) These forms ~~[The "Executive Agency Lobbyist/Employer Initial Registration Statement (Rev. 030194)", "Updated Registration Statement - Executive Agency Lobbyist (Rev. 030195)", "Updated Registration Statement - Employer of Executive Agency Lobbyist (Rev. 030195)", "Termination Notification as Executive Agency Lobbyist (Rev. 030195)", and "Executive Agency Lobbying Handbook (Rev. 030195)"] [(EDEC:EAL:1 9/93)]~~ may be inspected, copied, or obtained from the Executive Branch Ethics Commission, Room 273, Capitol Annex, 702 Capital Avenue, Frankfort, Kentucky 40601, ~~[Room 161, Capitol Annex, Frankfort, Kentucky 40601]~~ 8 a.m. to 4:30 p.m., Monday through Friday.

LIVINGSTON TAYLOR, Chairman

APPROVED BY AGENCY: April 27, 1995

FILED WITH LRC: May 15, 1995 at noon

KENTUCKY HIGHER EDUCATION
ASSISTANCE AUTHORITY
(As Amended)

11 KAR 4:040. Educational institution participation requirements.

RELATES TO: KRS 164.740, 164.748(6), (13), 34 CFR Part 668 subparts A, B, D, E, F

STATUTORY AUTHORITY: KRS ~~[13A.100.]~~ 164.748(4)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority ("authority") administers programs of student financial assistance. The authority is empowered by KRS 164.748(6) and (13) to enter contracts with eligible educational institutions to provide for the administration of student financial assistance programs, and approve, disapprove, limit, suspend, or terminate the participation of such institutions. This administrative regulation sets forth the conditions under which the authority will execute a contract with an educational institution for participation in any or all of the authority's programs. The amendment eliminates standards and documentation of financial responsibility and administrative capability that are redundant of federal requirements, and thereby eliminating the separate determination by the authority of a school's compliance in lieu of the determination by the secretary. [specifies documentation and standards that are a precondition to execution of an administrative agreement.]

Section 1. Definitions. (1) The definition of "authority" is governed by KRS 164.740.

(2) The definition of "business school" is governed by KRS 164.740.

(3) The definition of "college" is governed by KRS 164.740.

(4) ~~["Eligible course of study" means, for purposes of Sections 7 and 8 of this administrative regulation, a program offered by an educational institution which:~~

~~(a) is of at least two (2) academic years duration; and~~

~~(b) leads to a degree in a field other than theology, divinity or religious education at the institution at which the student is enrolled.~~

~~(5) The definition of "eligible program of study" is governed by KRS 164.769(2)(b) for purposes of Section 8 of this administrative regulation, and is governed by 11 KAR 5:001, Section 1(9), for purposes of Sections 6 and 9 of this administrative regulation. [means, for purposes of Section 10 of this administrative regulation, an undergraduate or graduate program of study which is preparatory to initial teacher certification or recertification, and which does not lead to a certificate, diploma, or degree in theology, divinity, or religious education.]~~

(5) ~~(6)]~~ The definition of "federal act" is governed by KRS 164.740.

(6) ~~(7)]~~ "Fiscal year default rate" means, for any fiscal year in which thirty (30) or more current and former students at the institution enter repayment on federal Stafford loans or federal SLS loans (or on the portion of a loan made under the Federal Consolidation Loan Program that is used to repay such loans) ~~[GSL or SLS program loans]~~ received for attendance at the institution, the percentage, determined by the secretary, of those current and former students who enter repayment on such ~~[GSL or SLS program]~~ loans ~~[received for attendance at that institution in that fiscal year]~~ who default before the end of the following fiscal year. "Fiscal year default rate" means for any fiscal year in which less than thirty (30) of the institution's current and former students enter repayment on federal Stafford loans or federal SLS loans (or on the portion of a loan made under the Federal Consolidation Loan Program that is used to repay such loans) received for attendance at the institution, the percentage of those current and former students who entered repayment on federal Stafford loans or federal SLS loans in any of the three (3) most recent fiscal years, who default before the end of the fiscal year immediately

following the year in which they entered repayment. ~~the term "fiscal year default rate" means the average, determined by the secretary, of the rate calculated under the preceding sentence for the three (3) most recent fiscal years. In the case of a student who has attended and borrowed at more than one (1) school, the student (and his or her subsequent repayment or default) is attributed to each school for attendance at which the student received a loan that entered repayment in the fiscal year. A loan on which a payment is made by the school, its owner, agent, contractor, employee, or any other affiliated entity or individual, in order to avoid default by the borrower is considered as in default for purposes of this definition.~~

(7) ~~[(8)]~~ "Fiscal year" means the period from and including October 1 of the calendar year through and including September 30 of the following calendar year.

(8) ~~[(9)]~~ "Federal Stafford loans or federal SLS loans" ~~[(9)]~~ "GSL or SLS program loans" means loans reinsured by the secretary pursuant to sections 428 or 428A of the federal act (20 USC §1078 or 1078-1).

(9) ~~[(10)]~~ The definition of "insured student loan" is governed by KRS 164.740.

(10) ~~[(11)]~~ The definition of "school of nursing" is governed by KRS 164.740.

(11) ~~[(12)]~~ The definition of "secretary" is governed by KRS 164.740.

(12) ~~[(13)]~~ The definition of "vocational school" is governed by KRS 164.740.

Section 2. General Rule. The authority shall execute an administrative agreement with any educational institution which meets the eligibility criteria established by KRS 164.740 et seq., KRS 164.780 et seq., and (as applicable to a particular authority program) the federal act, and which is approved for participation by the authority and (as applicable) the secretary. The authority shall approve for participation in any authority program an educational institution which:

(1) is certified by the secretary to participate in programs of student financial assistance authorized by the federal act, and has in force, if required by the secretary, a participation agreement with the secretary to participate in any of those programs; [Demonstrates to the satisfaction of the authority, in accordance with standards set forth in Section 5 of this administrative regulation, financial responsibility and administrative capability to administer authority programs of student financial assistance];

(2) is not presently suspended or terminated from participation in student financial assistance programs by either the authority, and organization authorized to insure loans under the federal act, or the secretary;

(3) ~~holds all licenses, in full force and effect, necessary to transact business in the Commonwealth of Kentucky;~~

(4) meets the criteria set forth in Sections 4 through 10 [43] of this administrative regulation, as applicable to the particular authority program(s) in which the educational institution seeks participation; and

(4) ~~[(5)]~~ Has been in continuous operation for at least two (2) years, unless otherwise required by the federal act.

Section 3. Maintenance of Participation. An administrative agreement executed pursuant to Section 2 of this administrative regulation shall remain in force, subject to 11 KAR 4:020, in accordance with its terms, for so long as the educational institution conforms to the criteria set forth in Section 2 of this administrative regulation, except that the agreement may, at the discretion of the authority, remain in force for one or more programs, as circumstances warrant, notwithstanding Section 2(2) of this administrative regulation. The authority may periodically reevaluate the status [financial and administrative capability] of an institution [and compliance] with respect to the criteria established in this administrative regulation.

Section 4. Documentation of Federal Eligibility ~~Financial~~

~~Responsibility, and Administrative Capability].~~ (1) The institution shall demonstrate to the authority that it is approved by the secretary to participate, and holds all necessary licenses to offer academic programs by submitting to the authority a true and complete copy of the most recent[-

~~(a)] federal application for institutional eligibility, eligibility letter, and program participation agreement executed by the secretary.~~

~~[(b)] Letter of accreditation from each organization accrediting the institution and its programs and copies of any letters denying, limiting or suspending accreditation of the institution; and~~

~~(c) License from each governmental organization responsible for licensing the institution or its programs.~~

~~(2) The institution shall provide evidence of its financial responsibility by submitting to the authority:~~

~~(a) A complete copy of audited financial statements and auditors notes and management letter (including any audit of student financial assistance programs), prepared by a certified public accountant in accordance with generally accepted accounting standards, for the preceding two (2) complete fiscal years, except that an institution already participating may submit an unaudited profit and loss statement and balance sheet (based on the same basis of accounting used by the institution for financial reporting) for the current and one (1) of the preceding two (2) complete fiscal years and audited financial statements not older than two (2) years;~~

~~(b) Information indicating the type of organizational ownership and the names of all current owners and corporate officers; and~~

~~(c) A list of the three (3) student loan lenders and guarantors providing the highest dollar volume of student loans to the institution's students during the preceding twenty-four (24) months.~~

~~(3) The institution shall provide evidence of its capability to administer the student financial assistance programs and provide the services publicized to students by submitting to the authority:~~

~~(a) A current copy of the consumer information required by federal and state law to be made available to students and prospective students, including the institution's catalog, enrollment contract, brochures and printed advertisements; and (unless contained in the foregoing materials) a current description of the financial assistance programs available, cost of attendance, programs of study, facilities, the experience of the instructional and administrative staff, and average starting salaries of graduates (if such starting salary information is otherwise distributed);~~

~~(b) A current statement of the institution's policies on recruitment and admission, attendance, refund and repayment of student financial assistance, and the ability to benefit and satisfactory academic progress standards;~~

~~(c) Information for the preceding two (2) years on total annual enrollment, fiscal year default rates, accreditation and student financial assistance program review reports, and any sanctions imposed on the institution by the secretary or a student loan guarantee agency;~~

~~(d) All materials currently used or proposed to be used in student financial assistance counseling involving entrance and exit interviews, student loan debt management, student financial assistance authorizations and disbursement forms, and standardized student budgets;~~

~~(e) A current analysis of information and a current plan of remedial measures required pursuant to 34 CFR Section 668.15(b)(2), (c), (d), and (e), if the secretary requires these materials to be prepared by the institution.]~~

~~(2) [(4)]~~ The authority may disapprove, limit, suspend, or terminate the participation of an institution upon failure to submit the required documentation within forty-five (45) days following request by the authority ~~except that audited financial statements required under subsection (2) of this section shall be submitted within ninety (90) days following request].~~

~~[(5)] The authority in its sole discretion may waive all or any part of the documentation requirements in this section if the institution's fiscal year default rate is twenty (20) percent or less or upon a~~

showing by the institution that submission of required documentation would impose an undue hardship, provided that the authority is satisfied from documentation that is provided or available from other sources that the institution can reasonably be presumed to meet the requirements of this administrative regulation. If the institution advises the authority that any documentation required under this section has been submitted to a third party and so requests, the authority shall seek the documentation from the third party, and shall consult with other governmental agencies responsible for making contemporaneous determinations on financial responsibility.

~~Section 5. Standards of Financial Responsibility and Administrative Capability. The authority may conduct an on-site review of the institution to determine compliance with the following standards prior to execution of an administrative agreement. An eligible institution demonstrates that it is financially responsible and administratively capable if it:~~

~~(1) Provides the services described in its official publications and statements;~~

~~(2) Provides the administrative resources necessary to comply with the requirements of this administrative regulation;~~

~~(3) Meets all of its financial obligations, including, but not limited to:~~

~~(a) Refunds of institutional charges; and~~

~~(b) Repayments to the authority for liabilities and debts incurred in programs administered by the authority;~~

~~(4) Has not:~~

~~(a) Had operating losses during its two (2) most recent fiscal years; or~~

~~(b) Had, for its most recent fiscal year, a deficit not worth, in which its liabilities exceed its assets; or~~

~~(c) Under a fund accounting system, sustained material deficits over at least its two (2) most recent fiscal years in its unrestricted operating funds;~~

~~(5) Has a ratio of current assets to current liabilities of at least 1:1 under an accrual basis of accounting at the end of its most recent fiscal year;~~

~~(6) Designates an individual competent and responsible for administering all of the student financial assistance programs in which it participates and coordinating the authority's programs with the institution's other programs of student financial assistance, and communicates to that individual all information received by any institutional office that affects a student's eligibility for student financial assistance;~~

~~(7) Uses an adequate number of persons competent to administer the student financial assistance programs in which it participates, taking into account the number of students aided, the number and types of programs in which the institution participates, the number of applications evaluated, the amount of funds administered, and the financial aid delivery system used by the institution;~~

~~(8)(a) Administers authority programs with checks and balances in its system of internal controls; and~~

~~(b) Divides the functions of authorizing payments and disbursing funds so that no office has responsibility for both functions with respect to any particular student aided under the programs;~~

~~(9) Establishes, publishes, and applies reasonable standards for measuring whether a student is maintaining satisfactory academic progress in a program of study, which standards shall:~~

~~(a) Conform with the standards of satisfactory progress of the nationally recognized accrediting agency that accredits the institution, if the institution is accredited by such an agency, and if the agency has those standards;~~

~~(b) Be, for a student enrolled in an eligible program who is to receive assistance under an authority program, the same as or stricter than the institution's standards for a student enrolled in the same academic program who is not receiving assistance under an authority program;~~

~~(c) Include grades, work projects completed, or comparable factors that are measurable against a norm;~~

~~(d) Include a maximum time frame determined by the institution in which the student must complete his or her educational objective (degree, diploma or certificate), based on the student's enrollment status and increments no longer than one (1) academic year;~~

~~(e) Include a schedule established by the institution, designating the minimum percentage or amount of work that a student must successfully complete at the end of each increment in order to complete the educational objective, degree, or certificate within the maximum time frame;~~

~~(f) Include a determination at the end of each increment by the institution whether the student has successfully completed the appropriate percentage or amount of work according to the established schedule;~~

~~(g) Be consistently applied to all students within categories of students (i.e., full-time, part-time undergraduate, etc.) and programs established by the institution;~~

~~(h) Specifically define the effect of course incompletes, withdrawal, repetitions, and noncredit remedial courses upon satisfactory academic progress and student charges;~~

~~(i) Specify the procedures under which a student may appeal a determination that the student is not making satisfactory progress, and the procedures for reinstatement of satisfactory academic standing and eligibility for student financial assistance;~~

~~(10) Develops and applies an adequate system to identify and resolve discrepancies in the information it receives from different sources with respect to a student's application for student financial assistance, and refers to United States Department of Education's Office of Inspector General or other appropriate law enforcement agencies any information indicating that an applicant or employee or agents of the institution may have engaged in fraud or other criminal misconduct;~~

~~(11) Provides adequate counseling to student financial assistance applicants regarding the source and amount of each type of aid offered, the method by which awards are determined and disbursed, the rights and responsibilities of the student, and the policies of the institution affecting the student's receipt of financial assistance;~~

~~(12) Complies with institutional policies and procedures, including any remedial measures required by the secretary pursuant to 34 CFR Part 668, in all applicable requirements of the institution's accrediting and licensing agencies.]~~

Section 5. [6.] Insured Student Loan Program Participation. In order to participate in the authority's insured student loan program, the educational institution shall:

(1) [Qualify as a "public or private, nonprofit institution of higher education" or a "vocational school" pursuant to the federal act;

(2)] Be certified by the secretary to participate and have in force, if required by the secretary, a participation agreement with the secretary; and

(2) [(3)] Execute an administrative agreement with the authority, provided that the authority may permit an educational institution, otherwise approved, to participate without an agreement if the institution's fiscal year default rate is twenty (20) percent or less or the volume of loans insured by the authority for students attending that institution in any fiscal year does not exceed \$50,000.

[Section 7. State Student Incentive Grant Program Participation. In order to participate in the authority's SSIG program, an educational institution shall:

(1) Qualify as a "public or private, nonprofit institution of higher education," a "proprietary institution of higher education," or a "postsecondary vocational institution" pursuant to the federal act;

(2) Qualify as a "business school," "college," "school of nursing," or "vocational school";

(3) Be located within the Commonwealth of Kentucky;

- ~~(4) Offer an "eligible course of study," as defined in 11 KAR 5:020, which is not comprised solely of sectarian instruction; and~~
~~(5) Execute an administrative agreement with the authority.]~~

Section 6. ~~[8.]~~ Kentucky Tuition Grant Program Participation. In order to participate in the authority's KTG program, an educational institution shall:

- (1) Qualify as a private, nonprofit "college";
- (2) Be located within the Commonwealth of Kentucky;
- (3) Offer an "eligible program ~~[course]~~ of study," as defined in 11 KAR 5:020, which is not comprised solely of sectarian instruction; and
- (4) Execute an administrative agreement with the authority.

Section 7. ~~[9.]~~ KHEAA Work Study Program Participation. In order to participate in the authority's KHEAA work study program, an educational institution shall:

- (1) Qualify as a "business school," "college," "school of nursing," or "vocational school";
- (2) Be located within the Commonwealth of Kentucky;
- (3) Offer a program of study not comprised solely of sectarian instruction; and
- (4) Execute an administrative agreement with the authority.

Section 8. ~~[10.]~~ Teacher Scholarship Participation. In order to participate in the authority's teacher scholarship program, an educational institution shall:

- (1) Qualify as a "business school," "college," "school of nursing," or "vocational school";
- (2) Be located within the Commonwealth of Kentucky; and
- (3) Offer an "eligible program of study; and
- (4) Execute an administrative agreement with the authority.

Section 9. ~~[11.]~~ College Access Program Participation. In order to participate in the authority's college access program, an educational institution shall:

- (1) Qualify as a "business school," "college," "school of nursing," or "vocational school" [public or private, nonprofit college]; and
- (2) Be located within the Commonwealth of Kentucky; and
- (3) Offer an "eligible program of study"; and
- (4) Execute an administrative agreement with the authority.

Section 10. ~~[12.]~~ The authority may ~~[will]~~ execute an administrative agreement with an educational institution which may include nonmain campuses of the institution that are not separately incorporated.

~~[Section 13. Notwithstanding any other section of this administrative regulation, the authority shall not execute an administrative agreement with an eligible institution, except as provided in subsection (4) of this section, if:~~

- ~~(1) The institution, its owner, or its chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of student financial assistance funds, or has been judicially determined to have committed fraud involving student financial assistance funds;~~
- ~~(2) The institution employs an individual in a capacity that involves the administration of programs, or the receipt of authority program funds who has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of student financial assistance funds, or who has been judicially determined to have committed fraud involving federal funds; or~~
- ~~(3) The institution uses any individual, agency, or organization that has been, or whose officers or employees have been:~~
 - ~~(a) Convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of student financial assistance funds; or~~
 - ~~(b) Judicially determined to have committed fraud involving~~

~~student financial assistance funds.~~

- ~~(4) The authority may execute an administrative agreement if:~~
 - ~~(a) The funds that were fraudulently obtained, or criminally acquired, used, or expended have been repaid and any related financial penalty has been paid;~~
 - ~~(b) The individuals who were convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of the funds are no longer incarcerated for that crime; and~~
 - ~~(c) At least five (5) years have elapsed from the date of the conviction, nolo contendere plea, guilty plea, or judicial determination.~~

Section 14. The authority may accept, as evidence of financial responsibility, a good and sufficient surety bond or other collateral in an amount necessary to ensure that the educational institution can meet its financial obligations to its students and to the authority, provided that no separate bond shall be required if the authority is assured to its satisfaction that indemnification is provided to the authority and students in an amount sufficient to cover any potential student aid liability through a bond required by a third party. Said surety bond or other collateral shall be conditioned to provide indemnification to the authority and to any grantee or payee of benefits under an Authority administered program, related to a student's enrollment or acceptance for enrollment at the educational institution, for loss or damage suffered by reason of the insolvency of the institution, cessation of operation of the institution, misappropriation of student financial assistance funds by the institution, fraud or misrepresentation by the institution in obtaining student financial assistance benefits for students, or failure by the institution to make timely and proper disposition of funds. The Authority may require such surety bond or other collateral when a reasonable probability exists that the conditions of indemnification may occur.]

MARY JO YOUNG, Chairman

APPROVED BY AGENCY: March 17, 1995

FILED WITH LRC: June 14, 1995 at 2 p.m.

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION (As Amended)

15 KAR 1:040. Eligibility for insured student loans made directly by the corporation.

RELATES TO: KRS 164A.040, 164A.050(2), 164A.060(1), (2), (4), 164A.065, 34 CFR 668.7, 682.201, 20 USC 1078(a), 1078-2, 1078-3, 1078-8, 1091

STATUTORY AUTHORITY: KRS ~~[13A.100.]~~ 164A.060(8)

NECESSITY AND FUNCTION: KRS 164A.040 authorizes the Kentucky Higher Education Student Loan Corporation to finance student loan operations in Kentucky. KRS 164A.060(1) empowers the corporation to make or participate in the making of insured student loans. KRS 164A.065 authorizes the corporation to exercise all of its powers in furtherance of making loans, including federal PLUS loans authorized by Section 428B of the federal Act (20 USC 1078-2) and federal consolidation loans authorized by Section 428C of the federal Act (20 USC 1078-3). This administrative regulation is necessary to establish the eligibility and procedures for applying for an insured student loan made directly by the corporation.

Section 1. Definitions. (1) "Adverse credit history" means information available to the corporation that indicates that the applicant:

- (a) Is ninety (90) days or more delinquent in the repayment of a debt;
- (b) Has been, within five (5) years preceding the date of any credit report on which the determination of adverse credit is based,

the subject of a determination of default, foreclosure, repossession, tax lien, or wage garnishment for any debt or a write-off of any debt under the federal Act.

(2) The definition of "corporation" is governed by KRS 164A.020(3).

(3) The definition of "eligible borrower" is governed by Section 428C(a)(3) of the federal Act (20 USC 1078-3(a)(3)).

(4) The definition of "eligible institution" is governed by KRS 164A.020(4).

(5) The definition of "eligible student loans" is governed by Section 428C(a)(4) of the federal Act (20 USC 1078-3(a)(4)).

(6) "Federal consolidation loan" means the loan program authorized by Section 428C of the federal Act (20 USC 1078-3).

(7) "Federal Family Educational Loan Program (FFELP)" means the programs of insured student loans authorized by Part B of Title IV of the federal Act (20 USC 1071, et seq.) including federal consolidation loans, federal PLUS loans, and Robert T. Stafford federal student loans.

(8) "Federal PLUS Loan" means the loan program authorized by Section 428B of the federal Act (20 USC 1078-2).

(9) The definition of "federal Act" is governed by KRS 164A.020(6).

(10) The definition of "guarantee agency" is governed by KRS 164A.020(7).

(11) The definition of "insured student loan" is governed by KRS 164A.020(9), as augmented by KRS 164A.065.

(12) "Pell Grant" means the grant program authorized by subpart 1 of Part A of the federal Act (20 USC 1070a).

(13) The definition of "qualified student" is governed by KRS 164A.020(8).

(14) "Reaffirmation" means the acknowledgement of the loan by the borrower in a legally binding manner. The acknowledgement may include ~~but is not limited to~~ the borrower signing a new promissory note or repayment schedule, or making a payment on the loan;

(15) "Robert T. Stafford Federal Student Loan" means the student loan program, consisting of subsidized and unsubsidized loans, authorized by sections 428 and 428H of the federal Act (20 USC 1078 and 1078-8).

Section 2. Eligibility for Federal Consolidation Loan Made by the Corporation. An individual shall be eligible to borrow a federal consolidation loan from the corporation if, at the time of application:

(1) The applicant:

(a) Is an eligible borrower with eligible student loans outstanding;

(b) Has no other application pending with any other lender for a federal consolidation loan;

(c) Supplies the names, addresses and telephone numbers of a minimum of two (2) verifiable personal references who are not attending an educational institution;

(d) Is determined by the corporation to not have an adverse credit history, except that if the individual's credit history is adverse, the individual shall demonstrate that he has made an effort to resolve past delinquencies, including payment arrangements satisfactory to a guarantee agency on any defaulted student loan;

(e) Is gainfully employed or otherwise has sufficient verifiable income to repay the federal consolidation loan on the payment schedule established by the corporation;

(f) Agrees to notify the holder of the loan of any changes in address; and

(g) Certifies that the corporation holds an outstanding eligible student loan of the borrower that is being consolidated or that the borrower has unsuccessfully sought a federal consolidation loan from the holders of the outstanding eligible student loans and was unable to secure a federal consolidation loan from the holder; and

(2) The federal consolidation loan is determined eligible for insurance by the Kentucky Higher Education Assistance Authority or another guarantee agency of the corporation's choice.

Section 3. Eligibility for a FFELP Loan Other than Federal Consolidation Loans. An individual shall be eligible to borrow a FFELP loan, other than a federal consolidation loan, if, at the time of application, the applicant:

(1) In the case of an undergraduate student who seeks a Robert T. Stafford loan for the cost of attendance at a school that participates in the Pell Grant Program, has received a final determination, or, in the case of a student who has filed an application with the school for a Pell Grant, a preliminary determination, from the school of the student's eligibility or ineligibility for a Pell Grant and, if eligible, has applied for the period of enrollment for which the loan is sought;

(2) In the case of a borrower whose previous FFELP loan was cancelled due to total and permanent disability:

(a) Provides reaffirmation of the loan amount that previously was canceled due to the borrower's total and permanent disability or that was written off;

(b) Obtains a certification from a physician that the borrower's condition has improved and that the borrower is able to engage in substantial gainful activity; and

(c) Signs a statement acknowledging that any new FFELP loan the borrower receives cannot be cancelled in the future on the basis of any present impairment, unless that condition substantially deteriorates;

(3) Is not serving in a medical internship or residency program, except for an internship in dentistry.

(4) Is a resident of Kentucky or is in attendance at a Kentucky institution of higher education;

(5) Is an eligible student or a parent borrowing on behalf of an eligible student as specified in Section 4 of this administrative regulation;

(6) Submits an application and promissory note fully completed and signed by the borrower;

(7) For purposes of borrowing a federal PLUS Loan, is determined by the corporation to not have an adverse credit history, except:

(a) If the applicant demonstrates to the satisfaction of the corporation that extenuating circumstances exist that excuse or correct the adverse credit history; or

(b) The applicant obtains an endorser who is determined by the corporation to not have an adverse credit history.

(8) Is determined to be eligible for loan insurance by the Kentucky Higher Education Assistance Authority or another guarantee agency of the corporation's choice.

Section 4. Student Eligibility. The eligibility of a student for purposes of obtaining a FFELP loan is governed by 34 CFR 668.7; 52 FR 45725, Dec. 1, 1987; 56 FR 36697, July 31, 1991; 57 FR 9006, March 13, 1992; 57 FR 27703, 27704, June 22, 1992; 58 FR 32200, 32202, 32203, June 8, 1993; 59 FR 12520, March 16, 1994; 59 FR 21866, April 26, 1994.

Section 5. Request for Redetermination of Eligibility. (1) Upon a determination by the corporation that the loan will not be made on the basis of an adverse credit history, the applicant or any prospective endorser declined due to an adverse credit history may submit a written request for redetermination of eligibility to the corporation within thirty (30) calendar days after the date of the denial notice provided by the corporation. The applicant or prospective endorser may submit with the request such documentation as the applicant or prospective endorser believes necessary, and shall submit such additional documentation as the corporation finds necessary, to demonstrate to the satisfaction of the corporation that;

(a) The credit report or other information relied upon by the corporation is erroneous or outdated;

(b) Extenuating circumstances beyond the control of the individual contributed materially to the adverse credit history; or

(c) The individual has made a substantial good faith effort to

resolve past delinquencies, including payment arrangements satisfactory to a guarantee agency on any defaulted insured student loan;

(2) The corporation shall, upon timely submission of all documentation, notify the applicant and any prospective endorser in writing of the final decision on whether it will make the desired loan.

JOHN S. CAIN, Chairman

APPROVED BY AGENCY: May 16, 1995

FILED WITH LRC: June 14, 1995 at 2 p.m.

FINANCE AND ADMINISTRATION CABINET
Kentucky Infrastructure Authority
(As Amended)

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

RELATES TO: KRS Chapter 224A

STATUTORY AUTHORITY: KRS Chapter 13A, 224A.070(1), 224A.113

NECESSITY AND FUNCTION: KRS 224A.070(1) and 224A.113 authorize the Kentucky Infrastructure Authority to promulgate administrative regulations to implement KRS 224.111. This administrative regulation ~~in accordance with KRS Chapter 13A, to~~ governs the application for and provision of financial assistance to governmental agencies for the construction of infrastructure projects from the federally assisted wastewater revolving fund.

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

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

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

(3) "Authority staff" ~~[shall]~~ means the Office of Financial Management and Economic Analysis.

(4) "Cabinet" ~~[shall]~~ means the Natural Resources and Environmental Protection Cabinet.

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

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

(7) "Replacement reserve fund" ~~[shall]~~ means the special depreciation fund required to be established by an applicant by Section 7 of this administrative regulation in connection with a loan from the federally assisted wastewater revolving fund. ~~["Index rate" shall mean the average of the Bond Buyer's Index of twenty (20) G.O. Bonds as published weekly in the Bond Buyer (a financial newspaper published in New York) calculated based on the weeks falling within each calendar quarter. This average shall be rounded to the nearest one-tenth (.1) of one (1) percent.]~~

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

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

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

~~(11)~~ "Wastewater project" ~~[shall]~~ means a wastewater project described in Section 3 of this administrative regulation.

~~(11)~~ ~~(12)~~ "Project ~~[construction]~~ priority list" ~~[shall]~~ means the list developed ~~periodically~~ ~~[annually]~~ by the cabinet containing all eligible wastewater projects in priority order.

Section 2. Eligible Applicants. Any governmental agency ~~[applicant]~~ shall be eligible to apply for financial assistance for planning, design and construction of eligible wastewater projects described in Section 3 of this administrative regulation.

Section 3. Eligible Wastewater Projects. (1) Funds in the federally assisted wastewater revolving fund shall be used for:

(a) Planning, design and construction of wastewater collection, conveyance, and treatment facilities; ~~[and]~~

~~(b) [for]~~ The implementation of nonpoint source pollution control management programs; ~~and~~

~~(c) [for]~~ Refinancing eligible debt.

(2) Wastewater projects may include:

(a) Wastewater treatment facilities;

(b) Interceptor sewers and pump stations;

(c) Collector sewers;

(d) Inflow/infiltration correction~~[e]~~;

(e) Major sewer rehabilitation; and

(f) Elimination and treatment of combined sewer overflows.

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

Section 4. Submission Requirements and Review Process. (1) The original and ~~three (3) [two (2) copies] [one (1) copy]~~ of each application shall be submitted ~~[to the address listed below or if different,]~~ to the address listed on the application: Kentucky Division of Water, Facilities Construction Branch, Frankfort Office Park, 14 ~~[18]~~ Reilly Road, Frankfort, Kentucky 40601, Attention: Branch Manager~~], and one (1) copy of each application shall be simultaneously submitted to: Kentucky Infrastructure Authority, Room 075, Capitol Annex Building, Frankfort, Kentucky 40601, Attention: Executive Director].~~

~~(2)(a) The application form, June 1995 edition, is incorporated by reference.~~

~~(b) Copies of the application form may be inspected, copied or obtained at the Division of Water, Facilities Construction Branch, Frankfort Office Park, 14 Reilly Road, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.~~

~~(c) Only completed applications, including all supporting documentation, shall be considered for assistance from the federally assisted wastewater revolving fund. [The application form, substantially in the form as in effect on June 15, 1995 [April 15, 1991], which is incorporated by reference and is made a part hereof as if fully set forth herein, may be obtained at the Division of Water from 8 a.m. to 4:30 p.m., Monday through Friday. Only a completed application, including all supporting documentation, shall be considered for assistance from the federally assisted wastewater revolving fund.]~~

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

Section 5. Criteria for Selecting Eligible Wastewater Projects. (1)

The cabinet shall select and determine eligible wastewater projects from the project ~~construction~~ priority list for loans and recommend such projects to the authority for consideration. Wastewater projects which meet all the requirements stated in this administrative regulation, shall have priority for funding as indicated herein. Priority points shall be given each applicant based upon factors which consider:

(a) The ratio of proposed wastewater treatment costs to wastewater transportation costs;

(b) The impact the wastewater project has on any existing drinking water supply;

(c) Outstanding resource waters in the area as defined by 401 KAR 5:029, Section 1(v);

(d) The operational, municipal performance ratings received by the applicant from the Division of Water;

(e) Populations to be served that presently do not have sewer systems available;

(f) The ratio of stream flow upstream to the existing or proposed discharge; and

(g) The ability to comply with the required discharge parameters ~~perimeters~~ for various pollutants for the applicant.

(2) The authority and the cabinet shall take into consideration the following factors in recommending wastewater projects for funding:

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

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

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

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

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

(c) ~~the related sewer collection system is [shall not be] subject to excessive inflow/infiltration, assurance for necessary repairs shall be provided.~~

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

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

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

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

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

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

(f) ~~[(i)]~~ The wastewater project has undergone appropriate reviews to ensure compliance with the National Environmental Policy Act.

(g) ~~[(k)]~~ The applicant shall ensure that wages paid for the construction of the facilities shall conform to the prevailing wage rates

established for the locality by the United States Department of Labor under the Federal Davis-Bacon Act or state wage rates, whichever rates are higher, as applicable.

(h) ~~[(h)]~~ The applicant shall ensure compliance with all applicable federal laws and regulations.

(i) ~~[(m)]~~ Certification by the applicant that it has complied with the procurement requirements as described in the application by the cabinet.

(j) ~~[(n)]~~ Construction contracts shall be awarded to the lowest responsive responsible bidder.

(2) The wastewater project shall comply with any federal requirements that may be established by Congress from time to time.

These requirements shall be provided in writing to the applicant by the cabinet.

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

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

(3) ~~(a)~~ The authority shall establish interest rates annually ~~quarterly~~ based on:

1. Prevailing market conditions;

2. Availability of funds; and

3. Funding demand.

(b) The executive director of the authority shall recommend rates to the authority board of directors for [its] approval.

(c) The rate of interest on each loan shall be set forth in the conditional commitment letter.

(d) Interest rates shall be offered at the:

1. Standard rate; and

2. Hardship rate. [There shall be two (2) rates of interest offered, the standard rate and the hardship rate.]

(e) Applicants shall receive the standard rate of interest unless they qualify for [meet the hardship test and receive] the hardship rate.

(f) The hardship rate shall be two (2) percent less than the standard rate.

(g) To qualify for the hardship rate, applicants shall meet [The hardship test includes] the following criteria:

1. [(a)] The median household income of the applicant's jurisdiction shall be [is] below the state median; and

2. [(b)] After undertaking the proposed wastewater project, the residential sewer bill for 4000 gallons of usage shall [is] reasonably be estimated to exceed 1.25 percent of the median household income. [above median income interest rate and the below median income interest rate. The above median income interest rate shall be the index rate less three (3) percent. The above median interest rate shall apply to applicants whose jurisdiction lies within a county whose median family income level is above or equal to the statewide median household income level. The below median interest rate shall be the index rate less five (5) percent. The below median interest rate shall apply to applicants whose jurisdiction lies within a county whose median family income is below the statewide median family income.]

(h) The most recent statistics on household [family] income as published by the Urban Studies Center, University of Louisville, shall be used in making the hardship rate determination in paragraph (g) of this subsection. [apply.]

(i) If an applicant's jurisdiction lies within more than (1) one city

or county, the ~~average of the~~ median household ~~family~~ income of the city or county containing over fifty (50) percent of the users shall ~~will~~ be used in making the hardship rate determination in paragraph (g) of this subsection. ~~criteria (a) and (b) in this subsection of the hardship test.~~

(j) If no one (1) city or county contains fifty (50) percent of the users, an average of all counties or cities shall be used in making the hardship rate determination in paragraph (g) of this subsection. ~~will be used.~~ ~~all the counties covered by the applicant's jurisdiction shall determine the applicable interest rate. If the median family income level of an applicant's community differs significantly from that of the applicant's county.~~

(k) The authority may consider adjustments of the interest rate to the hardship ~~below median income~~ rate in situations where the applicant can document that the median household income of their users is lower than the data being applied.

(l) If the nature of a wastewater project financed by the authority's loan causes interest on any authority bonds issued to fund the wastewater project to become taxable, the authority may consider adjustments in the interest rate to reflect the additional costs of authority funds.

(4) Principal on any loan shall be repaid over a period not to exceed federal requirements or the life of the facilities being financed ~~twenty (20) years~~. Repayment of principal shall commence within one (1) year of the initiation of operation of the ~~completion date~~ of the wastewater project or upon such other date as may be set forth in the assistance agreement. Principal shall be payable semiannually, unless the authority establishes a more frequent payment schedule due to credit concerns. The loan repayment period may be equal to less than the federally permitted maximum ~~twenty (20) years~~ upon election of the authority.

(5) Interest payments on the outstanding principal amount of the loan shall be paid semiannually and shall commence within six (6) months of initial disbursement of loan proceeds, unless such interest payments are dependent upon revenues generated from the wastewater project. In the event interest payments are deferred as provided above, interest payments shall begin within six (6) months after the wastewater project is completed, and interest to cover the authority's cost of money during the construction period may be added to the amount of the loan.

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

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

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

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

- (1) Document compliance with the statutory mandates for financial accountability and personnel management.
- (2) Demonstrate the ability to operate, as well as maintain, the

project in a proper manner through the final maturity date of the loan or the useful life of the project, whichever is greater.

(3) Document compliance with any other state or federal requirements that apply to this program.

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

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

Section 10. Loan Closing and Extensions. An applicant shall meet all conditions for loan closing and take action to award contracts for the wastewater project within not more than eleven (11) calendar months after the date of the conditional commitment letter, otherwise, the loan commitment shall expire. One (1) extension period of up to six (6) months may be granted upon request of the applicant, if the authority staff, after consultation with the cabinet, determines that circumstances warrant the granting of the extension. If the extension is denied, the loan commitment shall be rescinded. If a request for a time extension is granted, but all the conditions still cannot be met during the extension period, the loan commitment may be rescinded. The applicant may reapply for a loan for any wastewater project for which the loan commitment has expired or has been rescinded under this section. An applicant that reapplies for a loan for substantially the same project will be given, at the authority's discretion, the standard or hardship interest rate applicable at the time of such reapplication or the initial rate assigned, depending on affordability. However, the interest rate will be no lower than the initial rate assigned to the project.

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

CRIT LUALLEN, Secretary

APPROVED BY AGENCY: June 15, 1995

FILED WITH LRC: June 15, 1995 at noon

ECONOMIC DEVELOPMENT CABINET
Kentucky Economic Development Finance Authority
(As Amended)

307 KAR 1:030. Kentucky Rural Economic Development Act Tax Credit Program.

RELATES TO: KRS 154.22-010 through 154.22-070

STATUTORY AUTHORITY: KRS 154.22-040(2)

NECESSITY AND FUNCTION: This administrative regulation is necessary to set out the application processes and project selection criteria for the Kentucky Rural Economic Development Act Tax Credit Program established pursuant to KRS 154.22-010 through 154.22-070.

Section 1. Definitions. (1) "Act" means KRS 154.22-010 through 154.22-070.

(2) "Affiliate" is defined in KRS 154.22-010.

(3) "Agribusiness" is defined in KRS 154.01-010.

(4) "Approved company" is defined in KRS 154.22-010.

(5) "Authority" is defined in KRS 154.22-010.

(6) "Commonwealth" is defined in KRS 154.22-010.

(7) "Economic development project" is defined in KRS 154.22-010.

(8) "Eligible company" is defined in KRS 154.22-010.

(9) "KRS" means the Kentucky Revised Statutes, as they may be amended from time to time.

(10) "Manufacturing" is defined in KRS 154.22-010.

Section 2. Economic Development Project; Acquisition of Real Estate. "Economic development project" shall include, for purposes of acquisition of real estate by an approved company or its affiliate, the possession of land pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, which is incorporated by reference in Section 7 of this administrative regulation.

Section 3. Eligible Company; Corporation. "Eligible company" shall include as a corporation a limited liability company and foreign limited liability company each as defined in KRS 275.015 and as a partnership a registered limited liability partnership as defined in KRS 362.155.

Section 4. Eligibility Standards. (1) The authority shall approve eligible companies based upon the information supplied to the authority in the application, pursuant to Section 5(1)(a) through (o) of this administrative regulation.

(2) In determining whether to approve an eligible company for the Kentucky Rural Economic Development Act Tax Credit Program the authority shall give greatest weight to the information supplied in the application pursuant to Section 5(1)(e) through (j) of this administrative regulation.

Section 5. Kentucky Rural Economic Development Act Tax Credit Program. (1) Companies that wish to participate in the Kentucky Rural Economic Development Act Tax Credit Program shall file an application with the authority. The following information and materials shall be submitted as part of the application:

(a) A brief history of the business of the eligible company and a description of the economic development project;

(b) General information about the eligible company, including company ownership;

(c) Information regarding the eligible company's attorney, primary bank, project lender and accountant;

(d) The current number of jobs at the facility;

(e) Copies of the eligible company's financial statement for the most recent fiscal year end;

(f) The projected number of jobs to be created at the facility;

(g) The total number of jobs projected two (2) years after completion of the economic development project;

(h) The number of jobs retained because of the economic development project;

(i) The number of managerial and technical jobs and skilled, semiskilled and unskilled jobs (based on the level of specialized training required to perform the particular job competently), created by the economic development project and the average hourly wage and average salary for each job category. For purposes of the foregoing sentence, the term "unskilled" describes those jobs which require no specialized training to perform the job competently. Likewise, "semiskilled" describes those jobs which require forty (40) hours or less training to perform the job competently and "skilled" describes those jobs

which require more than forty (40) hours of training to perform the job competently or which require licenses or certifications in order to be able to perform the job. The term "managerial" describes those jobs which primarily involve supervising other employees of the company. The term "technical" describes those jobs which involve an expertise or knowledge specific to the particular industry of the eligible company. Those jobs which are described by both "technical" and another category shall be classified as "technical". [The number of skilled, semiskilled, unskilled, managerial and technical jobs created by the economic development project and the average hourly wage and average salary wage of such job categories;]

(j) Estimated annual revenues and expenses for a three (3) year period after the date of commencement of operations of the business of the eligible company at the site of the economic development project;

(k) Estimated project costs and a breakdown of these costs;

(l) Proposed project financing;

(m) If the economic development project constitutes a new location for the eligible company, information related to the project site including whether the project consists of new construction or acquisition of an existing facility;

(n) If the economic development project is an expansion of the existing manufacturing or agribusiness facilities of the eligible company, information related to the project site, including whether it is owned or leased by the eligible company;

(o) A letter from the eligible company representing that but for the inducements to be offered by the authority the company would not have located its economic development project in the Commonwealth; [A detailed explanation setting forth the reasons why the economic development project will not otherwise occur in the Commonwealth without the approval of the inducements;]

(p) A letter from the appropriate local elected official (Mayor and/or County Judge-Executive) endorsing the project;

(q) 1. A completed Economic Development Incentive Disclosure Statement and Benefit Analysis Data Form.

2. The Disclosure Statement and Data Form are incorporated by reference in Section 7 of this administrative regulation.

(2) The application to be filed with the authority shall contain notices of the following fees to be paid by the eligible company:

(a) An administrative fee of one-quarter (.25) of one (1) percent of the estimated approved costs for the entire period which is due and payable upon execution of the financing agreement;

(b) A \$500 nonrefundable application fee which is due and payable to the authority upon submission of the application;

(c) The one (1)-time \$2,500 fee required by KRS 154.35-042(1);

(d) The annual five (5) percent fee required by KRS 154.35-042(2); and

(e) The legal fees for the preparation of the financing agreement by the authority's counsel which are payable upon execution of the financing agreement.

(3) Pursuant to KRS 154.22-040 the authority may by resolution approve an eligible company after consideration of the application for the Kentucky Rural Economic Development Act Tax Credit Program if it determines the eligible company meets all the requirements of the act and this administrative regulation.

Section 6. Financing Agreement Contents. The authority may require the following information, as part of the negotiated terms of the financing agreement, in addition to the information required pursuant to KRS 154.22-050:

(1) Annual, quarterly or monthly progress reports to the authority;

(2) Annual, quarterly or monthly financial reports to the authority;

(3) Annual certifications of debt service payments being made by the eligible company; and

(4) Access to the approved company's records.

Section 7. Incorporation by Reference. (1) The following documents are incorporated by reference:

(a) The "Application for the Kentucky Rural Economic Development Act (KREDA) Tax Credit Program - KRS 154.22" which also includes the "Economic Development Incentive Disclosure Statement" and "Benefit Analysis Data Form" (June 12, 1995); and

(b) The "Statement of Financial Accounting Standards No. 13, Accounting for Leases" (June 1, 1989).

(2) Copies of the "statement" and the form of "application" referred to in subsection (1) of this section may be inspected, copied or obtained at the offices of the Cabinet for Economic Development, 24th Floor, Capital Plaza Tower, Frankfort, Kentucky, between 8 a.m. and 4:30 p.m., Monday through Friday.

HAROLD G. DORAN, JR., Chairman

APPROVED BY AGENCY: June 13, 1995

FILED WITH LRC: June 15, 1995 at noon

**ECONOMIC DEVELOPMENT CABINET
Kentucky Economic Development Finance Authority
(As Amended)**

307 KAR 4:010. Kentucky Industrial Development Act Tax Credit Program.

RELATES TO: KRS 154.28-010 through 154.28-090

STATUTORY AUTHORITY: KRS 154.28-030(5)

NECESSITY AND FUNCTION: This administrative regulation is necessary to set out the application processes and project selection criteria for the Kentucky Industrial Development Act Tax Credit Program established pursuant to KRS 154.28-010 through 154.28-090.

Section 1. Definitions. (1) "Act" means KRS 154.28-010 through 154.28-090.

(2) "Agribusiness" is defined in KRS 154.01-010.

(3) "Approved company" is defined in KRS 154.28-010.

(4) "Authority" is defined in KRS 154.28-010.

(5) "Commonwealth" is defined in KRS 154.28-010.

(6) "Economic development project" is defined in KRS 154.28-010.

(7) "Eligible company" is defined in KRS 154.28-010.

(8) "Inducement" is defined in KRS 154.28-010.

(9) "Manufacturing" is defined in KRS 154.28-010.

Section 2. Economic Development Project; Acquisition of Real Estate. "Economic development project" shall include for purposes of acquisition of real estate capital leases as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, which is incorporated by reference in Section 7 of this administrative regulation.

Section 3. Eligible Company; Corporation. "Eligible company" shall include as a corporation a limited liability company and foreign limited liability company each as defined in KRS 275.015 and as a partnership a registered limited liability partnership as defined in KRS 362.155.

Section 4. Eligibility Standards. (1) The authority shall approve eligible companies based upon the information supplied to the authority in the application, pursuant to Section 5(1)(a) through (g) of this administrative regulation.

(2) In determining whether to approve an eligible company for the Kentucky Industrial Development Act Tax Credit Program the authority shall give greatest weight to the information supplied in the application pursuant to Section 5(1)(a) through (d) of this administrative

tive regulation.

Section 5. Kentucky Industrial Development Act Tax Credit Program. (1) Companies that wish to participate in the Kentucky Industrial Development Act Tax Credit Program shall file an application with the authority. The following information and materials shall be submitted as part of the application:

(a) A brief history of the business of the eligible company and a description of the economic development project;

(b) Copies of the eligible company's financial statements for the most current fiscal year end;

(c) The projected number of employees to be hired in the future at the manufacturing or agribusiness facility of the eligible company from the commencement date of the financing agreement and as a result of the receipt of the inducements. For purposes of this subsection, full-time job shall mean a job whose work week averages thirty (30) or more hours. As a part of its analysis pursuant to this paragraph the authority shall consider the following information:

1. The current number of full-time and part-time jobs at the project location;

2. The total number of full-time and part-time jobs projected two (2) years after project completion; and

3. The number of managerial and technical jobs and skilled, semiskilled and unskilled jobs (based on the level of specialized training required to perform the particular job competently), created by the economic development project and the average hourly wage and average salary for each job category. For purposes of the foregoing sentence, the term "unskilled" describes those jobs which require no specialized training to perform the job competently. Likewise, "semiskilled" describes those jobs which require forty (40) hours or less training to perform the job competently and "skilled" describes those jobs which require more than forty (40) hours of training to perform the job competently or which require licenses or certifications in order to be able to perform the job. The term "managerial" describes those jobs which primarily involve supervising other employees of the company. The term "technical" describes those jobs which involve an expertise or knowledge specific to the particular industry of the eligible company. Those jobs which are described by both "technical" and another category shall be classified as "technical". [The number of skilled, semiskilled, unskilled, managerial and technical jobs to be created by the project and the average hourly wage and average salary wage of such job categories;]

(d) Estimated annual revenues and expenses for a three (3) year period after the date of commencement of operations of the business of the eligible company at the site of the economic development project;

(e) A statement from the eligible company that the project does or does not involve:

1. A relocation from an existing facility; or

2. The acquisition of an existing facility. [The effect on existing manufacturing or agribusiness facilities in the Commonwealth if the eligible company undertakes its economic development project within the Commonwealth;]

(f) A letter from the eligible company providing information required pursuant to KRS 154.28-080(4);

(g) The effect of an expansion on the existing manufacturing or agribusiness facilities of the eligible company;

(h) The lending source for the project;

(i) A letter from the appropriate local elected official (Mayor and/or County Judge Executive) endorsing the project; and

(j) 1. A completed Economic Development Incentive Disclosure Statement and Benefit Analysis Data Form.

2. The Disclosure Statement and Data Form are incorporated by reference in Section 7 of this administrative regulation.

(2) The application to be filed with the authority shall contain notices of the following fees to be paid by the eligible company:

(a) An administrative fee of one-quarter (.25) of one (1) percent of the estimated approved costs for the entire period which is due and payable upon execution of the financing agreement;

(b) A \$500 nonrefundable application fee which is due and payable to the authority upon the submission of the application;

(c) The one (1)-time \$2,500 fee required by KRS 154.35-042(1);

(d) The annual five (5) percent fee required by KRS 154.35-042(2); and

(e) The legal fees for the preparation of the financing agreement by the authority's counsel which are payable upon execution of the financing agreement.

(3) Pursuant to KRS 154.28-080(5) the authority may designate an eligible company to be an approved company after consideration of the application for the Kentucky Industrial Development Act Tax Credit Program if it determines the company meets all the requirements of the Act and this administrative regulation.

Section 6. Financing Agreement Contents. The authority may require the following additional information as a part of the negotiated terms of a financing agreement pursuant to KRS 154.28-090:

(1) Annual, quarterly or monthly progress reports to the authority;

(2) Annual, quarterly or monthly financial reports to the authority; and

(3) Access to the approved company's records.

Section 7. Incorporation by Reference. (1) The following documents are incorporated by reference:

(a) The "Application for the Kentucky Industrial Development Act ("KIDA") Tax Credit Program-KRS 154.28" which also includes the "Economic Development Incentive Disclosure Statement" and "Benefit Analysis Data Form" (June 12, 1995); and

(b) The "Statement of Financial Accounting Standards No. 13, Accounting for Leases" (June 1, 1989).

(2) Copies of the "statement" and the form of "application" referred to in subsection (1) of this section may be inspected, copied or obtained at the offices of the Cabinet for Economic Development, 24th Floor, Capital Plaza Tower, Frankfort, Kentucky, between 8 a.m. and 4:30 p.m., Monday through Friday.

HAROLD G. DORAN, JR., Chairman
APPROVED BY AGENCY: June 13, 1995
FILED WITH LRC: June 15, 1995 at noon

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

815 KAR 35:015. Certification of electrical inspectors.

RELATES TO: KRS Chapter 227

STATUTORY AUTHORITY: KRS 13A.100, 227.489

NECESSITY AND FUNCTION: The Commissioner of the Department of Housing, Buildings and Construction is required by KRS 227.489 to certify electrical inspectors based on standards of the National Electrical Code. This administrative regulation is needed to establish the procedures for achieving and maintaining the certification. This amendment is necessary to encourage inspectors to pass the national examination sooner (see Section 4 of this administrative regulation). ~~[specify the number of times an applicant may retake the examination for temporary certification and numerous other amendments for clarification.]~~

Section 1. Definitions. (1) "Applicant" means the person seeking

to be certified as an electrical inspector.

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

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

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

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

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

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

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

(7) "Electrical" means the installation of wires and conduits for the purpose of transmitting electricity and the installation of related fixtures and equipment.

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

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

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

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

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

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

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

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

Section 4. Applications Requirements for Temporary Certification. Prior to being examined by the department for "temporary certification" as an electrical inspector, applicants shall comply with the following:

(1) Applicants under "one (1) and two (2) family dwelling" category shall meet the following requirements:

(a) An applicant shall have not less than five (5) years of experience immediately preceding the application in the installation and design of all types of residential wiring systems installed in accordance with the National Electrical Code or shall be a registered professional electrical engineer engaged in his profession for not less than three (3) years; and

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

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

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

(d) Applications for temporary certification shall be accompanied by a written statement of need for certification from the local official responsible for the electrical or building inspection program; and

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

(2) Applicants under "general" category shall meet the following requirements:

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

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

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

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

(d) Applications for temporary certification shall be accompanied by a written statement of need for certification from the local official responsible for the electrical or building inspection program; and

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

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

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

(5) Temporary certification shall expire at the end of nine (9)

~~eighteen (18)~~ months from the time of initial certification and shall not be reissued.

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

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

(3) Examinations shall be based on the edition of the National Electrical Code adopted in the Kentucky Building Code and the examination shall be open book.

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

(5) An applicant shall not be permitted to retake the examination more than three (3) times.

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

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

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

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

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

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

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

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

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

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

this administrative regulation.

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

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

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

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

(2) All electrical inspections shall be made in compliance with the edition of the National Electrical Code, set forth in the Kentucky Building Code (815 KAR 7:100 [7-090]).

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

(4) The electrical inspector shall make a rough-in and final inspection and other inspections as may be necessary to approve the system.

(a) Upon completion of the rough-in inspection, the inspector shall attach a red sticker with his signature and certification number on the main service equipment or at some other appropriate location.

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

(c) Temporary approvals issued by the inspector shall not authorize occupancy of the facility. The sticker issued for temporary approval shall be yellow.

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

(6) Each electrical inspector shall make and retain for a minimum of three (3) years a complete record of each inspection. These records shall contain, as a minimum, the following information:

(a) Sufficient information to identify the location of the structure inspected;

(b) The date of the inspection;

(c) The type of structure, whether residential, commercial, industrial or other;

(d) The designation of any required permits and the agency granting the permit;

(e) The size and complexity of the structure;

(f) Deficiencies in meeting code requirements and any action required to comply; and

(g) Any other pertinent information considered necessary to allow for a review of the inspection.

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

Section 9. Complaints and Grievance Procedures. (1) A person who believes that any act or omission of an electrical inspector

certified by the department has caused an undue hardship on him as a result of the alleged misconduct in the performance of his duties, may [shall] file a complaint against the inspector.

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

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

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

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

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

(3) Been guilty of negligence, incompetence or misconduct as set forth by this administrative regulation in the field of electrical inspection; or

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

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

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

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

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

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

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

(4) State employed certified electrical inspectors may inspect state leased facilities, upon request.

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

CHARLES A. COTTON, Commissioner

ADMINISTRATIVE REGISTER - 597

EDWARD J. HOLMES, Secretary

APPROVED BY AGENCY: June 14, 1995

FILED WITH LRC: June 14, 1995 at 3 p.m.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR WRITTEN COMMENTS RECEIVED

NATURAL RESOURCES AND ENVIRONMENTAL
PROTECTION CABINET
Department for Environmental Protection
(Amended After Hearing)

401 KAR 100:050. Site characterization, risk assessment, and remedial options.

RELATES TO: KRS 224.01, 224.10, 224.43, 224.46, 40 CFR 240-241, 260-268

STATUTORY AUTHORITY: KRS 224.01-400, 224.10-100

NECESSITY AND FUNCTION: KRS Chapter 224 requires the Natural Resources and Environmental Protection Cabinet to promulgate administrative regulations establishing a comprehensive program for the prevention, abatement, and control of all water, land, and air pollution. KRS 224.01-400 requires a person possessing or controlling a hazardous substance, pollutant, or contaminant that is released to the environment, or any person responsible for such a release, to characterize the extent of the release as necessary to determine the effect of the release on the environment. KRS 224.01-400 also requires that the person take actions necessary to correct the effect of the release on the environment. KRS 224.01-400(18) establishes four (4) options that can be used in determining an appropriate plan for correcting the effect of a release on the environment. This administrative regulation implements these provisions of KRS 224.01-400.

Section 1. Definitions. Unless otherwise specifically defined in KRS Chapter 224, terms used in this administrative regulation shall have the meanings given in this section.

(1) "Background" means the concentration of substances consistently present in the environment at, or regionally proximate to, a release, but outside of the influence of the release. There are two (2) types of background as follows:

(a) "Natural background" means the amount of naturally-occurring substances in the environment, exclusive of that from anthropogenic sources; and

(b) "Ambient background" means the amount of both naturally-occurring substances and ubiquitous anthropogenic substances in the environment at levels that are representative of the region surrounding the site and at levels not attributable to activities on the property.

(2) "Carcinogenic risk" means the probability of an [probable] increase in cancer incidence in humans, which is the product of the combined cumulative exposure and cancer slope factors according to the procedures specified in this administrative regulation.

(3) "De minimus risk" means an increase in the individual, lifetime cancer risk, due to the release, equal to or less than 1×10^{-6} , and a noncarcinogenic hazard index equal to or less than 1.0.

(4) "Department" means the Department for Environmental Protection within the Kentucky Natural Resources and Environmental Protection Cabinet.

(5) "Hazard index" means the sum of more than one (1) hazard quotient. This includes the following:

(a) A stressor hazard index, which is the sum of hazard quotients of all pathways of exposure to that stressor;

(b) A pathway hazard index, which is the sum of hazard quotients for all stressors by a single pathway; and

(c) A site hazard index, which is the sum of all stressors for all pathways.

The Hazard Index is calculated separately for chronic, subchronic, and shorter-duration exposures.

(6) "Hazard quotient" means the exposure level for a single

chemical divided by the reference dose (RfD) for that chemical. The term may also mean the concentration of a chemical in a medium divided by a reference concentration (RfC) for that chemical.

(7)(a) "Pathway" means the four (4)-component process by which a hazardous substance, pollutant, or contaminant interacts with a receptor. The four (4) components are as follows:

1. A hazardous substance, pollutant, or contaminant in a medium (air, soil, sediments, water, or biota);

2. A mode of transport or point of direct contact;

3. A human or ecological receptor (for example, organism, individual, or population); and

4. A route of exposure (for example, ingestion, inhalation, or dermal contact).

(b) "Potential pathway" means a pathway in which any component listed in paragraph (a) of this subsection is not currently present, but has the possibility to be present.

(c) "Complete pathway" means a pathway in which all four (4) components are currently present.

(8) "Potential contaminant of concern" means a stressor that is related or could possibly be related to the release.

(9) "Reasonable maximum exposure" or "RME" means an upper-bound exposure scenario estimate that is within the range of possible exposures expected to occur at a site under current and future site conditions.

(10) "Release" shall have the meaning specified in KRS 224.01-400.

(11) "Responsible party" means a person who possesses or controls ~~a release or a threatened release of~~ a hazardous substance, pollutant, or contaminant that is released or threatened to be released to the environment, or a person who causes the release of a hazardous substance, pollutant, or contaminant.

(12) "Risk assessment" means the analytical procedures used to evaluate the potential adverse human health effects that may occur and ecological effects that have occurred or may occur as a result of exposure to any stressor or stressors.

(13) "Site" shall have the meaning specified in KRS 224.01-400.

(14) "Site characterization" means the process of determining the nature and extent of contamination resulting from the release of a hazardous substance, pollutant, or contaminant into the environment.

(15) "Stressor" means any physical, chemical, or biological agent that may induce an adverse effect on human or ecological health. The term may include any hazardous substance, pollutant, or contaminant; petroleum or petroleum product; solid waste; or special waste.

(16) "Target risk" means an acceptable level of risk. For the Commonwealth of Kentucky, target risk shall be de minimus risk.

Section 2. Applicability. This administrative regulation applies to any responsible party required to address a release under cabinet supervision pursuant to KRS 224.01-400. A responsible party shall perform site characterization, risk assessment, and a remedial option in accordance with the requirements of the Remedial Options Guidance, Site Characterization Guidance, and Risk Assessment Guidance, which are incorporated by reference in Section 6 of this administrative regulation.

Section 3. Remedial Options. Responsible parties who are required to address a release to the environment shall comply with the Remedial Options Guidance incorporated by reference in Section 6 of this administrative regulation.

Section 4. Site Characterization. Responsible parties shall characterize the extent of a release, as necessary to determine an

effect of a release on the environment, in accordance with the Site Characterization Guidance incorporated by reference in Section 6 of this administrative regulation.

Section 5. Risk Assessment. Responsible parties who are required to assess the risk to human health, safety, and the environment from the effects of a release shall make this demonstration in accordance with the Risk Assessment Guidance incorporated by reference in Section 6 of this administrative regulation.

Section 6. Incorporation by Reference. (1) The following documents are hereby incorporated by reference:

- (a) "Remedial Options Guidance" (~~August~~ June 1995);
- (b) "Site Characterization Guidance" (~~August~~ June 1995); and
- (c) "Risk Assessment Guidance" (~~August~~ June 1995).

(2) The documents incorporated by reference in subsection (1) of this section are available from the Department for Environmental Protection, 14 Reilly Road, Frankfort, Kentucky 40601, (502) 564-2150, from 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, excluding state holidays.

Section 7. Miscellaneous. (1) The responsible party may request an extension to any deadline provided for in the documents incorporated by reference in Section 6 of this administrative regulation. The extension request shall be submitted in writing to the cabinet prior to the deadline. The cabinet may grant extensions on a case-by-case basis.

(2) The responsible party may request a variance from any requirement specified in the documents incorporated by reference in Section 6 of this administrative regulation, excluding those contained in state statute. The variance request shall be submitted in writing to the cabinet. The cabinet may grant variances on a case-by-case basis.

(3) The responsible party may request a final determination from the cabinet in accordance with KRS 224.01-400(22).

(4) This administrative regulation shall not supersede the requirements of any program to have work performed by registered or certified professionals including, but not limited to, the engineering requirements of KRS Chapter 322, the geology requirements of KRS Chapter 322A, and the well drilling requirements of KRS Chapter 223.

PHILLIP J. SHEPHERD, Secretary
APPROVED BY AGENCY: August 15, 1995
FILED WITH LRC: August 15, 1995 at 11 a.m.

KENTUCKY HEALTH POLICY BOARD (Amended After Hearing)

909 KAR 1:080. Accountable health plan certification.

RELATES TO: KRS 304.17A

STATUTORY AUTHORITY: KRS 304.17A-070(2)

NECESSITY AND FUNCTION: KRS 304.17A-070 requires the promulgation of administrative regulations relating to the certification of accountable health plans eligible to serve members of the Kentucky Health Purchasing Alliance. This administrative regulation applies to all accountable health plans that seek to offer services to Kentucky Health Purchasing Alliance members.

Section 1. Definitions. (1) ~~The definition of~~ "Accountable health plan" or "AHP" has the meaning set forth in [is governed by] KRS 304.17A-010(1).

(2) "Alliance" or "Kentucky Health Purchasing Alliance" has the meaning set forth in KRS 304.17A-010(7). ~~[means the state agency created by KRS 304.17A-020 as the exclusive entity for the oversight and coordination of health benefit purchasing through accountable~~

~~health plans certified by the alliance.]~~

(3) "Board" means the Kentucky Health Policy Board created pursuant to KRS 216.2903. ~~["Kentucky Health Policy Board" means a quorum of the board or a member of the board designated to represent the board.]~~

Section 2. Accountable Health Plan Application Process. (1) An authorized officer of an AHP shall apply for certification by submitting an original application and three (3) copies to the Kentucky Health Purchasing Alliance on the form "Application for Accountable Health Plan Certification" incorporated herein by reference.

(2) The Kentucky Health Purchasing Alliance shall certify accountable health plans in consultation with the board and the commissioner of insurance. Applications shall be evaluated in order of their receipt. Within thirty (30) days of receiving an application, the Kentucky Health Purchasing Alliance shall provide the applicant with written notice of its findings. That notice shall:

(a) Specify approval or rejection of the application and the grounds for that decision; or

(b) Specify additional information needed to clarify the application and a deadline for submitting that information. If additional information is not provided by the deadline, the application shall be rejected. Within thirty (30) days of receiving timely additional information, the Kentucky Health Purchasing Alliance shall provide a written notice of findings, as described in paragraph (a) of this subsection.

(3) In evaluating and authorizing accountable health plans, the following criteria shall be considered:

(a) The AHP's conformity with the criteria set forth in Section 2 of this administrative regulation;

(b) The adequacy of the financial and organizational resources of the AHP; and

(c) The ability of the AHP to meet the evaluation requirements described in KRS 304.17A-070 [030].

Section 3. Revocation of Accountable Health Plan Certification. (1) The Kentucky Health Purchasing Alliance may revoke the certification of an accountable health plan at any time if one (1) or more of the following conditions exist:

(a) The AHP does not comply with the provisions of this administrative regulation ~~[or other applicable provisions of the Kentucky Insurance Code];~~

(b) The certificate of authority of a participating insurer or health maintenance organization is suspended or revoked ~~[becomes subject to suspension or revocation of its certificate of authority];~~ or

(c) There has been a misrepresentation of a material fact in the AHP application or any subsequent report required of the AHP.

(2) The Kentucky Health Purchasing Alliance shall provide written notice of an intent to revoke certification to the AHP setting forth the basis of the revocation and granting the AHP fifteen (15) days from the date of the notice to make a written response.

(3) After reviewing the response, the Kentucky Health Purchasing Alliance shall issue an order directing the AHP to remedy specific defects, and may revoke the AHP certification or, at the discretion of the alliance, set a time and place for hearing.

Section 4. Examination of Records. The Kentucky Health Purchasing Alliance or the Kentucky Health Policy Board may make or cause to be made examinations of the books and records of an accountable health plan to ensure compliance with this administrative regulation and the representations made by the AHP on its application for certification or recertification.

Section 5. Incorporation by Reference. The Application for Accountable Health Plan Certification herein incorporated by reference is available for copying at the offices of the Kentucky Health Policy Board, 909 Leawood Drive, Frankfort, Kentucky 40601 between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.

JACK B. HALL, Chairman
APPROVED BY AGENCY: August 4, 1995
FILED WITH LRC: August 4, 1995 at 11 a.m.

**KENTUCKY HEALTH POLICY BOARD
(Amended After Hearing)**

909 KAR 1:090. Establishment of the Kentucky Risk Assessment and Risk Adjustment System.

RELATES TO: KRS 304.17A.130

STATUTORY AUTHORITY: KRS 304.17A.130

NECESSITY AND FUNCTION: KRS 304.17A-130 provides that the Kentucky Health Policy Board shall promulgate administrative regulations for the establishment of a risk adjustment process to be used in equalizing risk between insurers.

Section 1. Definitions. (1) "Age" means a person's attained age and when [] for the purpose of attributing age to a family unit, "age" is defined [determined] as the age attained by the policyholder.

(2) "Benefit plan" means any plan as defined by KRS 304.17A-100(4) which is subject to this administrative regulation.

(3) "Board" means, as defined by KRS 304.17A-130(5), the Kentucky Health Policy Board.

(4) "Continuation coverage" means continuation coverage provided by the Consolidated Omnibus Budget Reconciliation Act of 1987 or provided through the Kentucky Health Purchasing Alliance.

(5) "Demographic Risk Adjustment Fund" means the risk adjustment fund established under Section 7 of this administrative regulation, including amounts owed to the fund by insurers plus any interest accrued on the amounts paid by the insurers prior to the payout of amounts due from the fund in accordance with Section 7 of this administrative regulation.

(6) "Diagnosis" means any diagnosis listed in the high cost case in Tables 2 and 2A.

(7) "Eligible insurer" means an insurer eligible for a payment from the High Cost Case Fund as defined in Section 12 of this administrative regulation.

(8) "Family composition category" means one (1) of the four (4) categories of family types (single, couple, single parent family and dual parent families) distinguished in the modified community rating structure established pursuant to KRS 304.17A-120.

(9) "High Cost Case Fund" means the risk adjustment fund referred to under Section 10 of this administrative regulation, including the contributions required under Section 12 of this administrative regulation plus any interest accrued.

(10) "Insurer" means a person or entity as defined by KRS 304.17A-100(5) which issues or renews benefit plans for employers with 100 employees or less, individuals, or members of the Kentucky Health Purchasing Alliance, affiliated groups, trusts, or associations consisting of 100 individuals or less or any number of employers with 100 employees or less.

(11) "MCRC" means modified community rating cell which is a premium rating cell classification based on:

- (a) Age;
- (b) Family composition category;
- (c) Geographic area;
- (d) Benefit plans;
- (e) Alliance status;
- (f) Group versus nongroup.

(12) "Member months of enrollment" means the number of policyholders enrolled in benefit plans subject to this administrative regulation multiplied by the number of months of such enrollment over the reporting periods defined in Section 7 of this administrative regulation for demographic risk adjustment and Section 11 of this administrative regulation for high cost case adjustment.

(13) "Months of exposure" means the date of diagnosis or the performance of a procedure listed in Tables 2 and 2A, as appropriate, through the end of the reporting period or episode of illness, whichever comes first except [] in the case of transplantation, the episode of illness shall be considered to begin with the provision of preoperative care and end with immediate postoperative follow up care.

(14) "Policyholder" means:

- (a) For individual policy health insurance of a commercial insurance company - the policyholder;
- (b) For a health maintenance organization - a subscriber;
- (c) For small group health insurance other than that provided by a health maintenance organization - the certificateholder.

(15) "PRAF" means prospective risk adjustment factor which are the factors in Table 1 associated with any of the demographic and coverage status categories or cells which include gender (by age), COBRA status and retiree status.

(16) "Procedure" means, as defined in KRS Chapter 216B, any procedures listed in the high cost case Tables 2 and 2A.

(17) "Retiree" means a former employee covered under a group insurance policy sponsored by the employer, excluding a former employee receiving continuation coverage. Retirement status shall be determined for an individual by the group sponsor.

(18) "Risk adjustment administrator" (administrator) means the contractor retained by the Kentucky Health Policy Board pursuant to Section 13 of this administrative regulation.

(19) "Risk assessment cell" means those classification bases referred to in Table 1.

Section 2. Applicability. (1) This administrative regulation applies to all benefit plans that are subject to KRS 304.17A-120(1) and to all insurers defined in this administrative regulation.

(2) The risk adjustment system established pursuant to this administrative regulation shall be applied on an insurer-by-insurer basis. Risks covered by all of the benefit plans offered by a single insurer shall be cumulated across those plans for the purpose of determining the insurer's relative risk and adjusting the insurer's premium income accordingly, irrespective of whether the enrollment is through the alliance or not.

Section 3. Demographic Risk Assessment. The first stage of the risk adjustment system is demographic risk assessment which represents the development stage of the system. In demographic risk assessment, the variation in health care costs among specified population groups is analyzed and weighted to adjust for these differences.

(1) To calculate an insurer's composite PRAF the insurer shall:

- (a) Determine the number of policyholders in each risk assessment cell (Table 1) for all health benefit plans.
- (b) Multiply the sum of policyholders for each risk assessment cell determined in paragraph (a) of this subsection by the PRAF associated with each cell in Table 1, or in schedules of factors subsequently developed as provided for in Section 4(2) of this administrative regulation;
- (c) Sum the products of paragraph (b) of this subsection for all cells and divide by the total number of policyholders to get the composite PRAF.

(2) Prior to October 1, 1996, each insurer shall calculate its composite PRAF using the factors indicated in Table 1 and the enrollment, by risk assessment cells, for the final month in each calendar quarter. Subsequent to September 30, 1996, insurers shall calculate their composite PRAFs using the most recent PRAF updates developed in accordance with Section 4(2) of this administrative regulation.

(3) Each insurer shall quarterly file with the administrator, by the 15th day of the final month of each calendar quarter;

- (a) Its current composite PRAF;
- (b) The total number of policyholders included in calculating the

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composite PRAF as specified in Section 7(2) of this administrative regulation; and

(c) Its member months of enrollment for that calendar quarter.

The administrator shall then calculate a statewide composite PRAF, weighted by the number of policyholders, to be used quarterly in calculating the quarterly adjustment amounts in Section 7(1) of this administrative regulation.

Section 4. Schedule of PRAFS and Updates. (1) PRAFs to be used prior to October 1, 1996 are displayed in Table 1.

(2) Starting September 1, 1996, the administrator shall generate a revised table of PRAFs annually for each family composition category based on information about the actual distribution of policyholders across risk adjustment cells and available data on the relative benefit costs of that population.

Section 5. Reference Premium. A reference premium shall be determined by the administrator quarterly to be used in calculating the quarterly adjustment amounts in Section 7(1) of this administrative regulation. Each insurer shall file quarterly with the administrator, by the 15th day of the final month of each calendar quarter, its total annualized premium for all policyholders enrolled in the month specified in Section 7(2) of this administrative regulation. The reference premium shall equal the statewide average annualized premium per policyholder.

Section 6. Insurer-specific Rated Risk Ratio. (1) Not later than March 1 and September 1 of each year, the administrator shall estimate the enrollment weighted average monthly premium of each MCRC cell.

(2) The administrator shall calculate the average rated risk factor for all insurers as a whole. This factor represents the average premium across all MCRC weighted by the enrollment in each cell. To calculate this factor, the administrator shall multiply the number of policyholders enrolled in each MCRC by the values calculated in subsection (1) of this section and divide the sum of the products by the total number of policyholders insured by all insurers.

(3) To calculate each insurer's specific rated risk factor, the administrator shall multiply the number of policyholders in each MCRC by the values calculated in subsection (1) of this section and divide the sum of those products by the total number of policyholders insured by the insurer.

(4) The Insurer-specific rated risk ratio to be used to calculate the quarterly adjustment amounts in Section 7(1) of this administrative regulation shall be determined by the Administrator according to the following formula:

Insurer-Specific Rated Risk Ratio = Insurer Specific Rated Risk Factor/Average Rated Risk Factor

The insurer-specific rated risk ratios based on the March 1 MCRC premium estimates each year shall be used to determine quarterly adjustment amounts in Section 7 of this administrative regulation for the March 20 and June 20 calculation dates that year. Ratios based on the September 1 MCRC cell premium estimates each year shall be used to determine quarterly adjustment amounts for September 20 and December 20 calculation dates that year.

Section 7. Demographic Risk Adjustment. (1) On a quarterly basis, the administrator shall calculate and inform each insurer of the amount owed to the demographic risk adjustment fund (-) or the amount due from the fund (+) for each insurer no later than ten (10) days following the dates specified in subsection (2) of this section by applying the following formula in which "i" represents a unique value for each insurer participating in the risk adjustment system:

Quarterly Adjustment Amount_i = (Composite PRAF_i - Statewide

Average Composite PRAF) * Reference Premium * Rated Risk Ratio,
Member Months of Enrollment_i * .0833

(2) The quarterly calculation dates are as follows:

| | |
|-----------------|--------------|
| First Quarter: | March 20 |
| Second Quarter: | June 20 |
| Third Quarter: | September 20 |
| Fourth Quarter: | December 20 |

For quarterly calculation dates through June 20, 1996, composite PRAF and reference premium information shall be based on enrollment in the final month of the calendar quarter. Subsequently, composite PRAF and reference premium information shall be based on enrollment in the final month of the immediately preceding calendar quarter. The member months of enrollment shall always be based on enrollment with the insurer over the current calendar quarter.

(3) In the case of an insurer for which the adjustment amount is negative, the insurer ~~shall be obligated to~~ make the full payment to the administrator within twenty (20) days following the dates provided in subsection (2) of this section ~~and in a form and manner determined by the administrator, subject to~~ Section 8 of this administrative regulation. Insurers failing to make such payments will be subject to decertification by the Insurance department, or such intermediate sanctions as allowed by law. ~~[determined appropriate by the board.]~~

(4) In the case of an insurer for which the adjustment amount is positive, the insurer is entitled to receive a payment for that amount from the administrator subject to Section 8 of this administrative regulation. This amount shall be paid on a quarterly basis, subsequent to the collection of payments owed to the Demographic Risk Adjustment Fund pursuant to subsection (3) of this section.

Section 8. Fund Equalization. (1) In the event that the Demographic Risk Adjustment Fund is in deficit because the amount of money due insurers exceeds the amount of payments insurers owe, payments to insurers eligible for a payment from the fund shall be reduced proportionately.

(2) In the event that the Demographic Risk Adjustment Fund is in surplus because the amounts due insurers is less than the amount of money insurers owe, payments owed by insurers shall be reduced proportionately.

Section 9. Reporting Requirements. (1) Insurers shall collect such information from enrollees and group sponsors as may be necessary in order to classify risks in accordance with Section 3 of this administrative regulation including, but not limited to, the active/retiree status of each policyholder.

(2) Insurers shall provide the administrator with any information required by the administrator in a form and content determined by the administrator, to:

(a) Verify the calculation of composite PRAFs as described in Section 3 of this administrative regulation;

(b) Calculate average weighted premiums as described in Section 5 of this administrative regulation;

(c) Calculate rated risk factors as required under Section 6 of this administrative regulation;

(d) Manage the Demographic Risk Adjustment Fund pursuant to Section 8 of this administrative regulation and this section; and

(e) Perform other duties specified in Section 13 of this administrative regulation.

Section 10. High Cost Case Fund. Insurers shall be eligible for a payment from the High Cost Case Fund on the basis of the number of months of exposure during a year for enrollees having a diagnosis or receiving a procedure listed in Tables 2 and 2A. Payment shall be subject to additional conditions established in Section 12(10) of this

administrative regulation.

Section 11. High Cost Reports. (1) Insurers shall file with the administrator detailed information about enrollees with procedures/diagnoses on the high cost case list. Initial information regarding a case shall be filed by an insurer as soon as it is available in order that the administrator may confirm its probable eligibility as a high cost case. The information to be included with the initial filing shall, at a minimum, contain the insurer **National Association of Insurance Commissioners (NAIC)** number (or, if no NAIC number has been assigned to the insurer, an insurer identification number assigned by the Department of Insurance), the names of the enrollee (patient) and policyholder, the effective date of the case, the procedure/diagnosis classification, and any medical records which would support confirmation of the cases's eligibility (such as, physician's attestation, operative reports for transplants, respiratory therapy records for ventilator dependence, delivery room records and **Neonatal Intensive Care Unit (NICU)** progress notes for neonate). The administrator, after initial review for determination as to possible eligibility as a high cost case, shall assign a claim number to the case for future reference. Subsequently, the insurer shall file with the administrator for each of these [such] cases, not less frequently than each calendar quarter, detail information relative to the case including, at a minimum, the claim number, patient name, effective date of the case, termination date of the case (if terminated), an abstract of the patient's medical records, case management records, utilization records, itemized bills, dates of service, and proof of payments.

(2) Not later than March 1, 1996, insurers shall file 1995 high cost case annual summary reports with the administrator. Such reports shall, for each procedure/diagnosis on the high cost case list, indicate the claim number, patient name, effective date of the case, termination date of the case (if terminated), the number of months of exposure during 1995, and the total payments made by the insurer during 1995 for health care services on the case. Months of exposure and payments are to be totaled for each procedure/diagnosis. An insurer certification in accordance with Section 12(10) of this administrative regulation shall be filed with each annual report.

(3) For years subsequent to 1995, insurers shall file the annual summary reports described in [sub] Section 12(2) of this administrative regulation [section] for high cost cases treated during the period of January 1 through December 31 each year. Such reports shall be due not later than March 1 immediately following the end of the calendar year for which the information is being reported.

(4) Health maintenance organizations shall impute costs based on a standard accounting methodology established by the administrator if such plans are unable to identify the cost of services for individuals with high cost case in a manner otherwise consistent with the requirements of this section.

Section 12. Payment Adjustment for High Cost Cases. (1) All insurers shall remit to the administrator on a quarterly basis an amount equal to one (1.00) percent of the total premium received during a calendar quarter for benefit plan subject to this administrative regulation. This payment shall [must] be received by the administrator not later than the 15th day of the month immediately following the end of the calendar quarter.

(2) Payments to insurers from the High Cost Case Fund shall be based on the amount that each insurer's per enrollee payments for high cost cases, adjusted for statewide average payments per month of exposure, exceeds the statewide average per enrollee payments for high cost cases, subject to subsection (9) of this section.

(3) Based on the high cost case information reported by insurers for the reporting period, the administrator shall compute the statewide average payment per month of exposure for each procedure/diagnosis described in Tables 2 and 2A. This set of calculations will determine the value for each procedure/diagnosis category that shall be used to calculate the statewide average high cost case

score described in subsection (4) of this section and each insurer-specific high cost case score described in subsection (5) of this section.

(4) The administrator shall calculate a "statewide average high cost case score" as follows:

(a) Multiply the statewide average payment per month of exposure derived in subsection (3) of this section for each procedure/diagnosis on the high cost case list by the total number of months of exposure reported for each respective procedure/diagnosis over the reporting period by all insurers;

(b) Divide the sum of the products generated in paragraph (a) of this subsection by the total number of member months of enrollment over the reporting period in all benefit plans subject to this administrative regulation.

(5) The administrator shall calculate an "insurer-specific high cost case score" for each insurer as follows:

(a) Multiply the statewide average cost per month of exposure derived in subsection (3) of this section for each procedure/diagnosis on the high cost case list by the number of months of exposure reported for each respective procedure/diagnosis by the insurer over the reporting period;

(b) Divide the sum of the products in paragraph (a) of this subsection by the number of member months of enrollment over the reporting period in all benefit plans in effect with the insurer. Each of these calculations is expressed below, where " p ;" represents medical procedure/diagnosis specific values and " i ;" represents insurer-specific values:

Average Payment Per Month of Exposure_p = Total High Cost Case Payments_p/Months of Exposure_p

Statewide Average High Cost Case Score = \sum_p (Average Payment Per Month of Exposure_p * Months of Exposure_p)/Total Member Months of Enrollment

Insurer-Specific High Cost Case Score_i = \sum_p (Average Payment Per Month of Exposure_p * Months of Exposure_{p,i})/Member Months of Enrollment_i

(6) Insurers with high cost case scores in excess of the statewide average high cost case score shall be eligible for payment from the High Cost Case Fund, and shall be deemed "eligible insurers" for the purposes of this section.

(7) Each eligible insurer shall receive a payment from the High Cost Case Fund equal to the unadjusted payment amount described in subsection (8) of this section multiplied by the fund equalization factor described in subsection (9) of this section. Such amounts shall be calculated by the administrator and remitted to eligible insurers not later than May 1 of each year.

(8) The unadjusted payment amount for each eligible insurer is equal to the product of:

(a) The insurer-specific high cost case score described in subsection (5) of this section minus the statewide average high cost case score described in subsection (4) of this section;

(b) The insurer's total member months of enrollment over the reporting period; and

(c) .75;

(9) The fund equalization factor is equal to the lesser of "1" and the result of:

(a) The total amount of payments remitted to the High Cost Fund by insurers over the reporting period divided by;

(b) The sum of unadjusted payment amounts for the reporting period for all insurers.

The equations that will be used by the administrator to make the calculations described in this section are provided below, where " x ;" designates eligible insurer-specific values:

Amount of Payment_i = Unadjusted Payment Amount_i * Pool Equalization Factor

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Unadjusted Payment Amount_i = (High Cost Case Score_i - Statewide Average High Cost Case Score) * Member Months of Enrollment_i * .75

Fund Equalization Factor = (High Cost Case Fund Contributions + Fund Interest) / Σ_i Unadjusted Payment Amounts

(10) In order to receive a payment, an insurer must certify that:

(a) All services for procedures/diagnoses reported under this section are services that are covered by the insurer in accordance with the coverage requirements of standardized benefit plans established by the board pursuant to KRS 304.17A-160;

(b) The patients for whom payment is being sought:

1. Are enrolled in an applicable benefits plans during the applicable reporting period;

2. Have received a primary diagnosis and/or procedure on the high cost case list, as reported by the insurer;

3. Are not covered by another insurer or third-party payor for the course of treatment related to the reported medical procedure/diagnosis for the episodes of illness periods reported.

(11) In the event that the High Cost Case Fund is in surplus because the fund equalization factor is determined to be "1" in accordance with subsection (9) of this section, the surplus shall be rebated to insurers proportionate to the amount of their contributions, and the board shall approve appropriate reductions in the contribution rate for subsequent quarters.

(12) The administrator shall notify each insurer of its estimated payment amount by May 1 of each year.

(13) In the event that the administrator disqualifies a high cost case claim, the insurer may appeal to the board.

Section 13. Administrator. (1) The board will contract with an administrator to manage the day-to-day operations of the risk adjustment system in accordance with this administrative regulation and policies established by the board. All insurer subject to this administrative regulation, and any parent company or subsidiary of any insurer, shall be disqualified from being selected as the administrator.

(2) The duties of the administrator shall include the following:

(a) Performing and publishing all calculations required under this administrative regulation except for calculations to be performed by insurers in accordance with the appropriate sections;

(b) Collecting data from insurers and other parties necessary to administer the risk adjustment system;

(c) Collecting payments from insurers for the Demographic Risk Adjustment Fund and the High Cost Case Fund and making risk adjustment payments to insurers eligible for such payments;

(d) Auditing insurers' submissions of high cost claim reports.

(e) Reporting to the board information regarding trends in enrollment and experience overall, in addition to experience regarding the Demographic Risk Adjustment Fund and the High Cost Case Fund, on a periodic basis, but not less frequently than annually. The first report is due by August 1, 1996.

(f) Other duties delegated to the Administrator under this administrative regulation or by the board subsequent to the issuance of this administrative regulation.

(3) The cost of administering the risk adjustment system, exclusive of the cost of making risk adjustment payments, shall be financed through a surcharge imposed on each benefit plan subject to this administrative regulation. The amount of the surcharge shall be **ten (10) cents per policy holder per month in 1996 and adjusted annually. [determined by the board annually.]**

~~[Section 14. Regulatory Authority for Issuance of Interpretative Guidance. The board shall retain the authority to issue guidance in the interpretation of this administrative regulation.]~~

TABLE 1

DEMOGRAPHIC RISK ASSESSMENT CELL FACTOR MATRIX

| Attained Age | <u>SINGLE COVERAGE</u> | | <u>POLICYHOLDER AND SPOUSE COVERAGE</u> | | <u>SINGLE PARENT FAMILY COVERAGE</u> | | <u>TWO PARENT FAMILY COVERAGE</u> | | Attained Age |
|-----------------|------------------------------------|---------------|---|---------------|--------------------------------------|---------------|------------------------------------|---------------|-----------------|
| | <u>Active Policyholders</u> | | <u>Active Policyholders</u> | | <u>Active Policyholders</u> | | <u>Active Policyholders</u> | | |
| | <u>Male</u> | <u>Female</u> | <u>Male</u> | <u>Female</u> | <u>Male</u> | <u>Female</u> | <u>Male</u> | <u>Female</u> | |
| <u><30</u> | <u>0.549</u> | <u>1.449</u> | <u>1.029</u> | <u>0.961</u> | <u>0.658</u> | <u>1.164</u> | <u>1.020</u> | <u>0.964</u> | <u><30</u> |
| <u>30-39</u> | <u>0.629</u> | <u>1.374</u> | <u>1.024</u> | <u>0.967</u> | <u>0.715</u> | <u>1.154</u> | <u>1.023</u> | <u>0.949</u> | <u>30-39</u> |
| <u>40-49</u> | <u>0.702</u> | <u>1.211</u> | <u>1.017</u> | <u>0.978</u> | <u>0.828</u> | <u>1.108</u> | <u>1.023</u> | <u>0.941</u> | <u>40-49</u> |
| <u>50-54</u> | <u>0.862</u> | <u>1.084</u> | <u>1.002</u> | <u>0.994</u> | <u>0.933</u> | <u>1.048</u> | <u>1.008</u> | <u>0.963</u> | <u>50-54</u> |
| <u>55-59</u> | <u>0.927</u> | <u>1.042</u> | <u>1.001</u> | <u>0.998</u> | <u>0.961</u> | <u>1.029</u> | <u>1.005</u> | <u>0.974</u> | <u>55-59</u> |
| <u>60-64</u> | <u>1.084</u> | <u>0.952</u> | <u>1.000</u> | <u>0.999</u> | <u>1.072</u> | <u>0.941</u> | <u>1.000</u> | <u>0.998</u> | <u>60-64</u> |
| <u>65+</u> | <u>1.078</u> | <u>0.957</u> | <u>1.000</u> | <u>0.999</u> | <u>1.018</u> | <u>0.892</u> | <u>0.990</u> | <u>1.061</u> | <u>65+</u> |
| | | | | | | | | | |
| Under 30 | <u>COBRA Policyholders</u> | | <u>COBRA Policyholders</u> | | <u>COBRA Policyholders</u> | | <u>COBRA Policyholders</u> | | Under 30 |
| | <u>Under 30</u> | | <u>Under 30</u> | | <u>Under 30</u> | | <u>Under 30</u> | | |
| | <u>Male</u> | <u>Female</u> | <u>Male</u> | <u>Female</u> | <u>Male</u> | <u>Female</u> | <u>Male</u> | <u>Female</u> | |
| <u>Under 30</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>Under 30</u> |
| <u>30-39</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>30-39</u> |
| <u>40-49</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>40-49</u> |
| <u>50-54</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>50-54</u> |
| <u>55-59</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>55-59</u> |
| <u>60-64</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>60-64</u> |
| <u>65+</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>1.500</u> | <u>65+</u> |
| | | | | | | | | | |
| Under 50 | <u>Early Retiree Policyholders</u> | | <u>Early Retiree Policyholders</u> | | <u>Early Retiree Policyholders</u> | | <u>Early Retiree Policyholders</u> | | Under 50 |
| | <u>Under 50</u> | | <u>Under 50</u> | | <u>Under 50</u> | | <u>Under 50</u> | | |
| | <u>Male</u> | <u>Female</u> | <u>Male</u> | <u>Female</u> | <u>Male</u> | <u>Female</u> | <u>Male</u> | <u>Female</u> | |
| <u>Under 50</u> | <u>1.247</u> | <u>1.247</u> | <u>1.077</u> | <u>1.074</u> | <u>1.168</u> | <u>1.142</u> | <u>1.058</u> | <u>1.048</u> | <u>Under 50</u> |

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| | | | | | | | | | |
|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| 50-54 | 0.991 | 1.247 | 1.077 | 1.069 | 1.017 | 1.142 | 1.058 | 1.011 | 50-54 |
| 55-59 | 1.066 | 1.198 | 1.076 | 1.073 | 1.047 | 1.122 | 1.055 | 1.023 | 55-59 |
| 60-64 | 1.247 | 1.095 | 1.075 | 1.074 | 1.168 | 1.026 | 1.050 | 1.048 | 60-64 |

PRAF.XLS
Modified 8/9/95

TABLE 1

DEMOGRAPHIC RISK ASSESSMENT CELL FACTOR MATRIX

| SINGLE COVERAGE | | POLICYHOLDER AND SPOUSE COVERAGE | | SINGLE PARENT FAMILY COVERAGE | | TWO PARENT FAMILY COVERAGE | | | |
|-----------------------------|-------|----------------------------------|-------|-------------------------------|-------|-----------------------------|-------|--------|--------------|
| Active Policyholders | | Active Policyholders | | Active Policyholders | | Active Policyholders | | | |
| Attained Age | Male | Female | Male | Female | Male | Female | Male | Female | Attained Age |
| 0-1 | 1.292 | 1.292 | | | | | | | 0-1 |
| 2-17 | 0.967 | 0.967 | 1.020 | 0.961 | 0.959 | 1.164 | 1.020 | 0.964 | 2-17 |
| 18-29 | 0.549 | 1.449 | 1.020 | 0.961 | 0.959 | 1.164 | 1.020 | 0.964 | 18-29 |
| 30-39 | 0.620 | 1.274 | 1.024 | 0.987 | 0.715 | 1.164 | 1.023 | 0.949 | 30-39 |
| 40-44 | 0.693 | 1.238 | 1.022 | 0.971 | 0.808 | 1.095 | 1.028 | 0.931 | 40-44 |
| 45-49 | 0.726 | 1.170 | 1.010 | 0.997 | 0.953 | 1.124 | 1.017 | 0.949 | 45-49 |
| 50-54 | 0.962 | 1.084 | 1.002 | 0.994 | 0.923 | 1.048 | 1.008 | 0.963 | 50-54 |
| 55-59 | 0.927 | 1.042 | 1.001 | 0.999 | 0.961 | 1.039 | 1.005 | 0.974 | 55-59 |
| 60-64 | 1.084 | 0.952 | 1.000 | 0.999 | 1.072 | 0.941 | 1.000 | 0.998 | 60-64 |
| 65+ | 1.078 | 0.957 | 1.000 | 0.999 | 1.018 | 0.892 | 0.990 | 1.061 | 65+ |
| | | | | | | | | | |
| COBRA Policyholders | | COBRA Policyholders | | COBRA Policyholders | | COBRA Policyholders | | | |
| Under 30 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | Under 30 |
| 30-39 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 30-39 |
| 40-44 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 40-44 |
| 45-49 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 45-49 |
| 50-54 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 50-54 |
| 55-59 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 55-59 |
| 60-64 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 60-64 |
| 65+ | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 1.500 | 65+ |
| | | | | | | | | | |
| Early Retiree Policyholders | | Early Retiree Policyholders | | Early Retiree Policyholders | | Early Retiree Policyholders | | | |
| Under 50 | 1.247 | 1.247 | 1.077 | 1.074 | 1.168 | 1.142 | 1.058 | 1.048 | Under 50 |
| 50-54 | 0.991 | 1.247 | 1.077 | 1.069 | 1.017 | 1.142 | 1.058 | 1.011 | 50-54 |
| 55-59 | 1.066 | 1.198 | 1.076 | 1.073 | 1.047 | 1.122 | 1.055 | 1.023 | 55-59 |
| 60-64 | 1.247 | 1.095 | 1.075 | 1.074 | 1.168 | 1.026 | 1.050 | 1.048 | 60-64] |

TABLE 2: HIGH COST CASE LIST

| Procedure/Diagnosis | Payment Conditions and Limitations |
|---|---|
| Liver transplantation | Payment limited to the cost of pre-operative care, transplantation and immediate follow-up care |
| Heart transplantation | |
| Bone marrow transplantation | |
| Kidney transplantation | |
| End Stage Renal Disease with dialysis | |
| Ventilator support for at least 30 days | |
| Neonates with a birth weight of less than 1,500 grams or respiratory distress syndrome requiring at least 30 days of ICU care | |

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| | |
|----------|---|
| HIV/AIDS | With specified opportunistic infections and diseases designated in Table 2A |
| Leukemia | |

* The administrator will identify code numbers annually

TABLE 2A: SPECIFIC OPPORTUNISTIC INFECTIONS
AND OTHER DISEASES FOR HIV/AIDS

HIV/AIDS with the following specified conditions:

Candidiasis of lung; coccidiosis; cryptosporidiosis; isosporiasis; pneumocystosis; progressive multifocal leukoencephalopathy; toxoplasmosis; malignant neoplasms including only: Kaposi's sarcoma, lymphosarcoma and reticulosarcoma, primary lymphoma of the brain.

The following specified conditions when due to HIV/AIDS:

Specified infections including only: candidiasis: disseminated, of the mouth, of the skin and nails, other and unspecified sites; coccidioidomycosis; cytomegalic inclusion disease; acute or subacute endocarditis; herpes simplex; herpes zoster; histoplasmosis; microsporidiosis; mycobacteriosis, other and unspecified; acute or subacute myocarditis; Nocardia infection; opportunistic mycoses; pneumonia: NOS, other bacterial pneumonia, pneumococcal, viral NES and NOS; Salmonella infections; septicemia; strongyloidiasis; tuberculosis;

Specified diseases of the central nervous system including only: demyelinating disease NOS, disorders NOS, other and unspecified nonarthropod-borne viral disease, other and unspecified slow virus infections, dementia NOS, organic dementia, presenile dementia, encephalitis, encephalopathy, myelopathy, nonpsychotic or psychotic organic brain syndrome NOS;

Other specified conditions including only: abnormal weight loss; abnormality, respiratory; agranulocytosis, anemia: NOS, aplastic, other and unspecified, deficiency, hemolytic, acquired; arthritis, pyogenic, infective; blindness or low vision; blood and blood-forming organs, unspecified disease; cachexia; dermatomycosis, dermatophytosis; diarrhea (noninfectious), infectious; disease or disorder NOS: blood and blood-forming organs, salivary gland, skin and subcutaneous tissue; fever; gastroenteritis (infectious); hepatomegaly; hyperhidrosis; hypersplenism; infection: intestinal, ill-defined; lack of expected physiological development in infant; leukoplakia of oral mucosa (tongue); malabsorption, intestinal; malaise; nephritis & nephropathy; neuralgia NOS; neuritis NOS; pneumonitis, lymphoid, interstitial; polyneuropathy pyrexia; radiculitis NOS; retinal vascular changes; retinopathy, background; secondary cardiomyopathy; splenomegaly; thrombocytopenia, secondary and unspecified.

HIV/AIDS with other conditions which evidence severe immune system compromise subject to case-by-case review and approval.

JACK B. HALL, Chairman

APPROVED BY AGENCY: August 10, 1995

FILED WITH LRC: August 10, 1995 at noon

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, AUGUST 15, 1995

DEPARTMENT OF MILITARY AFFAIRS
Kentucky Emergency Response Commission
(Amendment)

106 KAR 1:091. Kentucky Emergency Response Commission fee account grant requirements for local emergency planning committees.

RELATES TO: KRS 39.800 to 39.990, 42 USC 11001 to 11050
STATUTORY AUTHORITY: KRS 39.817, 39.845, 39.850

NECESSITY AND FUNCTION: This administrative regulation establishes criteria and procedures to be met by local emergency planning committees requesting funds generated by KRS 39.817.

Section 1. To be eligible for financial assistance, local emergency planning committees which have extremely hazardous substances as listed in 106 KAR 1:081, Section 6, in excess of the threshold planning quantity present in their community shall meet all the following criteria during the preceding calendar year (January 1 through December 31):

(1) The local emergency planning committee shall meet all requirements set forth in KRS 39.840.

(2) The local emergency planning committee shall have an emergency response plan pursuant to KRS 39.840(1)(a), (e), (f) and 39.860 that has been approved by the Kentucky Emergency Response Commission.

(a) The local emergency planning committee's emergency response plan shall contain an approved Tab Q-7 or commission-approved equivalent listed in Section 6 of 106 KAR 1:081 for each facility in the planning district that has an extremely hazardous substance listed in Section 6 of 106 KAR 1:081 in excess of the threshold planning quantity.

(b) The local emergency planning committee shall submit new Tab Q-7 or commission-approved equivalent plans to the state disaster and emergency services area coordinator within sixty (60) days of notification that the facility has an extremely hazardous substance in excess of the threshold planning quantity.

(c) After new Tab Q-7 or commission-approved equivalent plans are submitted, no later than April 1 each year, the local emergency planning committee shall review the Tab Q-7 plans and send certification to the state disaster and emergency services area coordinator stating that there were no changes and therefore the plan is correct as is; or the plan has been revised and the revisions are included with the certification.

(d) The state disaster and emergency services area coordinator shall review new Tab Q-7 or commission-approved equivalent plans for completeness, note any recommendations and forward them to the Chairman of the Kentucky Emergency Response Commission, or designee, within thirty (30) days of receipt from the local emergency planning committee.

(e) The state disaster and emergency services area coordinator shall review Tab Q-7 or commission-approved equivalent revisions and certifications received from the local emergency planning committee for completeness, note any recommendations and forward them to the Chairman of the Kentucky Emergency Response Commission, or designee, no later than May 1 each year.

(3) The local emergency planning committee shall meet at least twice during each calendar year (January 1 through December 31) ~~[semiannually]~~ to conduct its business and a quorum shall be required.

(4) No later than December 1 each year, the local emergency planning committee shall submit an updated membership list to the Kentucky Emergency Response Commission.

(5) In accordance with KRS Chapter 424 (Legal Notice), the local emergency planning committee shall ~~[annually]~~ publish during each calendar year (January 1 through December 31) public information on committee activities entitled "Public (Legal) Notice Advertisement" on form DES/SARA-324 as set out in Section 7 of this administrative regulation.

Section 2. To be eligible for financial assistance, local emergency planning committees which do not have any extremely hazardous substances as listed in 106 KAR 1:081, Section 6, in excess of the threshold planning quantity present in their community shall meet the following criteria during the preceding calendar year (January 1 through December 31):

(1) The local emergency planning committee shall meet criteria set forth in KRS 39.840 (1)(b), (c), (d), (2), (4), (5) and Section 1(4) and (5) of this administrative regulation.

(2) The local emergency planning committee shall meet at least once during each calendar year (January 1 through December 31) ~~[annually]~~ to conduct its business and a quorum shall be required.

Section 3. Local Emergency Planning Committee Procedures. (1) If a local emergency planning committee requests financial assistance, it shall use Grant Request Form DES/SARA-303 as set out in Section 7 of this administrative regulation and shall include a detailed budget identifying how the requested funds are to be spent.

(2) The grant request form shall be submitted to the state disaster and emergency services area coordinator no earlier than January 1 and no later than May 1.

(3) The state disaster and emergency services area coordinator shall review the grant request form for completeness and conformance to statutes and administrative regulations, note any recommendations and forward it to the Chairman of the Kentucky Emergency Response Commission or designee, no later than June 1.

(4) The Chairman of the Kentucky Emergency Response Commission, or designee, shall review the grant request form for completeness and conformance to statutes and administrative regulations, note any recommendations and forward it to the Grant Review Committee no later than July 1.

(5) The Grant Review Committee, with a quorum present, shall review all grant requests and forward their recommendations no later than August 15 to the Kentucky Emergency Response Commission for final approval.

(6) The Kentucky Emergency Response Commission shall make the grant awards no later than September 15.

(7) The state disaster and emergency services area coordinator, the Chairman of the Kentucky Emergency Response Commission, or designee, or the Grant Review Committee may request additional information which shall be provided by the local emergency planning committee. Failure to provide the requested information shall invalidate the local emergency planning committee's request for funding.

Section 4. Requests for Modifications. (1) A modification of a grant award is required if there is a change in the grant request or if a local emergency planning committee is unable to expend the funds for the purpose for which the grant was awarded. A request for modification shall be submitted by the LEPC for approval by the commission. Unexpended monies shall be returned to the Kentucky Emergency Response Commission fee account fund.

(2) Requests for modifications of grant awards shall be submitted on Grant Request Form DES/SARA-303 as set out in Section 7 of this administrative regulation and, except for due dates, shall be processed in accordance with Sections 3 and 6 of this administrative

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regulation.

(3) Modifications may be submitted throughout the grant period.

Section 5. Supplemental Grant Awards. (1) In the event supplemental money is available, the Kentucky Emergency Response Commission shall determine the date of the supplemental allocation award and inform the local emergency planning committees of that date.

(2) Requests for supplemental money shall be submitted on Grant Request Form DES/SARA-303 as set out in Section 7 of this administrative regulation and, except for due dates, shall be processed in accordance with this section and Sections 3 and 6 of this administrative regulation.

(3) If a local emergency planning committee requests supplemental money the schedule of due dates is:

(a) Thirty (30) days from notification by the Kentucky Emergency Response Commission of the availability of supplemental money, the local emergency planning committee shall submit the supplemental grant request to the state disaster and emergency services area coordinator.

(b) Thirty (30) days from receipt of the supplemental grant request, the state disaster and emergency services area coordinator shall review the supplemental grant request in accordance with Sections 3 and 6 of this administrative regulation and forward it to the Chairman of the Kentucky Emergency Response Commission, or designee.

(c) Thirty (30) days from receipt of the supplemental grant request, the Chairman of the Kentucky Emergency Response Commission, or designee, shall review the supplemental grant request in accordance with Sections 3 and 6 of this administrative regulation and forward it to the Grant Review Committee.

(d) Forty-five (45) days from receipt of the supplemental grant request, the Grant Review Committee, with a quorum present, shall review the supplemental grant request in accordance with Sections 3 and 6 of this administrative regulation and forward their recommendations to the Kentucky Emergency Response Commission.

(e) Thirty (30) days from receipt of the recommendation of the Grant Review Committee, the Kentucky Emergency Response Commission shall make the supplemental grant award.

Section 6. Requirements for Funding Accountability. (1) Funds provided by the Kentucky Emergency Response Commission shall be deposited in a separate "(Name of County) Emergency Planning Committee Fee Account" and fiscal accountability shall be prescribed by the state auditor of public accounts. All funds shall be subject to audit by the Kentucky Emergency Response Commission and the state auditor of public accounts.

(2) The bylaws of each local emergency planning committee shall identify the position or person who will be responsible for accountability for the funds and who will be listed as the authorized applicant as shown on DES/Sara-303 and shall be submitted simultaneously with the grant request.

(3) The local emergency planning committee shall provide documentation of expenditures for the preceding year on each grant request submitted except for the initial grant request.

(4) Grant awards approved by the Kentucky Emergency Response Commission may be withheld for noncompliance with KRS 39.800 to 39.990 and administrative regulations issued thereunder and for failure to provide required documentation.

(5) All funding allocation decisions shall be made by the Kentucky Emergency Response Commission and shall be dependent upon availability of fees collected.

Section 7. Form DES/SARA-324 and grant request form DES/SARA-303 are set out in this section.

PUBLIC (LEGAL) NOTICE ADVERTISEMENT COUNTY EMERGENCY PLANNING COMMITTEE

Pursuant to Section 324, Title III of the 1986 Federal Superfund Amendments and Reauthorization Act (SARA) of 1986 (PL 99-499), the following information is provided in compliance with the Community Right-to-Know requirements of the SARA Law, and the open meetings and open records provisions of Kentucky Revised Statutes. Members of the public may contact the (name of county) County Emergency Planning Committee by writing (name of chairman), Chairman of the (name of county) County Emergency Planning Committee, (working address of chairman or committee), (city), Kentucky (zip code), or contacted by telephone at (area code), (telephone number established by the committee). The (name of county) County Emergency Planning Committee conducts meetings at (name of building), (local address), or at other locations, in accordance with the Kentucky Open Meetings Law. Members of the public may request to be notified of regular or special meetings as provided in KRS 61.820 and KRS 61.825. Records of the Planning Committee, including the county emergency response plan, material safety data sheets, and inventory forms, or any follow-up emergency notices as may subsequently be issued, are open for inspection, and members of the public who wish to review these records may do so (normal hours of business), (Eastern or Central Time), (days of the week), at (location of the office or place where custodian keeps the committee files), as required by the Kentucky Open Records Law. The local 24-hour telephone number for purposes of emergency notification, as required by SARA, is (emergency number adopted by county planning committee).

KENTUCKY EMERGENCY RESPONSE COMMISSION FEE ACCOUNT FUND

Grant Application for Grant Period 09/01/9__ to 08/31/9__

DUE DATES

LEPCs to ACs 05/01

Received by AC _____ Received by State _____

ACs to State 06/01

Received by AC _____ Received by State _____

Final Award 09/15 Initial & Date

Initial & Date

AUTHORIZED APPLICANT (INFORMATION) Emergency Planning Committee

County Name _____ County Code-3 digit no. _____

____ Enter total number of Tab Q-7's with Extremely Hazardous Substances in your county. This is the total number of facilities with extremely hazardous substances in your county.

DATE _____ GRANT INFORMATION

Grant Amount Requested \$ _____

Circle Type of Application: LEPC New Revised
State Agency New Revised

GRANT RECIPIENT

Checks shall be made payable to and mailed to the AUTHORIZED APPLICANT. The AUTHORIZED APPLICANT is the county emergency planning committee which is authorized to apply for and manage the grant. The AUTHORIZED APPLICANT shall provide the name _____ and phone number _____ of the designated contact person. The AUTHORIZED APPLICANT shall provide the name _____ and address _____ of the bank where the check shall be deposited.

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Emergency Planning Committee

County Name _____ County Code-3 digit number _____

Street Address _____

City, Zip _____

LEPCs shall submit grant request form DES/SARA-303 to their state disaster and emergency services area coordinator. All required documentation shall accompany the form. Incomplete grant request forms may delay processing and may result in invalidating the request.

State agencies shall submit grant request form DES/SARA-303 to the Chairman, or designee, of the Kentucky Emergency Response Commission. All required documentation shall accompany the form. Incomplete grant request forms may delay processing and may result in invalidating the request.

CERTIFICATION

I, the undersigned, certify to the Kentucky Emergency Response Commission that all the information is true and accurate. I further represent that the money received under this grant program will be used for the administration, development and implementation of the Kentucky Emergency Planning and Community Right-to-know program, known as SARA Title III, within the guidelines mandated by PL 99-499/Title III, KRS Chapter 39.800 to 39.990 and subsequent administrative regulations.

Name, Title and Date _____

DES/SARA-303

Grant Application for Grant Period 09/01/9__ to 08/31/9__

ATTACHMENTS

Detailed budget sheet for each budget category you request.
Documentation for preceding year's award.
Copy of published DES/SARA-324
Bylaws.

INELIGIBLE ITEMS

Emergency response equipment.
Reimbursement for emergency response and/or cleanup of a release.

| BUDGET CATEGORIES | GRANT REQUEST | GRANT AWARD |
|---|------------------|----------------|
| Right-to-know responsibilities-includes legal notice DES/SARA-324 | _____ | _____ |
| Data Management-includes receiving and maintaining data under 302(c)/KRS 39.845; 304/KRS 39.840(b), 311/312/KRS 39.840(c) | _____ | _____ |
| Telephone-includes 24-hour warning point for releases and cost of telephone for LEPC business | _____ | _____ |
| Services-includes contracts* to support KRS 39.800 to KRS 39.990 | _____ | _____ |

Office Supplies-includes postage, printing, copying and paper _____

File cabinets, desks, chairs _____

Commission-approved training _____

Commission-approved travel _____

TOTAL GRANT REQUEST _____

LESS CARRYOVER _____

MONIES _____

ADJUSTED GRANT _____

AWARD _____

*Contracts for personal services and equipment shall be in conformance with state laws and administrative regulations.
DES/SARA-303

MAJOR GENERAL ROBERT L. DEZARN, Adjutant General, Chairman

APPROVED BY AGENCY: August 15, 1995

FILED WITH LRC: August 15, 1995 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1995, at 2 p.m. EST in the Conference Room of the Kentucky Chamber of Commerce, 464 Chenault Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify the Emergency Response Commission in writing by September 16, 1995, 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 to be heard at the public hearing or written comments on the proposed administrative regulation to: Kentucky Emergency Response Commission, c/o Lucille Orlando, Kentucky Disaster and Emergency Services, Boone Center, EOC Building, Frankfort, Kentucky 40601, Telephone: (502) 564-5223.

REGULATORY IMPACT ANALYSIS

Contact person: John S. Gillig, Assistant Attorney General

(1) Type and number of entities affected: This amendment to an existing administrative regulation clarifies the time during which certain actions must take place. These actions are requirements which local emergency planning committees ("LEPCs") must complete as a prerequisite for requesting grant money from the Kentucky Emergency Response Commission ("KyERC"). The amendment clarifies the "annually" means during the calendar year, not during a 365 day period chosen by the local emergency planning committee. Thus, the amendment ensures uniformity and fairness in determining which local emergency planning committees have qualified for grants under Kentucky Emergency Response Commission administrative regulations. The only entities affected are the local emergency planning committees and the Kentucky Emergency Response Commission.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: There are no direct or indirect costs or savings. There should be no impact on cost of living or employment. No comments, written or oral, were received

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regarding the proposed administrative regulation. Implementation is statewide.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: There are no direct or indirect costs or savings. There will be no impact on the cost of doing business in Kentucky. No comments, written or oral, were received regarding the proposed administrative regulation. Implementation is statewide.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: See answer to No. 2, below.

2. Second and subsequent years: There are no compliance, reporting or paperwork requirements above those in the existing administrative regulation. The proposed amendment merely codifies existing policy and clarifies the existing administrative regulation. There are no effects upon competition.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: See answer to No. 2, below.

2. Continuing costs or savings: There are no continuing costs or savings related to this amendment to the existing administrative regulation. The proposed amendment clarifies an issue in the interpretation of the existing administrative regulation which has caused concern among the local emergency planning committees due to the perception that the existing administrative regulation allows the Kentucky Emergency Response Commission too much discretion. The proposed amendment limits that discretion, ensuring that all LEPCs are treated in a fair and uniform fashion.

3. Additional factors increasing or decreasing costs: None known.

(b) Reporting and paperwork requirements: There are no additional paperwork or reporting requirements associated with this amendment, except that the yearly period is now specified as the calendar year.

(4) Assessment of anticipated effect on state and local revenues: There will be no effect whatsoever upon state or local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: There is no revenue impact upon the agency, since this requirement already exists.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: See answer to No. 2, below.

(b) Kentucky: There were no public comments received, either written or oral. There will be no economic impact or effect on economic activity from this amendment to an existing administrative regulation.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The commission believed that a change in the administrative regulation was necessary to codify and clarify existing policy and to ensure fairness and uniformity in determining whether LEPCs had met statutory and regulatory criteria in awarding grant money, as the commission is authorized by statute to do. The only alternative to clarifying the amendment would be to do nothing; the commission believed that this was an important clarification which was necessary to establish uniformity and fairness to commission determinations. There were no oral or written comments to the proposed administrative regulation.

(8) Assessment of expected benefits: The main benefit is that the commission will have a uniform standard by which to judge if a LEPC has met the appropriate criteria. This will place all LEPCs on an equal footing.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The

area of implementation is statewide. There is no effect on public health or environmental welfare in Kentucky.

(b) State whether a detrimental effect on environment and public health would result if not implemented: There would be no detrimental effect if not implemented.

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) 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: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(10) Any additional information or comments: No public comments were received, either written or oral.

(11) TIERING: Is tiering applied? Tiering is not used because the amendment relates to the basic criteria which all LEPCs must meet in order to be eligible to apply for a grant from the commission. It is necessary to establish uniform time deadlines for compliance and submission of these applications so that all eligible LEPCs may be considered at once and appropriate grants awarded. This is desirable not only to aid in the work of the commission in administering the grant process, but because all eligible LEPCs receive a proportional share of the total money available. Therefore, the commission must have a "cut off" requirement so that the amount of money available for each LEPC can be calculated.

DEPARTMENT OF MILITARY AFFAIRS Kentucky Emergency Response Commission (Amendment)

106 KAR 1:131. Kentucky emergency response commission civil penalty assessment and hearings procedure.

RELATES TO: KRS 39.800 to 39.990

STATUTORY AUTHORITY: KRS 39.990

NECESSITY AND FUNCTION: This administrative regulation establishes procedures to be followed to assess civil penalties by the Kentucky Emergency Response Commission as provided for in KRS 39.990.

Section 1. Construction. These administrative regulations shall be construed liberally and in conformity with reasonable administrative practice to achieve just, timely and inexpensive determinations of matters before the Kentucky Emergency Response Commission. These administrative regulations are not intended as a comprehensive set of hearing administrative regulations and shall in no way be construed to impede or constrict the power of a hearing officer to administer the law, or administrative regulations, or to govern the conduct of the hearing officer's docket or the procedural course of a particular administrative action. The Kentucky Rules of Civil Procedure and the case law interpreting those rules may be used as analogous authority to interpret these administrative regulations.

Section 2. General Provisions. [(4)] The commission shall commence an administrative action to impose a civil penalty under KRS 39.990(3) against a person [facility] when the commission has notice of the existence of a violation of any provision of KRS 39.800 to 39.990. The commission chairman (or [his] designee) shall mail to the alleged violator a writing styled "NOTICE OF VIOLATION", which shall contain the specific date, time and place of the violation, if applicable, together with a summary of the factual, legal and other grounds upon which the notice of violation is based, and [for the assessment hearing,] the specific provisions of KRS 39.800 to 39.905 or the commission's administrative regulations that were allegedly violated[, and shall advise the alleged violator that he may be represented by an attorney at the hearing.]

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~~(2) The hearing shall be held in Frankfort, Kentucky.~~

~~(3) All documents filed by any party shall be served by mail, upon all other parties. Mere recitation of statutory or regulatory standards is not a sufficient summary of the grounds for the commission's action. The commission chairman (or designee) may attempt to informally resolve the violation in accordance with Section 3 of this administrative regulation. Where, after ninety (90) days from the issuance of the notice of violation the alleged violation is unresolved, the commission chairman (or designee) shall issue a notice of administrative hearing, following the requirements of KRS 13B.050.~~

~~[Section 2. Assessment Hearing. When a notice of violation has been issued, an administrative hearing shall be held to determine if a violation of the provisions of KRS 39.800 to 39.905 or the commission's administrative regulations have been committed and to determine the amount of the civil fine to be imposed.]~~

~~Section 3. Informal Proceedings. After an administrative action commences, the commission may seek informal resolution of the dispute with a party under the following procedures:~~

~~(1) The commission shall give reasonable notice to all affected persons of the commission's notice of violation.~~

~~(2) After giving notice, the commission shall give affected persons or parties an opportunity, at a mutually convenient time and place, to present to an authorized commission representative evidence in opposition to the commission action or determination, or to give a statement challenging the grounds upon which the commission has chosen to justify its action or determination.~~

~~(3) The authorized representative of the commission shall give the affected person's evidence and objections due consideration, and notify all affected persons in writing within fourteen (14) days of the receipt of the evidence or objections of the commission's decision. [Designation of a Hearing Officer. The full commission shall designate an independent hearing officer who shall be a person trained in the law who will serve for the duration of the hearing. The hearing officer shall not be staff to or be a member of the Kentucky Emergency Response Commission.]~~

~~Section 4. Parties. The parties to the proceeding shall be the commission chairman (or [his] designee) and the alleged violator who shall be designated respondent. A person may be permitted to intervene in any action by filing a petition for intervention in accordance with KRS 13B.060. [and in any action under this section, any person may intervene when such person has a direct interest which is or may be adversely affected by the action and the disposition of the action may, as a practical matter, impair or impede the person's ability to protect that interest unless the hearing officer determines the person's interest is adequately represented by existing parties in the action.]~~

~~Section 5. Assignment to Hearing Officer; Duties and Authority.~~

~~(1) Within ten (10) days of the filing of the notice of violation, the commission shall designate a hearing officer for formal administrative action in any manner consistent with KRS 13B.030. If the commission elects to designate a hearing officer from the Division of Administrative Hearings in the Office of the Attorney General under KRS 13B.030, it shall make that request in writing to the division within ten (10) days of the filing of the notice of violation.~~

~~(2) Assignment of a hearing officer from the Division of Administrative Hearings of the Office of the Attorney General shall be made according to the administrative regulations governing the conduct of the Division of Administrative Hearings of the Office of the Attorney General.~~

~~(3) A request for or assignment of a hearing officer under KRS 13B.030(2) shall be a designation of a hearing officer under these administrative regulations and a delegation to the hearing officer under KRS 13B.030(1) of all powers conferred on and relating to the~~

~~conduct of the administrative action. The hearing officer shall have the authority to take any procedural action authorized by KRS Chapter 13B or these administrative regulations, including, but not limited to, the authority to:~~

- ~~(a) Administer oaths and affirmations;~~
- ~~(b) Issue subpoenas for witnesses and production of documents or things;~~
- ~~(c) Regulate discovery;~~
- ~~(d) Rule on procedural requests;~~
- ~~(e) Hold prehearing conferences;~~
- ~~(f) Regulate the course of, and maintain order in the administrative hearing;~~
- ~~(g) Rule on evidentiary matters and admit in or exclude evidence from the record;~~
- ~~(h) Examine witnesses;~~
- ~~(i) Require the parties to submit legal memoranda, and proposed findings of fact and conclusions of law;~~
- ~~(j) Make proposed findings of fact, conclusions of law and recommended orders for the agency head; and~~
- ~~(k) Take any action consistent with law to promote the orderly and prompt conduct of the administrative action.~~

~~Section 6. [5.] Continuances. (1) Any party may request a continuance of a scheduled hearing for good cause. The request shall be in writing and include the reason for the request. The request shall be submitted to the commission chairman (or [his] designee) at least ten (10) days prior to the hearing date.~~

~~(2) Any party objecting to a requested continuance may file a written objection to the commission chairman (or [his] designee) at least five (5) days prior to the scheduled hearing.~~

~~(3) The hearing officer shall rule on all requests for a continuance. In the hearing officer's absence, the commission chairman (or [his] designee) shall rule on such requests. The commission chairman (or [his] designee) shall execute and transmit an order either granting or denying the continuance to all parties involved.~~

~~Section 7. Conflict of Interest; Recusal. (1) If at any time during an administrative action an assigned hearing officer's continued service would violate the standard set forth in KRS 13B.040(2)(a) or a canon of judicial ethics, that hearing officer shall recuse and enter a written order withdrawing from the administrative action.~~

~~(2) At any point during an administrative action a party may move the hearing officer to recuse from an administrative action. The motion to recuse shall be in writing filed in the record and shall be supported by an affidavit setting forth specific facts which demonstrate one (1) or more of the grounds for recusal set forth in KRS 13B.040(2)(b).~~

~~(3) Within ten (10) days of recusal of a hearing officer, the commission shall request or assign another hearing officer by written order. [6.] Conduct of Hearing. (1) The designated hearing officer shall conduct the hearing at the date, time and place set out in the notice of violation.~~

~~(2) The hearing officer shall be empowered to rule on all questions of law and procedure as well as the appropriate weight to be given to specific testimony or evidence.~~

~~(3) The formal rules of civil procedure shall apply.~~

~~(4) The hearing officer shall require an orderly hearing with proper decorum and shall be empowered to issue orders compelling discovery, the attendance of witnesses and the production of documents for the purposes of conducting the hearing.~~

~~(5) The proceedings and evidence shall be recorded.]~~

~~Section 8. Ex Parte Contact Prohibited. (1) Unless otherwise allowed by KRS 13B.100, there shall be no administrative action, or any person working under the hearing officer's supervision, and any person with a direct or indirect interest in the outcome to that administrative action concerning the merits of the administrative~~

action assigned to the hearing officer.

(2) This administrative regulation shall not prohibit ex parte contact with staff on purely procedural matters not at issue in the case. This section shall not prohibit communications with staff regarding the status of a case.

(3) Upon receiving an ex parte contact prohibited by this section, the hearing officer shall take every action required under KRS 13B.100, shall cause the parties to be notified of the contact, and shall inform the other parties to the action of their right to move for a recusal.

(4) The hearing officer may impose appropriate sanctions on a person who knowingly makes a prohibited ex parte contact, including, but not limited to deeming the person to have defaulted, striking all or part of that person's pleadings, claims, or defenses, denying any pending motions by the party, issuing a show cause order requiring the person to show why the hearing officer should not sanction the person, or taking such other actions as are appropriate.

[Section 7. Exemptions. Any party seeking an exemption or relief from the payment of a fine shall have the burden of persuasion to establish that he qualifies for the exemption. Determination concerning exemptions shall be subject to Section 9 of this administrative regulation.]

Section 9. Motion for Summary Disposition. A hearing officer may grant a motion for a summary disposition and recommend the agency head rule in the moving party's favor if the hearing officer finds that there is no genuine dispute as to any issue of material fact and the moving party is entitled to a summary disposition as a matter of law.

Section 10. Filing of Papers. (1) All papers after the petition required to be served upon a party shall be filed with the commission either before service or within a reasonable time thereafter.

(2) Pleadings and other papers shall be filed with the commission when they are received and endorsed by the commission. The commission shall endorse the date of receipt on every paper filed in an action immediately upon receipt.

(3) Papers may be filed with the commission by telefacsimile machine at the telefacsimile telephone number listed for the commission on the notice of violation. Parties filing by telefacsimile machine shall include a certificate that the paper is being filed by fax and the original paper is being filed by mail and shall immediately after faxing such a paper mail the original paper to the commission. The filing date of a paper sent by facsimile shall be the date the commission receive the original, unless the original is received with five (5) business days of the facsimile, in which case the filing date shall be the date the commission received the facsimile.

(4) All papers filed in an administrative action must be signed by the filing person. The signature of the filing person or his authorized representative constitutes a certificate that the signing person has read the paper and that to the best of his knowledge, information and belief formed after reasonable inquiry, it is not interposed for any improper purpose. If a paper is signed in violation of this subsection, the hearing officer may strike the paper from the record, deem the party to have failed to file the paper and take any action allowed as a consequence of such failure, strike all or part of any pleading, claim or defense asserted in the filing, or bar an attorney violating this subsection from future participation in that administrative action, and recommend that the agency head bar that attorney from appearing in future administrative actions before the commission.

Section 11. Venue. Administrative hearings shall be conducted at a site designated by the hearing officer. In determining venue, the hearing officer shall consider the requirements of law, the convenience of the parties, the witnesses and the evidence.

Section 12. Default. (1) If a party fails to timely comply with an

order of a hearing officer or a requirement of these administrative regulations, the hearing officer shall file an order directing the noncomplying party to show cause why the hearing officer should not deem that party to have waived his right to an administrative hearing and why the hearing officer should not immediately recommend that the commission chairman (or designee) enter an order adverse to the party. If the noncomplying party does not satisfy the show cause order as required, the hearing officer may recommend the entry of a final order in conformity with the relief requested by the opposing party in the administrative action.

(2) If a party fails to appear at a formal administrative hearing, the hearing officer may deem that party to have waived his right to a formal administrative hearing and may immediately recommend the commission chairman (or designee) enter a final order in conformity with the relief requested in the appropriate pleadings, or may proceed without the defaulted party.

(3) Upon the failure of a party to timely comply with a hearing officer's order, the hearing officer may recommend the commission chairman (or designee) grant any relief to which the opposing party is entitled.

(4) A hearing officer may, before the time for filing exceptions has run, set aside a recommendation by default under this section for good cause shown.

Section 13. Burden of Proof. (1) The commission shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion to show the propriety of the commission's action.

(2) The party asserting an affirmative defense shall have the burden of going forward and the ultimate burden of persuasion to establish that defense.

(3) The ultimate burden of persuasion in all administrative actions shall be met by a preponderance of substantial evidence in the record.

[Section 8. Burden of Proof. The commission chairman (or his designee) shall have the burden of persuasion in establishing a prima facie case. When a prima facie case has been presented to the satisfaction of the hearing officer, the burden of persuasion shall shift to the respondent who shall have the burden of persuasion to rebut the prima facie case.]

Section 14. [9.] Findings of Fact, Conclusions of Law, and Recommended Order. The hearing officer shall make findings of fact, conclusions of law and issue a recommended order for review and approval by the full commission with service on all parties. Any party may take exception in writing within fifteen (15) [seven (7)] days of mailing [receipt] of the hearing officer's recommended order. Thereafter, the commission chairman (or designee), shall, as directed by the commission, [may elect to] approve the findings of fact, conclusions of law and recommended order or [it] may modify the findings of fact, conclusions of law and recommended order. If no exceptions are filed and the commission takes no action on the hearing officer's findings of fact and conclusions of law within thirty (30) days, the order of the hearing officer shall be final. [subject to the requirements of KRS Chapter 39 provided that final action by the commission shall be supported by findings of fact from the record and shall be so designated by identifying this action as final action.]

Section 15. (1) [40.] Service of the notice of violation, notice of administrative hearing, and the hearing officer's recommended order shall be made by certified mail to the alleged violator at the [notice of violation to the] address shown on the annual inventory reporting forms or facility plan required to be filed by KRS Chapter 39. If no facility plan or annual inventory report has been filed, then to the last known address.

(2) All documents filed with the commission by any party shall be

served by mail upon all other parties.

MAJOR GENERAL ROBERT L. DEZARN, Adjutant General, Chairman

APPROVED BY AGENCY: August 15, 1995

FILED WITH LRC: August 15, 1995 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1995, at 2 p.m. EST in the Conference Room of the Kentucky Chamber of Commerce, 464 Chenault Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify the Emergency Response Commission in writing by September 16, 1995, 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 to be heard at the public hearing or written comments on the proposed administrative regulation to: Kentucky Emergency Response Commission, c/o Lucille Orlando, Kentucky Disaster and Emergency Services, Boone Center, EOC Building, Frankfort, Kentucky 40601, Telephone: (502) 564-5223.

REGULATORY IMPACT ANALYSIS

Contact person: John S. Gillig, Assistant Attorney General

(1) Type and number of entities affected: This amendment to the existing administrative regulation affects the civil penalty assessment and hearing procedures of the Kentucky Emergency Response Commission ("KyERC"). The administrative regulation is designed to bring this procedure into conformity with KRS Chapter 13B, which sets out minimum due process standards and hearings procedures for Kentucky's boards, commissions and agencies. Potential entities affected are those entities required to report to the Kentucky Emergency Response Commission who fail to do so and are then, by law, subject to civil penalties.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: There should be no direct or indirect costs or savings, since this is an amendment to an existing civil penalty hearing procedure. There should be no impact on cost of living or employment. No comments, written or oral, were received regarding the proposed administrative regulation. Implementation is statewide.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: There should be no direct or indirect costs or savings, since this is an amendment to an existing civil penalty hearings procedure. There should be no impact on the cost of doing business in Kentucky. No comments, written or oral, were received regarding the proposed administrative regulation. Implementation is statewide.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: See answer to No. 2, below.

2. Second and subsequent years: There are no compliance, reporting or paperwork requirements above those in the existing administrative regulation. The proposed amendment should make the hearings process easier for affected entities required to report to the Kentucky Emergency Response Commission, if the commission were to take action against them for noncompliance with existing laws and

administrative regulations. There are no reasonably foreseeable effects upon competition.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: See answer to No. 2, below.

2. Continuing costs or savings: There are no continuing costs or savings related to this amendment to the existing administrative regulation. The proposed amendment should make the hearings process easier for affected entities required to report to the Kentucky Emergency Response Commission, if the commission were to take action against them for noncompliance with existing laws and administrative regulations. The proposed amendment should make the hearings process easier for the commission, but it is difficult to anticipate actual savings from this.

3. Additional factors increasing or decreasing costs: None known.

(b) Reporting and paperwork requirements: There are no additional paperwork or reporting requirements associated with this amendment, except perhaps those which will make it easier for all parties to any enforcement action brought by the commission to protect their rights and carry out their responsibilities.

(4) Assessment of anticipated effect on state and local revenues: There will be no effect whatsoever upon state or local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: There is no revenue impact upon the agency, since a hearing process already exists.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: See answer to No. 2, below.

(b) Kentucky: There were no public comments received, either written or oral. There will be no economic impact or effect on economic activity from this amendment to an existing administrative regulation.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The commission reviewed the extent to which a change in the existing administrative regulations of the commission were required by KRS Chapter 13B and made those changes in an effort to improve the administrative hearings process for both the commission and any entities brought before the commission. The commission did not attempt to cover every aspect of a potential hearings process, but to strike a balance and adopt amendments which went beyond the requirements of KRS Chapter 13B only if all sides would be benefited by clarifying existing commission procedures. More extensive, detailed alternative procedures were rejected because they would not add significantly to an understanding of the hearing process. There were no oral or written comments to the proposed administrative regulation.

(8) Assessment of expected benefits: There are two main benefits. First, the commission will have brought its hearings and civil penalty assessment process into accord with KRS Chapter 13B, as mandated by the legislature. Second, the proposed amendment will clarify the existing hearings process, making reference to the administrative regulations easier and helping to ensure that the rights and duties of all parties are more clearly spelled out.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The area of implementation is statewide. There is no effect on public health or environmental welfare in Kentucky.

(b) State whether a detrimental effect on environment and public health would result if not implemented: There would be no detrimental effect if not implemented; however, then the existing administrative regulations of the commission would not be in accord with KRS Chapter 13B.

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) 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: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(10) Any additional information or comments: No public comments were received, either written or oral.

(11) TIERING: Is tiering applied? Tiering is not used because the amendment relates to a hearings and civil penalty assessment procedure. Existing statutes require that certain entities report to the commission. If they fail to do so the commission may bring an action against them and assess civil penalties. Tiering is not possible in this administrative regulation because the General Assembly has already determined which entities must report to the commission. The administrative regulation applies only to those entities which have had an enforcement action brought against them by the commission.

**GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Amendment)**

201 KAR 12:082. School's course of instruction.

RELATES TO: KRS 317A.060, 317A.090

STATUTORY AUTHORITY: KRS 317A.050

NECESSITY AND FUNCTION: Schools shall provide a course of instruction of 1,800 hours of student training. The curriculum prepares the individual for examination for the appropriate license.

Section 1. The regular courses of instruction for cosmetology students shall contain the following:

(1) Professional practices.

(a) The cosmetology profession.

1. Cosmetology vocabulary.

2. Brief history: how it began, and changes.

3. Ethics: ethics in a beauty salon; and salon conduct.

(b) Salon procedures.

1. Hygiene and good grooming: personal and public; personal characteristics; and responsibilities of the cosmetologists.

2. Professional attitudes and salesmanship; personality development; salesmanship and business management; customer relationship; and telephone personality.

3. Public relations and psychology: behavior; and proper image.

(c) Specialty services.

1. Facial treatments and make-up: facial treatment/make-up preparation; implements and supplies; procedure in giving a plain facial; purpose and effect of message movements; facial cosmetics; special problems; eyebrow arching; and lash and brow dye.

2. Manicuring: purpose and effect; preparation; equipment; and procedures, including the following: plain manicure, oil manicure, removal of stains, repair work, hand and arm massage, buffing, application of lacquer, and application of artificial nails.

(2) Life sciences (general anatomy).

(a) Osteology: definition; and functions.

(b) Myology: definition; functions; and types.

(c) Neurology: definition; functions; types (motor and sensory); and principal nerves of the head, face and neck.

(d) Angiology: definition; composition of blood; and function of blood.

(e) Dermatology: structure of skin; functions of skin; appendages of skin; conditions of the skin; and lesions of the skin.

(f) Trichology: structure of hair; composition; blood and nerve supply; growth and regeneration; color, texture, elasticity, porosity; and conditions to be recognized.

(g) Nails: structure and composition; growth and regeneration; and irregularities.

(3) Physical sciences (chemistry and treatment).

(a) Chemistry.

1. Elements, compounds, and mixtures: properties of; acid and alkali; and chemistry of water.

2. Composition and uses of cosmetics: for the body; for the skin and face; and for the scalp and hair.

3. Chemistry of hair lightening.

4. Chemistry of hair coloring.

5. Chemical hair relaxing.

6. Chemistry of make-up.

7. Chemistry of facial treatments.

8. Chemistry of rinses: soaps and shampoos; and detergents.

9. Chemistry of cold waving.

(b) Scalp and hair treatments: purpose and effects; preparation and procedure; use of cap; electricity and therapeutic ray; and safety rules.

(c) Shampoos and rinses: importance of good shampoo; purpose of effects; required materials and implements; brushing and drying; types of shampoos; rinses (not colored); and composition.

(d) Hair coloring: principal reasons for coloring; advantages of coloring; classifications of hair coloring; variation of products; procedures; and safety measures.

(e) Hair lightening: types of lighteners; implements and supplies; procedure; special problems in hair lightening; fillers and toners; removal of aniline derivative tints; and tint back to natural coloring.

(f) Cold waving: basic requirements; scalp and hair analysis; hair porosity; hair texture; hair elasticity; hair density; curling rods and chemicals; variation of permanent wave products; procedures; problems; and safety measures.

(g) Sterilization and sanitation: definitions; importance; sterilization rules; and methods of sterilization.

(4) Hair designing or sculpturing.

(a) Hair shaping: fundamentals of hair shaping; correct use of tools; designing and planning the hair cut; sectioning and thinning; razor and shear shaping; wig shaping; and safety precautions.

(b) Hair styling: finger waving; pin curls; hair partings; artistry hair styling; dressing of the coiffure; special consideration in hair styling; chemical hair relaxing and styling; facial types; and hair pressing and types of hot-iron curling.

(c) Care and styling of wigs: purpose; quality; types of wigs; ordering wigs; cleaning; shaping; tinting and color rinsing; setting; and safety precautions.

Section 2. Schools shall teach the students of the various supplies and equipment used in the usual salon practices.

Section 3. Schools shall have the following charts or visual aids available for students' use:

(1) Charts or visual aids showing anatomy of muscles of face and neck with special reference to the direction of muscle fibers and function of muscle or groups of muscles;

(2) Charts or visual aids showing anatomy of nails.

Section 4. All students shall receive not less than 1,800 hours in clinical class work and scientific lectures with 450 minimum lecture hours for science and theory and 1,305 minimum clinic and practice hours; and forty-five (45) hours of Kentucky statutes and administrative regulations.

Section 5. One (1) hour per week shall be devoted to the teaching and explanation of the Kentucky law as set forth in KRS Chapter 317A and the rules and administrative regulations of the board.

Section 6. No school of cosmetology shall be granted a license to operate a school of cosmetology or annual renewal of license unless the following curriculum is maintained and taught.

(1) Curriculum for freshmen students.

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(a) Theory and related theory class, 100 hours.

1. General theory, including Kentucky cosmetology law and rules and administrative regulations adopted thereunder.

2. Clinical theory.

3. Lecturing theory.

(b) Clinical and related theory class (freshman practice class on students or mannequins), 200 hours.

1. Cold waves.

2. Facials and make-up.

3. Complete "S" formations or complete finger waves.

4. Pin curl technique.

5. Hair shaping.

6. Hair styling techniques.

7. Lash and brow tint.

8. Eyebrow arches.

9. Manicuring.

10. Scalp treatments.

11. Shampooing.

12. Hair coloring, bleaching, and rinsing (mixing and formulas).

13. Heat permanent.

14. Safety measures.

(2) Curriculum for junior and senior students.

(a) Theory and related theory class, 500 hours.

(b) Professional practices, life sciences (general anatomy), physical sciences (chemistry and treatment), hair designing safety measures, Kentucky cosmetology laws and rules and administrative regulations adopted thereunder.

(c) Clinical class, 1,000 hours.

1. Hair conditioning treatments.

2. Scalp treatments.

3. Hair shaping.

4. Shampoos.

5. Cold waves.

6. Chemical hair relaxing (permanent wave).

7. Complete "S" formation and complete finger waves.

8. Pin curl techniques.

9. Hair styles.

10. Iron curling.

11. Hair coloring and toning.

12. Bleaches and frostings.

13. Facials and make-up.

14. Manicuring.

15. Lash and brow tints.

16. Eyebrow arches.

17. Color rinses (certified color).

18. Wiggery.

19. Professional ethics and good grooming.

20. Salesmanship.

21. Reception desk and telephone answering.

22. Recordkeeping.

23. Dispensary (procedures for ordering supplies and retail merchandise).

24. Personality development.

25. Salon management.

26. Public relations.

Section 7. In addition to the regular course of instruction, cosmetology schools may have two (2) ~~one (1)~~ related lectures and demonstrations per month.

Section 8. Any time not utilized in theory or clinic work shall be used for study periods or library work.

Section 9. Each school shall furnish reference books for students' use. Any recognized textbook relevant to the art of science of cosmetology and educational to the student is acceptable to the board.

Section 10. Students of cosmetology shall not be permitted to work on the public until they have completed 300 hours of instruction.

Section 11. Students of cosmetology may be allowed eight (8) hours per day for two (2) out-of-school activities per 1,800 hours pertaining to the profession of cosmetology if reported to the board office on a standard form supplied by the board.

Section 12. Students of cosmetology may be permitted to attend two (2) educational programs within their 1,800-hour course for eight (8) hours credit per day, if reported to the board office on a standard form supplied by the board.

Section 13. Copies of the Kentucky State Board of Hairdressers and Cosmetologists' statutes and administrative regulations shall be made available to all students.

Section 14. Manicurist curriculum shall include the following:

(1) Science and theory; 100 hours.

(a) Equipment, sterilization, sanitation, public and personal hygiene safety measures, Kentucky cosmetology law and all rules and administrative regulations adopted thereunder.

(b) Nail condition and manicure techniques.

(c) Hand and arm massage.

(d) Science pertaining to areas of hands and arms.

(e) Personality, grooming, salon management, professional ethics, and cosmetic theory laws.

(2) Clinical; 200 hours.

(a) Oil and plain manicure.

(b) Nail polish changes, moons, half-moons, and tips.

(c) Hand and arm massage.

(d) Safety measures.

(e) Care of equipment.

(f) Removal of stains.

(g) Repair work.

(h) Buffing.

(i) Application of lacquer.

(j) Application of artificial nails.

Section 15. The course of study and curriculum for an apprentice instructor shall include as minimums, with a total of 1,000 hours, the following:

(1) Orientation, fifteen (15) hours.

(2) Psychology of student training, fifty (50) hours.

(3) Introduction to teaching, thirty (30) hours.

(4) Good grooming and personality development, fifty (50) hours.

(5) Course outlining and development, forty (40) hours.

(6) Lesson planning, forty-five (45) hours.

(7) Teaching techniques (methods), eighty (80) hours.

(8) Teaching aids, audio-visual techniques, eight (80) hours.

(9) Demonstration techniques, fifty-five (55) hours.

(10) Examinations and analysis, sixty (60) hours.

(11) Classroom management, forty-five (45) hours.

(12) Recordkeeping, twenty-five (25) hours.

(13) Teaching observation, sixty-five (65) hours.

(14) Teacher assistant, ninety (90) hours.

(15) Pupil teaching (practice teaching), 270 hours.

Section 16. All student instructors shall be under the immediate supervision and instruction of a licensed instructor at all times during the school day. No student instructor shall ever assume any of the duties and responsibilities of a licensed supervising instructor.

Section 17. All records of apprentice instructors' hours earned shall be recorded on a standard form supplied by the board office on or before the tenth day of each month.

Section 18. When permission of this board is given a student to enroll in a school for a special brush-up course in any of the following subjects, said student shall be required to have a course of training of the following number of hours in the course or courses he or she desires to take:

- (1) Permanent waving, and all chemical control, 150 hours.
- (2) Manicuring, hand and arm message, and bleach, 100 hours.
- (3) All iron curls, 100 hours.
- (4) Facials, 125 hours.
- (5) Hair coloring and bleaching, 150 hours.
- (6) Scalp message, 25 hours.
- (7) Hair shaping, trimming, and thinning, 125 hours.
- (8) Science, 100 hours.
- (9) Hair dressing and styling, 150 hours.

PAT WILSON GAISER, Chairman

APPROVED BY AGENCY: July 11, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, September 22, 1995, at 10 a.m. at the office of the board, 314 West Second Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify the Emergency Response Commission in writing by September 17, 1995, 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 to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 314 West Second Street, Frankfort, Kentucky 40601, (502) 564-4262.

REGULATORY IMPACT ANALYSIS

Contact person: Carroll Roberts

- (1) Type and number of entities affected: None
- (2) Direct and indirect costs or savings on the:
 - (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None
 - (b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None
 - (c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
 1. First year following implementation: None
 2. Second and subsequent years: None
 - (3) 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
 - (4) Assessment of anticipated effect on state and local revenues: Zero
 - (5) Source of revenue to be used for implementation and enforcement of administrative regulation: None required.
 - (6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternatives are provided for through educational shows and field trips related to cosmetology (201 KAR 12:082, Sections 11 and 12).

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: No

(c) If detrimental effect would result, explain detrimental effect: N/A

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies only to students enrolled in a school of cosmetology. All schools follow the same curriculum; therefore, tiering was not applicable.

GENERAL GOVERNMENT CABINET Board of Physical Therapy (Amendment)

201 KAR 22:070. Requirements for foreign-trained physical therapists.

RELATES TO: KRS 327.060

STATUTORY AUTHORITY: KRS 327.040

NECESSITY AND FUNCTION: This administrative regulation establishes the requirements a foreign-trained physical therapist shall satisfy to become licensed in the state of Kentucky. Because of variances in curriculums of foreign countries, specific requirements are needed to insure that the applicant possesses adequate educational and clinical preparation.

Section 1. A foreign-trained physical therapist shall be licensed if he:

(1) Furnishes the board an original favorable educational credentials evaluation report from:

- (a) International Credentialing Associates, Inc.;
- (b) International Consultants of Delaware, Inc.;
- (c) International Education Research Foundations, Inc.;

(2) Has graduated from a recognized physical therapy program in the country in which he was educated. The applicant shall have earned at least 120 U.S. semester credits in a program equivalent to a U.S. bachelors degree in physical therapy, of which at least sixty (60) semester credits must be in professional physical therapy courses.

(3) If seeking licensure by examination, speak English as his native language or have submitted the results of the Test of Spoken English (TSE) with a total score of at least fifty-five (55) for an examination taken July 1995 or later, or at least 220 for an examination taken between July 1993 and June 1995. A score report shall be accepted no longer than two (2) years from the examination date.

(4) Submits a satisfactorily completed application and appropriate fee.

(5) Has successfully completed one (1) year, totaling at least 1000 clock hours, of practice under the supervision of a physical therapist licensed under this chapter at a Kentucky facility previously approved by the board which satisfies the following requirements:

(a) The supervised practice shall be in a facility which is serving as a clinical education site for students enrolled in an APTA accredited program in physical therapist education;

(b) The applicant shall work only with on-site supervision until a minimum score of three and five-tenths (3.5) with no one (1.0) or two (2.0) on a four (4.0) point scale has been achieved utilizing the board provided clinical evaluation form. Evaluations shall be submitted to the board quarterly by the clinical supervisor until the required score denoting clinical competency has been reached;

(c) The supervising physical therapist shall, within the three (3) years prior to serving as a supervisor, have previously acted as clinical supervisor for a physical therapist student as part of an APTA accredited program;

(d) The applicant shall work under the supervision required of a U.S. educated physical therapist candidate issued a temporary permit after achieving the required score of three and five-tenths (3.5). This requirement may be satisfied by one (1) year of supervised practice in a state with licensure requirements at least comparable to those of Kentucky. Evidence of that experience in a comparable facility outside Kentucky must be in writing confirming successful completion and satisfactory performance; and

(6) Successfully completes the examination as specified in KRS 327.050. The examination, when next offered by the board for other candidates, shall be taken after the applicant becomes a candidate for licensure, unless excused by the board. When the foreign trained physical therapist candidate has passed the licensure examination as well as met the clinical competency requirements in subsection (5)(d) of this section, his physical therapy records do not need to be countersigned by the supervising physical therapist.

Section 2. Temporary Permits for Foreign Trained Physical Therapist Applicants. (1) Following completion of the requirements of Section 1(1) to (4) of this administrative regulation and submission of an approved Supervisory Agreement Statement, an applicant for licensure by examination, and an applicant who has not yet satisfactorily completed a year of supervised practice as a physical therapist may be issued a temporary permit to practice under the supervision of a designated Kentucky licensed therapist.

(2) All requirements for licensure shall be completed within one (1) year from the beginning of the supervised practice. If not completed within that time period, the temporary permit shall be revoked and the applicant shall no longer work in Kentucky as a physical therapist.

DEBORAH THARP, PT, Chairman

APPROVED BY AGENCY: June 2, 1995

FILED WITH LRC: August 3, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 29, 1995, at 9 a.m., at the Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by September 24, 1995, 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: Nancy Brinly, Executive Secretary, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222-5159, (502) 595-4687.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy Brinly

(1) Type and number of entities affected: Approximately 5 (per year) foreign educated physical therapist examination applicants whose native language is not English; the same as with the current administrative regulation.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Not applicable.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Not applicable.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

(4) Assessment of anticipated effect on state and local revenues: Not applicable.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Not applicable.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Not applicable.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Not applicable.

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable.

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(10) Any additional information or comments: These amendments are proposed only to reconcile the new passing score with the revised Test of Spoken English (TSE) for foreign educated physical therapist examination candidates whose native language is not English.

(11) TIERING: Is tiering applied? No. All physical therapists and physical therapist's assistants are treated uniformly by the Board of Physical Therapy.

DEPARTMENT OF CORRECTIONS (Amendment)

501 KAR 6:020. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470,

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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 ~~(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 are incorporated by reference on August 14, 1995 and hereafter should ~~(revised May 12, 1995, are incorporated by reference and shall)~~ be referred to as Department of Corrections Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, ~~(Kentucky)~~ Department of Corrections, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

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| 1.1 | Legal Assistance for Corrections Staff |
| 1.2 | News Media |
| 01-04-01 | The operation of Contracted Adult Correctional Facilities |
| 1.6 | Extraordinary Occurrence Reports |
| 1.9 | Institutional Duty Officer |
| 1.11 | Population Counts and Reporting Procedures |
| 1.12 | Operation of Motor Vehicles by Department of Corrections Employees |
| 2.1 | Inmate Canteen |
| 2.2 | Warden's Fund |
| 2.10 | Surplus Property |
| 3.12 | Institutional Staff Housing |
| 4.2 | Staff Training and Development |
| 4.3 | Firearms and Chemical Agents Training |
| 6.1 | Open Records Law |
| 7.2 | Asbestos Abatement |
| 8.1 | Occupational Exposure to Bloodborne Pathogens |
| 8.4 | Emergency Preparedness |
| 9.1 | Use of Force |
| 9.4 | Transportation of Inmates to Funerals or Bedside Visits |
| 9.5 | Execution ((Added 5/12/95)) |
| 9.6 | Contraband |
| 9.7 | Storage, Issue and Use of Weapons Including Chemical Agents |
| 9.8 | Search Policy |
| 9.9 | Transportation of Inmates |
| 9.10 | Security Inspections |
| 9.11 | Tool Control |
| 9.18 | Informants |
| 9.19 | Found Lost or Abandoned Property |
| 10.2 | Special Management Inmates |
| 10.3 | Safekeepers |
| 10.4 | Special Needs Inmates |
| 11.2 | Nutritional Adequacy of the Diet for Inmates |
| 11.3 | Special Diet Procedures |
| 13.1 | Pharmacy Policy and Formulary |
| 13.2 | Health Maintenance Services |
| 13.3 | Medical Alert System |
| 13.4 | Health Program Audits |
| 13.5 | Acquired Immune Deficiency Syndrome |
| 13.6 | Sex Offender Treatment Program |
| 13.9 | Dental Services |
| 14.2 | Personal Hygiene Items |
| 14.3 | Marriage of Inmates |
| 14.4 | Legal Services Program |
| 14.6 | Inmate Grievance Procedures |
| 15.1 | Hair and Grooming Standards |

| | |
|----------|---|
| 15.2 | Offenses and Penalties (Amended 8/14/95) |
| 15.3 | Meritorious Good Time |
| 15-05-01 | Restoration of Forfeited Good Time |
| 15.6 | Adjustment Procedures and Programs |
| 15.7 | Inmate Account Restriction |
| 16.1 | Inmate Visits |
| 16.2 | Inmate Correspondence |
| 16.3 | Telephone Calls |
| 16.4 | Inmate Packages |
| 17-01-01 | Inmate Personal Property |
| 17.2 | Assessment Center Operations |
| 17.3 | Controlled Intake of Inmates |
| 18.1 | Classification of the Inmate |
| 18.5 | Custody and Security Guidelines |
| 18.6 | Classification Document |
| 18.7 | Transfers |
| 18.9 | Out-of-state Transfers |
| 18-10-01 | Preparole Progress Reports |
| 18.11 | Kentucky Correctional Psychiatric Center Transfer Procedures |
| 18.12 | Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill |
| 18.13 | Population Categories |
| 18.15 | Protective Custody |
| 18.17 | Interstate Agreement on Transfers |
| 18.18 | International Transfer of Inmates |
| 19.1 | Government Services Projects |
| 19.2 | Community Services Projects |
| 19.3 | Inmate Wage Program |
| 20.1 | Educational Programs and Educational Good Time |
| 21.1 | Staffing Pattern for the First Incarceration Shock Treatment Program (FIST) |
| 21.2 | Phase I: Program Selection Assessment Criteria |
| 21.3 | Program Schedule - Phase II and Phase III |
| 21.4 | Platoon Size and Composition |
| 21.5 | Physical Conditions Program Component |
| 21.6 | Group and Individual Counseling |
| 21.7 | Drug and Alcohol Abuse Counseling and Treatment |
| 21.8 | Work Programs Component |
| 21.9 | Education and Life Management |
| 21.10 | Auxiliary Services |
| 21.11 | Offenses and Penalties |
| 22.1 | Privilege Trips |
| 23.1 | Religion ((Added 5/12/95)) |
| 25.1 | Gratuities |
| 25.2 | Public Official Notification of Release of an Inmate ((Amended 5/12/95)) |
| 25.3 | Prerelease Program |
| 25.4 | Inmate Furloughs |
| 25.6 | Community Center Program |
| 25.7 | Expedient Release |
| 25.8 | Extended Furloughs |
| 25.10 | Administrative Release of Inmates |
| 25.11 | Victim Notification ((Added 5/12/95)) |
| 27-01-01 | Probation and Parole Procedures |
| 27-02-01 | Duties of Probation and Parole Officers |
| 27-03-01 | Workload Formula Supervisor/Staff Ratio |
| 27-05-01 | Testimony, Court Demeanor and Availability of Legal Services |
| 27-06-01 | Availability of Supervision Services |
| 27-06-02 | Equal Access to Services |
| 27-07-01 | Cooperation with Law Enforcement Agencies |
| 27-08-01 | Use of Force |
| 27-09-01 | Kentucky Community Resources Directory |
| 27-10-01 | Advanced Supervision |
| 27-11-01 | Intensive Supervision |
| 27-12-01 | Supervision: Case Classification |

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

28-04-01 Furlough Verifications
 28-05-01 Out-of-state Investigations.

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: August 14, 1995

FILED WITH LRC: August 14, 1995 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation has been scheduled for September 22, 1995 at 9 a.m., in the Auditorium of the State Office Building. Those interested in attending this hearing shall notify in writing: Susan Alley, Kentucky Department of Corrections, Office of General Counsel, 2nd Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan Alley

(1) Type and number of entities affected: 2,948 employees of the Department of Corrections, 8,729 inmates, 14,211 parolees and probationers, and visitors to all state correctional institutions.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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: Policy revisions.

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation is the funds budgeted for this 1994-1996 biennium.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: N/A

(9) 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

(10) Any additional information or comments: None

(11) TIERING: Is 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

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14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

DEPARTMENT OF CORRECTIONS (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 promulgate [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 these provisions.]

Section 1. (1)(a) Western Kentucky Correctional Complex policies and procedures, August 14, 1995, are incorporated by reference.

(b) They may be inspected, copied, or obtained at the Office of the General Counsel, Department of Corrections, State Office Building, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(2) Western Kentucky Correctional Complex policies and procedures include: [Pursuant to the authority vested in the Department of Corrections the following policies and procedures, revised May 12, 1995 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 01-02-01 | Public Information and Media Communication |
| WKCC 02-00-03 | Invoice and Voucher Processing [(Amended 5/12/95)] |
| WKCC 02-00-04 | Monetary Receipts During Nonbusiness Hours [(Amended 5/12/95)] |
| WKCC 02-00-06 | Purchasing Procedures |
| WKCC 02-01-01 | Inmate Funds [(Amended 5/12/95)] |
| WKCC 02-01-02 | Inmate Canteen |
| WKCC 02-02-01 | Agency Funds and Accounting Procedures [(Amended 5/12/95)] |
| WKCC 02-08-01 | Property Receipt and Inventory Procedures |
| WKCC 04-01-01 | Travel Reimbursement for Official Business in Attendance at Professional Meetings |
| WKCC 04-02-01 | Employee Training and Development (Amended 8/14/95) |
| 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 (Amended 8/14/95) |
| WKCC 06-00-02 | Court Orders, Orders of Appearance, Warrants, Detainers, Etc. |
| WKCC 09-00-01 | Drug Abuse and Alcohol Testing (Amended 8/14/95) |
| WKCC 10-02-01 | Special Management Inmates |
| 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 |
| 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 |
| WKCC 13-02-01 | Health Care Services [(Amended 5/12/95)] |
| WKCC 14-04-01 | Legal Services Program (Amended 8/14/95) |
| WKCC 14-06-01 | Inmate Grievance Procedure |
| WKCC 15-01-01 | Hair and Grooming Standards |
| WKCC 16-01-01 | Visiting Policy and Procedures |
| WKCC 16-02-01 | Inmate Correspondence |
| WKCC 16-03-01 | Inmate Access to Telephones (Amended 8/14/95) |
| 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 |
| WKCC 22-00-01 | Inmate Recreation and Leisure Time Activities [(Amended 5/12/95)] |
| WKCC 22-00-02 | Inmate Clubs and Organizations |
| WKCC 23-00-01 | Religious Services |
| WKCC 25-02-01 | Inmate Release Process (Amended 8/14/95) |
| WKCC 25-03-01 | Prerelease Programs |

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: August 14, 1995

FILED WITH LRC: August 14, 1995 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation has been scheduled for September 22, 1995 at 9 a.m., in the Auditorium of the State Office Building. Those interested in attending this hearing shall notify in writing: Susan Alley, Corrections Cabinet, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan Alley

(1) Type and number of entities affected: 143 employees of the correctional institution, 410 inmates, and all visitors to state correctional institutions.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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: Policy revisions.

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation is the funds budgeted for this 1994-1996 biennium.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

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(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: N/A

(9) 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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

TRANSPORTATION CABINET
Department of Highways
Division of Transportation Planning
Department of Vehicle Regulation
Division of Motor Carriers
Division of Motor Vehicle Enforcement
(Amendment)

603 KAR 5:070. Motor vehicle dimension limits.

RELATES TO: KRS 189.222, 23 CFR Part 658

STATUTORY AUTHORITY: KRS 189.222(1), 23 CFR Part 658

NECESSITY AND FUNCTION: KRS 189.222 authorizes the Secretary of Transportation to establish reasonable size limits for motor vehicles using the State Primary Road System. The State Primary Road System consists of those roads maintained by the Department of Highways. Further, 23 CFR Part 658 requires that a reasonable ~~(five (5) mile)~~ access on state-maintained highways and ~~[a one (1) mile access on]~~ locally controlled highways be included with the list of highways over which motor vehicles with increased dimensions shall be ~~[are]~~ allowed to operate. The federal regulation strongly suggests that the states allow the motor vehicles with increased dimensions to operate with a gross weight of up to 80,000 pounds (36,287.36 kilograms) where the motor vehicles with increased dimensions are allowed. The federal regulation also requires that vehicles with increased dimensions which are transporting household goods and truck tractors towing only one (1) semitrailer which does not exceed twenty-eight (28) feet (8.53 meters) be provided statewide access unless a route is specifically excluded for safety reasons. This administrative regulation is adopted to set the maximum motor vehicle and combination vehicle dimensions for all classes of highways. However, bus dimension limits are set forth in 603 KAR 5:071.

Section 1. Definitions. (1) "Length exclusion safety device" means an appurtenance at the front or rear of a ~~[commercial]~~ motor vehicle semitrailer or trailer whose function is related to the safe and efficient operation of the semitrailer or trailer and shall not be designated, designed or used for carrying cargo.

(2) "Width exclusion safety device" means an appurtenance at the side of a ~~[commercial]~~ motor vehicle semitrailer or trailer whose

function is normally related to the safe and efficient operation of the semitrailer or trailer and shall not be designated, designed or used for carrying cargo.

Section 2. (1) The following items shall be designated as width exclusion safety devices:

- (a) Rearview mirrors;
- (b) Turn signal lamps;
- (c) Hand holds for cab entry or egress;
- (d) Splash and spray suppressant devices; and
- (e) Load induced tire bulge.

(2) The following items shall be designated as width exclusion safety devices as long as they do not extend beyond three (3) inches (0.0762 meters) on either side of the vehicle:

- (a) Corner cap;
- (b) Rear and side door hinges and their protective hardware;
- (c) Rain gutters;
- (d) Side marker lamps;
- (e) Lift pads for piggyback trailers;
- (f) Hazardous materials placards;
- (g) Tarp and tarp hardware;
- (h) Tie-down assembly on platform trailers;
- (i) Wall variation from true flat; and
- (j). Weevil pins and sockets on low bed trailers.

Section 3. Except as provided in Section 4 of this administrative regulation, the maximum dimensions for all motor vehicles and combination vehicles except buses using all classes of highways shall be as follows:

(1) Height: including body and load, not to exceed thirteen (13) feet and six (6) inches (4.115 meters).

(2) Width: including body and load, not to exceed eight (8) feet (2.44 meters), excluding any width exclusion safety device.

(3) Length. The maximum lengths listed below shall not include length exclusion safety devices:

(a) The length of a single unit motor vehicle, including any part of the body or load, shall not exceed forty-five (45) feet (13.716 meters).

(b) A single unit motor vehicle transporting utility poles or pipes in which the vehicle and load do not exceed forty-five (45) feet (13.716 meters) shall not be required to obtain an overdimensional permit.

(c) If the front or rear overhang of a single unit motor vehicle exceeds five (5) feet (1.524 meters), an overdimensional permit shall be obtained prior to the operation of the vehicle.

(d) A motor vehicle and trailer or semitrailer combination, including any part of the body or load, shall not exceed sixty-five (65) feet (19.812 meters).

(e) If a truck tractor or semitrailer unit is exclusively engaged in the transportation of motor vehicles or boats, a three (3) foot (0.915 meters) front and four (4) foot (1.22 meters) rear overhang shall not be included in the measurement of the sixty-five (65) feet (19.812 meters) limit established in paragraph (d) of this subsection.

(4) Weight.

(a) The gross weight limit for each highway segment is set forth in 603 KAR 5:301.

(b) The axle weight limit and the bridge weight formula are set forth in 603 KAR 5:066.

Section 4. (1) Motor vehicles or combination vehicles except buses with dimensions greater than those specified in Section 3 of this administrative regulation but which do not exceed the dimensions set forth in subsection (2) of this section may be operated without an overweight or overdimensional permit only on the highways listed in Section 5(1) of this administrative regulation, on the five (5) mile (8.05 kilometers) access authorized in Section 5(2) of this administrative regulation, and on the one (1) mile (1.61 kilometers) access authorized in Section 5(3) of this administrative regulation.

(2) Motor vehicles shall not exceed, without an overdimensional permit, the following width and length dimensions when operating on those highways listed in Section 5(1) of this administrative regulation:

(a) Width - 102 inches (2.5908 meters) including any part of the body or load except for width exclusion devices.

(b) Length.

1. Semitrailers - excluding length exclusion devices, fifty-three (53) feet (16.154 meters) including body and load when operated in tractor semitrailer combination.

2. Trailers - excluding length exclusion safety devices, twenty-eight (28) feet (8.53 meters) including body and load when operated in a tractor-semi-trailer-trailer combination, not to exceed two (2) trailers per truck tractor. Twenty-eight (28) feet (8.53 meters), excluding length exclusion safety devices, shall be the maximum length of a trailer including body and load when operated in a truck-trailer combination.

3. If the load overhangs the body of the trailer or semitrailer by more than five (5) feet (1.524 meters) an overdimensional permit shall be required regardless of the overall length of the unit, except in truck tractor and semitrailer units exclusively engaged in the transportation of motor vehicles or boats, a three (3) foot (0.914 meters) front and four (4) foot (1.22 meters) rear overhang of the transported vehicles or boats shall be excluded in the measurement.

4. There shall be no overall length limitation on motor vehicles operating on highways listed in Section 5(1) of this administrative regulation or on the five (5) mile (8.05 kilometers) local access authorized in Section 5(2) of this administrative regulation as long as the requirements set forth in this subsection are met.

5. In a tractor semitrailer-trailer combination vehicle in which the two (2) trailing units are connected with a rigid frame extension attached to the rear frame of the first semitrailer which allows for a fifth wheel connection point for the second semitrailer, the length of the extension shall be excluded from the measurement of semitrailer length; however, when there is no second semitrailer mounted to the fifth wheel, the length of the extension shall be included in the length measurement for the semitrailer.

(3) The gross vehicle weight limit for each of the highway segments set forth in Section 5 of this administrative regulation shall be 80,000 pounds (36,287.36 kilograms) except the axle weight limits and bridge weight limits set forth in 603 KAR 5:066 shall not be exceeded.

(4) The dimensions and weights specified in this section shall not be subject to any enforcement tolerances provided in any other section.

Section 5. (1) The following highways are designated to permit the operation of motor vehicles with increased dimensions but which do not exceed the limitations stated in Section 4(2) of this administrative regulation:

The Interstate and National Defense Highway System.

Audubon Parkway - from Pennyriple Parkway at Exit 77 in Henderson to US 60 Bypass in Owensboro.

Bluegrass Parkway - from I-65 at Exit 93 in Elizabethtown to US 60 near Versailles.

Cumberland Parkway - from I-65 at Exit 43 near Smiths Grove to US 27 west of Somerset.

Daniel Boone Parkway - from US 25 north of London to KY 15 north of Hazard.

Green River Parkway - From I-65 at Exit 20 in Bowling Green to US 60 Bypass in Owensboro.

Jackson Purchase Parkway - from Tennessee state line to US 62 [I-24] in Marshall County.

Mountain Parkway and Extension - from I-64 at Exit 98 in Winchester to US 460 at Salyersville.

Pennyriple Parkway - From US 41A south of [in] Hopkinsville to US 41 near Henderson.

Western Kentucky Parkway - from I-24 at Exit 42 south of

Eddyville to US 31W/KY 61 in Hardin County.

KY 1 - From the I-64 ramps south of the I-64 interchange at Exit 172 to KY 9 north of I-64 all in Carter County.

KY 3 - From the junction with US 23 at Auxier to the junction with KY 645 south of Inez.

KY 4 - The entire circle of Lexington.

KY 8 - From the junction with KY 19 at Augusta in Bracken County to a point one (1) mile east of the junction with KY 1597 in Mason County.

KY 9 - From the junction with KY 1 in Carter County to the junction with I-275 at Exit 77 in Kenton County.

KY 11 - from the junction with KY 32 in Fleming County to US 62/68 in Maysville.

KY 15 - from US 119 in Whitesburg to KY 15 Spur/KY 191 [the Mountain Parkway] at Campton, via KY 7 in Letcher County.

KY 15 Spur - From KY 15/KY 191 to the Mountain Parkway at Exit 43.

KY 18 - from KY 237 northwest of Florence [338 at Burlington] to KY 1017 in Florence.

KY 19 - From the junction with KY 9 [546] to the junction with KY 8 at Augusta.

KY 21 - from I-75 at Exit 76 near Berea to US 25 south in Berea. [US 23 - from KY 610 at Dorton to the Ohio state line.]

US 23 - from the Virginia state line to US 119 near Jenkins.

US 23 - From the junction with KY 610 at Dorton to the south end of the U.S. Grant Bridge at South Portsmouth.

US 23 Spur - from US [23/60] in Ashland to the Ohio state line.

US 25 - from KY 461 in Rockcastle County to I-75 at Exit 62 in Rockcastle County.

US 25/421 - from US 421 south of Richmond to KY 876 in Richmond.

US 25/421 - from KY 418 southeast of Lexington via [to] KY 4 to Nandino Boulevard in Lexington.

US 25 - from US 42 in Florence to Ohio State Line.

US 25E - from Virginia state line to I-75 at Exit 29 north of Corbin.

US 27 - from Tennessee state line to the Ohio State Line [KY 474 near Alexandria] (via KY 4 in Lexington).

US 31E - from Tennessee state line to KY 90 at Glasgow (via the Scottsville Bypass and the Glasgow Bypass).

US 31E/[4]150 - From the junction with I-265 at Exit 17 in south-east Jefferson County to the junction with I-264 at Exit 16 [north of West Buchel].

US 31W - from Tennessee state line to KY 255 in Park City, via KY 1008 in Simpson County. [73 north of Franklin.]

US 31W - from the Green River Parkway to US 68 north of Bowling Green.

US 31W - from US 31W Bypass in Elizabethtown to I-264 at Exit 8 in Louisville [Shively].

US 31W Bypass - from Western Kentucky Parkway at Exit 136 to US 31W in Elizabethtown.

KY 32 - from KY 11 in Fleming County to I-64 at Exit 137 [US 60] at Morehead.

KY 35 - from US 127 at Bromley to I-71 at Exit 57 north of Sparta.

[KY 36 - from I-64 south of Owingsville to US 60 at Owingsville.]

KY 36 - from the Kawneer Corporation Plant Road in Carroll County (running concurrently with US 42 in Carrollton) to KY 227.

US 41 - from US 68 (Main Street) in Hopkinsville to US 68 (McLean Avenue) in Hopkinsville.

[US 41 - concurrent with Pennyriple Parkway from south of Nortonville to north of Madisonville.]

US 41 - from Pennyriple Parkway at Henderson to Indiana state line.

US 41A - from Tennessee state line to Pennyriple Parkway at south city limits of Hopkinsville.

[US 41A - from KY 112 in Earlington to KY 281 and KY 1751 in Madisonville.]

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US 41A - From Wanamaker Road north of Dixon in Webster County (milepoint 11.524) to KY 425, the Henderson Bypass in Henderson County.

~~[US 42 - from I-264 northeast of Louisville to Oldham County line.]~~

US 42 - from I-75 at Exit 180 in Florence to US 25 in Florence.

US 42 - from KY 36 in Carroll County at milepoint 4.519 (running concurrently with KY 36 for 2.699 miles) north to KY 47 at Ghent.

US 45 - from the Jackson Purchase Parkway north of Mayfield to US 60 in Paducah.

~~[US 45 Bypass - concurrent with the Jackson Purchase Parkway from southwest of Mayfield to US 45 north of Mayfield.]~~

US 49 - Concurrent with KY 55 south of Lebanon to north of Lebanon.

US 51 - from Jackson Purchase Parkway at Exit 1 in Fulton County to Illinois state line.

KY 52 - from KY 876 in Richmond to KY 499 at Irvine.

KY 55 - from Cumberland Parkway at Exit 49 in Columbia to US 150 at Springfield, via US 68 and KY 49.

US 60 - from US 51 in Wickliffe via US 45 in McCracken County to US 62 east of Paducah.

US 60 - from KY 109 at Sullivan in Union County to KY 425, the Henderson Bypass.

US 60 - from KY 1554 to US 60B, the Owensboro Bypass, all in Daviess County.

US 60 - from US 60 Bypass east [west] of Owensboro to KY 69 at Hawesville.

US 60 - from KY 144 at Hog Wallow [in Meade County] to US 31W at Tip Top, all in Meade County.

~~[US 60 - from I-264 east of Louisville to KY 1531 at Eastwood.]~~

US 60 - from US 421/460 at Frankfort to I-75 at Exit 110 near Lexington (via Versailles and KY 4 in Lexington).

US 60 - from junction of KY 180 near Cannonsburg to US 23 in Ashland.

US 60 Bypass - from US 60 west of Owensboro to US 60 east of Owensboro.

KY 61 - from Tennessee state line to KY 90 at Burkesville.

KY 61 - from the junction with US 31E in Hodgenville to US 31W in Elizabethtown.

US 62 - from I-24 at Exit 7 in Paducah to US 45 in Paducah.

US 62 - from US 60 east of Paducah to US 68, all in McCracken County. ~~[Western Kentucky Parkway east of Eddyville.]~~

~~[US 62 - from US 150 at Bardstown to KY 245 at Bardstown.]~~

US 62 - from KY 341 northeast [US 421 west] of Midway to US 421 in Scott County, concurrent with US 421.

~~[US 62 - from KY 353 southwest of Cynthiaiana to US 27 at Cynthiaiana.]~~

US 62 - from US 68 at Washington to the Ohio state line at Maysville, all in Mason County.

US 68 - from US 62 at Reidland to the south ramps of I-24 at Exit 16, all [KY 284] in McCracken County.

US 68 - from I-24 at Exit 65 in Trigg County to Green River Parkway at Exit 5 at Bowling Green via US 41 in Hopkinsville.

US 68 - from KY 55 southwest of Campbellsville to KY 55 in Lebanon.

US 68 - from its east intersection with US 150 in Perryville to its west intersection with US 150 in Perryville.

US 68 - from US 127 south in Harrodsburg to US 127 north in Harrodsburg.

US 68 - from US 27 at Paris to US 62 at Washington (via Paris Bypass).

KY 69 - from US 60 at Hawesville to Indiana state line.

KY 70 - from I-65 at Exit 53 west of Cave City to KY 90 southeast of Cave City.

KY 79 - from KY 1051 in Brandenburg to Indiana state line.

KY 80 - from KY 80B east of [at] Somerset to US 25 north of London.

KY 80 - from KY 15 north of [at] Hazard to US 23 at Watgap.

KY 80 - from the south ramps of the Daniel Boone Parkway at Exit 20 to US 421 near Manchester.

KY 80B - From US 27 at Somerset to KY 80 east of Somerset.

KY 90 - from KY 70 at Cave City to US 31E north of [Cumberland Parkway at] Glasgow.

KY 90 - from KY 61 at Burkesville to US 27 at Burnside.

KY 109 - from KY 670 in Webster County to US 60 in Union County.

KY 114 - from US 460 east of Salyersville to US 23/460 at Prestonsburg.

KY 118 - from US 421 and KY 80 northwest of Hyden to the Daniel Boone Parkway at Exit 44.

US 119 - from KY 15 east of [at] Whitesburg to US 23 near [at] Jenkins.

US 119 - from US 25E south of Pineville to US 421 at Harlan.

US 119 - from US 23 at Pikeville to KY 1441 northeast of Pikeville.

KY 121 - from the Jackson Purchase Parkway at Exit 24, at Mayfield to US 51 in Wickliffe.

US 127 - from KY 90 west to KY 90 east in Clinton County (concurrent with KY 90).

US 127 - from the Cumberland Parkway at Exit 62 in Russell County north to the junction with US 127 Bypass and US 150 Bypass in Danville.

US 127 - from US 127 Bypass north of Danville to US 127 Bypass south of Lawrenceburg [KY 451 north of Lawrenceburg via the Lawrenceburg bypass].

US 127 - from US 127 Bypass north of Lawrenceburg [I-64 west of Frankfort] to US 421 in Frankfort.

US 127 - from KY 22 in Owenton to KY 35 at Bromley.

US 127 Bypass - from US 127 south of Danville to US 127 north of Danville.

US 127 Bypass - from US 127 south of Lawrenceburg to US 127 north of Lawrenceburg.

KY 144 - from KY 448 south of Brandenburg to US 60.

US 150 - from US 62 at Bardstown to US 27 at north city limits of Stanford (via US 68 in Perryville and via the US 150 Bypass in Danville).

US 150B - from US 127 south of Danville to US 150 east of Danville.

US 150 Bypass - from US 150 at northern city limits of Stanford to US 27, all in Lincoln County.

KY 151 - from US 127 near Lawrenceburg to I-64 at Exit 48 near Graefenburg.

KY 180 - from I-64 at Exit 185 near Cannonsburg to US 60 at Cannonsburg.

KY 191 - from KY 205 north to KY 205 south in Wolfe County, concurrent with KY 205.

KY 192 - from I-75 at Exit 38 south of London to Daniel Boone Parkway east of London.

KY 205 - from Mountain Parkway at Helechawa to US 460 west in Morgan County, concurrent with KY 191.

KY 212 - from the [KY 20 to] Greater Cincinnati Airport to KY 20, all in Boone County.

KY 227 - from I-71 at Exit 44 [KY 355 near Worthville] to KY 36 at Carrollton.

US 231 - from US 60 Bypass in Owensboro to Indiana state line. ~~[US 231 - from I-65 east of Bowling Green to US 31W in Bowling Green.]~~

KY 236 - from US 25 at Erlanger to KY 212 near the Greater Cincinnati Airport.

KY 237 - from KY 18 east of Burlington to I-275 at Exit 7 in Boone County.

KY 245 - from US 150 east of Bardstown to I-65 at Exit 112 south of Shepherdsville.

KY 255 - from US 31W (2nd Street) in Park City to the I-65

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interchange northwest ramps at Exit 48.

KY 259 - from Western Kentucky Parkway at Exit 107 to US 62 in Leitchfield.

~~[KY 281 - from US 41A in Madisonville to the Pennyryle Parkway, concurrent with US 41.~~

~~[KY 338 - from the junction with I-75 west of Richwood to the junction with US 25 in Richwood.]~~

KY 341 - from US 62/421 near Midway north to I-64 at Exit 65.

KY 348 - from Jackson Purchase Parkway at Exit 43 west of Benton to US 641 in Benton.

KY 418 - from US 25 south of Lexington to I-75 at Exit 104.

US 421 - from 0.1 mile south of Harlan Appalachian Regional Hospital.

US 421 - from Daniel Boone Parkway at Exit 20 to KY 2438 (2nd Street) in Manchester.

US 421 - from KY 4 in Lexington to US 62 east in Scott County.

US 421 - from US 60/460 in Frankfort to US 127 north.

US 421 - from KY 55 south of Newcastle in Henry County to I-71 at Exit 34 west of Campbellsburg.

KY 425 - from US 60 at Henderson to the Pennyryle Parkway at Exit 76.

US 431 - from US 60 Bypass in Owensboro to US 60 (4th Street) in Owensboro.

KY 446 - from US 31W northeast of Bowling Green to I-65 at Exit 28.

KY 448 - from KY 144 to KY 1051 at Brandenburg.

US 460 - from I-64 at Exit 110 north of Mt. Sterling to KY 686.

US 460 - from Mountain Parkway Extension at Exit 75 to US 23 near Paintsville.

KY 461 - from KY 80 in Pulaski County to US 25 north of Mt. Vernon in Rockcastle County.

KY 471 - from US 27 in Campbell County to the I-275/471 interchange at Exit 1. ~~[junction.~~

~~[KY 546 - from I-275/KY 9 at Wilder to KY 59 south of Vanceburg.]~~

KY 555 - from US 150 at Springfield to Bluegrass Parkway at Exit 42.

KY 627 - from I-75 interchange at Exit 95 in Madison County to the junction with KY 1958 (Winchester Bypass) in Clark County.

US 641 - from Tennessee state line to KY 348 in Marshall County ~~[US 641A south of Benton].~~

US 641 Spur [A] - from US 641 south of Benton to the Jackson Purchase Parkway at Exit 41.

KY 645 - from US 23 south of Ulysses to KY 3 south of Inez.

KY 676 - from US 127 in west Frankfort to US 60 in east Frankfort.

KY 686 - from US 460 north of Mt. Sterling to KY 11 south of Mt. Sterling.

~~[KY 841 - from I-71 in Jefferson County to US 42 northeast of Louisville.]~~

KY 841 - from US 31W (Dixie Highway) in southwestern Jefferson County to I-65 at Exit 125.

KY 841 - from I-71 at Exit 9 in Jefferson County to US 42 northeast of Louisville.

~~[KY 850/KY 57 - from I-64 east of Lexington to Lexington - Bluegrass Army Depot.]~~

KY 876 - from I-75 at Exit 87 at Richmond to KY 52 east of Richmond.

KY 922 - from KY 4 in Lexington north to I-64 and I-75 at Exit 115.

KY 1008 - from US 31W in south Franklin to US 31W in north Franklin.

KY 1017 - from US 25 in Florence to I-75 at Exit 182.

KY 1051 - from ~~[KY 79 to]~~ KY 448 south of Brandenburg to KY 79.

KY 1597 - From KY 3056 ~~[435]~~ northwest of Maysville to KY 8 all in Mason County.

KY 1682 - from US 68 west of Hopkinsville to Pennyryle Parkway

at Exit 12.

KY 1958 - from KY 627 south of Winchester to I-64 at Exit 94 at Winchester.

KY 1998 - from US 27 at Cold Springs to KY 8 near ~~[at]~~ Silver Grove.

(2) Motor vehicles with the increased dimensions specified in Section 4 of this administrative regulation shall be allowed five (5) driving miles (8.05 kilometers) on state maintained highways from the highway segments specified in subsection (1) of this section for the purpose of attaining reasonable access to terminals, facilities for food, fuel, repairs and rest.

(3) Motor vehicles with the increased dimensions specified in Section 4 of this administrative regulation shall be allowed one (1) driving mile (1.61 kilometers) on nonstate maintained public use highways from the highway segments specified in subsection (1) of this section for the purpose of attaining reasonable access to terminals, facilities for food, fuel, repairs and rest.

Section 6 (1) Household Goods Transporters. Motor vehicles with the increased dimensions specified in Section 4 of this administrative regulation and which are used to transport household goods by a motor carrier certificated by either the Interstate Commerce Commission or the Kentucky Transportation Cabinet to transport household goods shall have access to any public roadway in the Commonwealth of Kentucky.

(2) Single unit semitrailers. Motor vehicles with the increased dimensions specified in Section 4 of this regulation and which consist of only a truck tractor and single semitrailer which does not exceed twenty-eight (28) feet excluding any length exclusion safety device shall have access to any public roadway in the Commonwealth of Kentucky.

Section 7. Nonstate Maintained Exceptions to One (1) Mile (1.61 Kilometers) Automatic Access. The following local government ~~has [e have]~~ adopted ordinances which exempt for safety reasons certain locally maintained roadways from the automatic one (1) mile (1.61 kilometers) access provision of Section 5(3) of this administrative regulation: The city of Anchorage in Jefferson County - the streets all within the corporate city limits of Anchorage listed in the city ordinance which shall not be used by motor vehicles with the increased dimensions specified in Section 4 of this administrative regulation ~~[STAA dimensioned vehicles]~~ are:

- (1) Evergreen Road;
- (2) Bellewood Road;
- (3) Lucas Lane; and
- (4) Old Harris Creek Road.

Section 8. State-maintained Exceptions to Automatic Five (5) Mile (8.05 Kilometers) Access. The Department of Highways has found the following road segment~~[e]~~ for safety reasons to be exempt from the five (5) mile (8.05 kilometers) automatic access on state-maintained highways set forth in Section 5(2) of this administrative regulation. These road segments shall not be used by ~~[STAA dimensioned]~~ vehicles which exceed the dimension limits set forth in Section 4 of this administrative regulation without an overdimensional permit: KY 146 - from the west boundary of the city of Anchorage at milepoint 4.258 to the east boundary of the city of Anchorage at milepoint 5.878.

Section 9. Length Measurements. (1) The Federal Highway Administration interpretation of truck length and width exclusive devices published in the "Federal Register" on March 13, 1987 shall govern measuring the length of a semitrailer or trailer. Pages 7834 through 7840 of the March 13, 1987 "Federal Register" are incorporated by reference as a part of this administrative regulation.

(2) The material incorporated by reference may be viewed, copied, or obtained from the Transportation Cabinet, Division of Motor

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Vehicle Enforcement, 8th Floor, 501 High Street, Frankfort, Kentucky 40622. The telephone number is (502)564-3276. The business hours of the division are 8 a.m. to 4:30 p.m. eastern time on weekdays.

NORRIS BECKLEY, Commissioner
J.M. YOWELL, P.E., State Highway Engineer
JERRY ANGLIN, Deputy Secretary and Commissioner
DON C. KELLY, P.E., Secretary

APPROVED BY AGENCY: August 15, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public comment hearing will be held on this administrative regulation on September 29, 1995 at 9 a.m., local prevailing time in Room 1003 of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by September 24, 1995 so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. 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. The party requesting the transcript will be responsible for paying the cost of its preparation. 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 canceled, written comments will be accepted until September 29, 1995. If you have a disability for which the Transportation Cabinet needs to make an accommodation, contact Sandra G. Pullen. Her address is listed below. Her telephone number is 502-564-4890. The contact does not have to be in writing. 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, 10th Floor, 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: All operators of STAA type vehicles in Kentucky.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comment hearing was held on the notice of intent. However, no impacts on the cost of living or employment are anticipated.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comment hearing was held on the notice of intent. However, no impacts on the cost of business are anticipated.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: No change as a result of the changes to this administrative regulation.

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: None as a result of the changes to this administrative regulation.

(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

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and

enforcement of administrative regulation: Road funds are used in the enforcement of this administrative regulation.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No public comment hearing was held on the notice of intent. However, no economic impacts are anticipated.

(b) Kentucky: Ditto

(7) Assessment of alternative methods; reasons why alternatives were rejected: The do-nothing alternative was rejected because of the major renumbering of highways in the northern Kentucky area. To keep the administrative regulation current, it had to be amended.

(8) Assessment of expected benefits: Ease of understanding of the roads included in the system.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

(9) 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:

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Yes. Tiering was applied by allowing larger vehicles to operate on those highways with geometrics conducive to the safe operation of those vehicles.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 23 CFR Part 658, Truck Size and Weight; Reasonable Access requires each state to establish access provisions to the National Truck Network of Highways which meet the criteria set forth in the federal regulation and to get federal approval of the criteria.

2. State compliance standards. The state compliance standards set forth in this administrative regulation meet the federal requirements, but do not exceed them. Specifically, five-mile access on state-maintained highways and one-mile access on locally-maintained highways are allowed from the National Truck Network of Highways. However, if there are reasonable safety grounds for excluding a road segment from the access provisions, the Transportation Cabinet in accordance with 603 KAR 5:250 may do so.

3. Minimum or uniform standards contained in the federal mandate. Same as adopted in the state administrative regulation.

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. Not applicable.

TRANSPORTATION CABINET

Department of Highways

Division of Transportation Planning

Department of Vehicle Regulation

Division of Motor Carriers

Division of Motor Vehicle Enforcement

(Amendment)

603 KAR 5:071. Bus dimension limits.

RELATES TO: KRS 189.221, 189.222, 189.265, 281.735, 23 CFR Part 658

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STATUTORY AUTHORITY: KRS 189.221, 189.222, 189.265, 281.735, 23 CFR Part 658

NECESSITY AND FUNCTION: KRS 189.222 authorizes the Secretary of Transportation to increase the dimension limits prescribed in KRS 189.221 for vehicles operated on designated state maintained highways or portions thereof up to specified limits if the increase is justified by the safety of the designated highways. KRS 189.222(6)(b) authorizes the Secretary of Transportation to increase the width limit for vehicles on the Federal Aid Highway System and the State Parkway System when authorized by federal law or laws or regulations up to a specified limit. KRS 189.265 establishes length and width limits for buses and authorizes the Secretary of Transportation to increase the width limits of motor buses, except for those operated by transit authorities created pursuant to KRS Chapter 96A, on state maintained highways if the increase is justified by the width of the designated highways. KRS 281.735(3) establishes a width limit for city and suburban buses and authorizes the Secretary of Transportation to increase the width limit on state maintained highways for all other buses only as provided by law. Federal regulation 23 CFR Part 658 requires the establishment of a system of roads both state maintained and locally maintained over which motor vehicles with increased dimensions are allowed to operate. This administrative regulation is adopted to set the maximum dimension limits for buses.

Section 1. Except as provided in Sections 2 and 3 of this administrative regulation the maximum dimensions for buses having a seating capacity of ten (10) or more, including the driver, operated on any state maintained highway shall be as set forth in KRS 189.265.

Section 2. Buses which do not exceed a width of 102 inches (2.5925 meters), exclusive of any required safety equipment and tire bulge due to load, may be operated on those highways designated for the operation of motor vehicle with increased dimensions by Section 5 [3] of 603 KAR 5:070.

Section 3. Buses which are allowed the increased width under the authority of Section 2 of this administrative regulation shall be allowed to operate within five (5) driving miles (8.05 kilometers) on state maintained highways from the designated routes for the purpose of attaining reasonable access to terminals; facilities for food, lodging, and rest; facilities for fuel and repairs; and points of loading and unloading of passengers and freight.

Section 4. Buses which are allowed the increased width under the authority of Section 2 of this administrative regulation shall be allowed to operate within one (1) driving mile (1.61 kilometers) on locally maintained highways from the designated routes for the purpose of attaining reasonable access to terminals; facilities for food, lodging, and rest; facilities for fuel and repairs; and points of loading and unloading of passengers and freight.

NORRIS BECKLEY, Commissioner
J.M. YOWELL, P.E., State Highway Engineer
JERRY ANGLIN, Deputy Secretary and Commissioner
DON C. KELLY, P.E., Secretary

APPROVED BY AGENCY: June 26, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on September 29, 1995 at 3 p.m. local prevailing time in the Transportation Cabinet, Corner of High, Clinton and Holmes Streets, 4th Floor Hearing Room, 501 High Street, Frankfort, Kentucky 40622. Any person who intends to attend this meeting must in writing by September 24, 1995 so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. 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 September 24, 1995. 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 September 29, 1995. 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: Operators of all buses in the Commonwealth of Kentucky.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: None

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Road Fund and Federal Motor Carrier Safety Grant Program Funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: The do-nothing alternative was rejected because the administrative regulation references 603 KAR 5:070 which has been amended. This administrative regulation should reflect the current numbering system in 603 KAR 5:070.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: No

(c) If detrimental effect would result, explain detrimental effect:

(9) 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:

(10) Any additional information or comments: The only changes made to the administrative regulation were to include metrics and to change the referenced sections of 603 KAR 5:070 since it had been

amended. There are no substantive changes.

(11) TIERING: Is tiering applied? Yes, tiering is applied because buses are allowed to be operated on any road with dimensions and geometrics adequate to accommodate their greater dimensions.

EDUCATION, ARTS, AND HUMANITIES CABINET
Department of Education
Division of Finance
(Amendment)

702 KAR 7:010. Terms and months.

RELATES TO: KRS ~~[156.031]~~ 158.060, 158.070

STATUTORY AUTHORITY: KRS ~~[156.031]~~ 156.070, 158.060, 158.070

NECESSITY AND FUNCTION: ~~[KRS 156.031 requires that administrative regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990; and] KRS 158.060 and 158.070 define and establish the school day, [school] month, and [school] term, and direct the Kentucky [State] Board of [for Elementary and Secondary] Education to adopt administrative regulations governing the use of school days. This administrative regulation is necessary for efficient management, control and operation of schools and to insure uniformity in the school month and term, [month and day] in all approved schools of the state.~~

Section 1. The minimum school term shall be 185 days and include a minimum of 1,110 hours. School districts shall provide a minimum of 175 instructional days including 1,050 instructional hours, each school year. ~~[of 185 days with a minimum six (6) actual instructional hour day shall consist of nine (9) twenty (20) day school months and one (1) partial school month of five (5) days.]~~

Section 2. (1)(a) If either a school district, or a school within a school district, during any school year, misses a total of five (5) hours or less on all school days shortened due to an emergency, this time shall not have to be made up and a shortened school day report shall not be submitted to the Department of Education for those hours.

(b) Time missed on shortened school days over the five (5) hours provided for in this subsection shall be made up and ~~[these hours beyond the five (5)]~~ shall be reported to the Department of Education on a shortened school day report. The Shortened School Day Report, dated February, 1995, is incorporated herein by reference. This document may be obtained, inspected, and copied at the Division of Finance, Pupil Attendance Branch, 15th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(c) Partial days missed due to an emergency, over the five (5) hours may be made up by extending the regular school day ~~[upon approval of the Department of Education]~~. Extending the school day to make up hours missed beyond the five (5) hours may start upon notification to the Department of Education, pending approval.

(d) School districts that have included additional time in their regular instructional day to total more than 1,050 instructional hours in the school year shall be able to count the additional time toward making up partial days missed in excess of the five (5) hours forgiven, upon approval of the Department of Education. ~~[These school districts already going longer than the six (6) hour minimum instructional day shall be allowed to count that extra time toward making up partial days missed over the five (5) hours forgiven but only upon approval of the Department of Education.]~~

(e) The extended school day to make up hours missed beyond the five (5) hours shall start upon notification to the Department of Education, pending approval.]

(e) ~~[(f)]~~ Extending the school day or counting time beyond the regular ~~[six (6) hour minimum]~~ instructional day to make up time missed on ~~[shortened]~~ school days shortened due to emergency shall be allowed only after the time is missed.

(2)(a) ~~[A]~~ Full school days missed shall be made up by putting the ~~[these]~~ full days back in the school calendar.

(b) ~~[School districts shall have a minimum of 175 instructional days each school year except as provided in KRS 158.070 which shortens the minimum term for the 1992-94 biennium to allow for more professional development.]~~

~~[(c)] The only exception shall be in extreme situations as explained in KRS 158.070(3)(a), (b), and (c).~~

~~[(d)] Disaster days as outlined in KRS 158.070(3)(b) shall be submitted to [may be approved by] the Commissioner of Education for approval [and shall be reported to the State Board for Elementary and Secondary Education at its next regularly scheduled meeting].~~

~~[(c)] [(e)]~~ Only under dire circumstances shall any school district be excused from the required 1,050 hour, 175 day minimum ~~[175 day]~~ instructional year.

~~[(d)] [(f)]~~ Except as provided in paragraph (b) of this subsection, School districts shall not be considered for local disaster days unless the district has missed more than twenty (20) regular instructional ~~[full teaching]~~ days system-wide. All school districts shall make up at least the first twenty (20) regular instructional ~~[full teaching]~~ days missed in a school year by adding these days back into the school calendar.

~~[(e)] [(g)]~~ The Commissioner of Education shall continue considering requests for disaster days from school districts where one (1) school, or ~~[only]~~ part of the district, is forced to miss school on a particular day due to an emergency ~~[on a particular day]~~.

Section 3. ~~[If a school elects to be out of session, either for a reason not established by statute or by administrative regulation or which may be in excess of the exceptions, those days shall not be counted in the minimum school term.]~~

Section 4. ~~A report shall not be made until the completion of a twenty (20) day school month except that a report for the tenth school month shall be made at the conclusion of the school term.]~~

Section 5. (1) Lack of compliance with minimum school term ~~[day]~~ requirements shall, pursuant to KRS 157.350, result in appropriate proportional reductions in funding under the Support Educational Excellence in Kentucky Program.

(2) The following shall constitute the only board approved activities to be conducted during the ~~[minimum six (6) hour]~~ instructional school day:

(a) Courses and activities included in the "Program of Studies for Kentucky Schools, Grades K-12";

(b) Enrichment courses approved by the Kentucky Board of [State Board for Elementary and Secondary] Education;

(c) Experimental courses or programs approved by the Kentucky Board of [State Board for Elementary and Secondary] Education;

(d) Cocurricular activities, such as club meetings and assemblies, as long as these activities are directly related ~~[directly]~~ to the instructional program and are scheduled so as to minimize absences from classroom instruction; and

(e) A maximum of five (5) minutes passing time between each class, and travel time required to participate in regular instructional programs off the school campus including vocational schools, day treatment centers and alternative schools.

(3) Each school shall have available a master schedule that delineates instructional time periods and noninstructional time periods. ~~[Homeroom in the morning and afternoon for checking attendance. These periods shall not exceed ten (10) minutes per homeroom or twenty (20) minutes daily.]~~

Section 4. ~~[6-]~~ The regularly scheduled school day shall not be

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shortened after the school calendar has been adopted by the local board of education and approved by the Department of Education ~~on regularly scheduled school days~~ except in cases of emergency declared by the local superintendent in accordance with policies of the local board of education.

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

Kevin M. Noland
Acting Commissioner of Education

JOSEPH W. KELLY, Chairman

APPROVED BY AGENCY: August 14, 1995

FILED WITH LRC: August 14, 1995 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 29, 1995, 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 September 24, 1995, five days prior to the hearing, of their intent to attend. If the required 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, Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact: Tom Willis

- (1) Type and number of entities affected: 176 school districts.
- (2) Direct and indirect costs or saving to those affected: None
 - (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None
 - (b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None
 - (c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
 1. First year following implementation: None
 2. Second and subsequent years: None
 - (3) 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
 - (4) Assessment of anticipated effect on state and local revenues: None
 - (5) Source of revenue to be used for implementation and enforcement of administrative regulation: None
 - (6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:
 - (a) Geographical area in which administrative regulation will be implemented: None
 - (b) Kentucky: None
 - (7) Assessment of alternative methods; reasons why alternatives

were rejected: None

- (8) Assessment of expected benefits:
 - (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None
 - (b) State whether a detrimental effect on environment and public health would result if not implemented: None
 - (c) If detrimental effect would occur, explain detrimental effect: This regulation does not relate to the environment or public health.
- (9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping or duplicative: 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:
- (10) Any additional information or comments: Promulgation of this regulation provides for the equivalent six (6) hour day and eliminates repetition of statutory mandates.
- (11) 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.

SCHOOL FACILITIES CONSTRUCTION COMMISSION (Amendment)

750 KAR 1:010. Commission procedures.

RELATES TO: KRS Chapter 157

STATUTORY AUTHORITY: KRS 157.617, 157.622

NECESSITY AND FUNCTION: The School Facilities Construction Commission was established for the purpose of assisting local school districts to meet the school construction needs of the state. The General Assembly has appropriated funds for administrative support and debt service to allow the commission to implement its program. This administrative regulation describes the procedures the School Facilities Construction Commission will utilize in determining eligibility, determining the level of participation of each local school district, making the offer of assistance to the local school districts, determining allowable expenditure of funds, and cumulating credit for those districts that maintain their eligibility, but do not have sufficient funds to complete their first priority project. This amendment redistributes the maximum amount of fees authorized by the commission to be paid to financial advisors for services performed for commission and local school board bond issues, and corrects the name of the commission referenced in the administrative regulation to comply with statutory language contained in KRS 157.617.

Section 1. Definitions. (1) "Level repayment schedule" is one in which the combined annual amount of principal and interest payments for each issue of bonds remains relatively constant over the life of the issue.

(2) "Maximum annual repayment amount" is the maximum aggregate total of SFCC annual payments for all bonds issued for a particular school district in which the SFCC has participated. If a bond series has been refunded, the original issue and debt schedule shall be the one used in making this computation.

(3) "Offer of assistance" is the amount available for a school district from a current biennium along with any allocation available from a prior period which has not expired according to KRS 157.622(5).

(4) "Total interest" is the first gross interest payment of the debt service for the SFCC portion of the schedule.

(5) "Daily interest" is the total interest divided by the number of days in the first coupon.

Section 2. Eligibility. (1) The School Facilities Construction Commission shall use the statement of need~~[-]~~ and available local revenue as certified by the State Board for Elementary and Second-

any Education in determining the rate of participation of each school district in any given biennium. Eligibility for participation as established in KRS 157.620(1) shall be certified by the State Board for Elementary and Secondary Education.

(2) A school district retaining capital outlay funds in its current expense general fund under the provisions of KRS 157.420 in the year preceding the biennium in which funds are available or during the biennium shall be ineligible to participate in the SFCC Program during such funding period.

Section 3. [2-] Rate of Participation. The rate of participation of each "eligible district", as defined by KRS 157.615, shall be determined by dividing the unmet needs of such respective district by the total unmet needs of all eligible districts and multiplying that fraction times the total new debt service budgeted for the biennium. In the event there are insufficient funds budgeted in the first year of the biennium to fund all the requests, bond sales will be scheduled in the order in which the School Facilities Construction Commission receives requests for approval of bond sales. All bond sales may proceed after January 1 of the first year of the biennium.

Section 4. [3-] Offer of Assistance. Upon certification of the rate of participation by the School Facilities Construction Commission, the Executive Director of the School Facilities Construction Commission shall notify each eligible district of its entitled rate of participation and the requirements to [that must] be met if it wishes to accept the offer of assistance. These requirements shall include the amount of local revenue to be expended as certified by the State Board for Elementary and Secondary Education, the priority order of facilities to be built as certified by the State Board for Elementary and Secondary Education, and the sequence of events and deadlines to be met if the local school district accepts the offer of assistance.

Section 5. [4-] Acceptance of Offer of Assistance. (1) Within thirty (30) days of receipt of the offer of assistance, the local board of education shall notify the School Facilities Construction Commission of acceptance or rejection of the offer of assistance. The local district response shall indicate the amount of the offer it plans to commit to construction or renovation immediately and/or the amount it wishes to hold in its escrow account. A district not responding within thirty (30) days shall be declared ineligible and the offer of assistance withdrawn and redistributed to the eligible recipients. In extenuating circumstances and upon written request within the original thirty (30) day period, a single thirty (30) day extension may be granted by the Executive Director of the School Facilities Construction Commission.

(2) Within ninety (90) days of the offer of assistance the local district shall provide the School Facilities Construction Commission with a copy of the project BG-1 form approved by the Department of Education, an Architects Contract, Construction Managers Contract, if applicable; and a letter of approval from the Department of Education approving the financial plan for the projects to be completed. These contracts shall be negotiated by the local board of education; however, any fees in which the School Facilities Construction Commission participates shall not exceed the fee schedules listed in Section 6(2) of this administrative regulation.

(3) Within 120 days of the offer of assistance the local district shall provide the School Facilities Construction Commission with an executed deed, Title Opinion, and Certificate of Title Insurance for the project site. If the site acquisition process is in litigation, an extension may be granted by the School Facilities Construction Commission upon written request of the local board of education. Under no circumstances will the extension go beyond the biennium in which the offer was made.

Section 6. [5-] Review of Building Plans. The review and approval of building plans shall be the responsibility of the Kentucky Department of Education.

Section 7. [6-] Allowable Expenditures of Funds. [(4)] All funds available from "available local revenue", as defined by KRS 157.615, shall be expended before funds generated by bond sales authorized by the SFCC are expended. All funds available for a project shall be expended for the purpose of major renovation and/or construction of the identified project except that the balance of funds remaining after the completion of the project may be expended on the next project on the approved facilities plan of the respective districts. Such cost may include site acquisition, providing architectural and engineering services, financial and legal services, and equipment. The site acquisition cost shall be limited to the lesser of the actual cost of acquiring a site or the fair market value of the site as determined by qualified appraisal obtained by the School Facilities Construction Commission and charged to the project account. In no case shall School Facilities Construction Commission funds or funds from the restricted account be used to purchase a site greater than that required by state board administrative regulations for construction of the approved project. In no case shall School Facilities Construction Commission funds or funds from the restricted account be used to reimburse the local board of education for a site acquired before enactment of KRS 157.611. Construction costs may include the cost of fixed equipment and movable equipment, but may not include the cost of supplies as defined by "Kentucky School Financial Accounting System" Instruction Manual.

[(2)] The fees of architects and engineers shall be limited to the following fee schedule if the School Facilities Construction Commission participates in the payment of such fees:

| Cost of Construction | Basic Fee |
|-----------------------------------|--------------------|
| Up to \$25,000 | 12.0% |
| \$25,000 to \$50,000 | 10.4% |
| \$50,000 to \$75,000 | 9.4% |
| \$75,000 to \$100,000 | 8.7% |
| \$100,000 and under \$200,000 | 8.0% |
| \$200,000 and under \$300,000 | 7.4% |
| \$300,000 and under \$400,000 | 7.1% |
| \$400,000 and under \$500,000 | 6.8% |
| \$500,000 and under \$600,000 | 6.5% |
| \$600,000 and under \$700,000 | 6.3% |
| \$700,000 and under \$800,000 | 6.2% |
| \$800,000 and under \$900,000 | 6.1% |
| \$900,000 and under \$1,000,000 | 5.9% |
| \$1,000,000 and under \$1,250,000 | 5.8% |
| \$1,250,000 and under \$1,500,000 | 5.7% |
| \$1,500,000 and under \$1,750,000 | 5.6% |
| \$1,750,000 and under \$2,000,000 | 5.5% |
| \$2,000,000 and under \$2,250,000 | 5.4% |
| \$2,250,000 and under \$2,500,000 | 5.3% |
| \$2,500,000 and under \$2,750,000 | 5.2% |
| \$2,750,000 and under \$3,000,000 | 5.1% |
| \$3,000,000 and over | 5.0% |
| Repetitive Design Project | 75% of Basic Fee |
| Renovation Project | 125% of Basic Fee] |

Section 8. [7-] Bond Issuance Procedures. (1) Upon acceptance of an offer of assistance by a local school district, the School Facilities Construction Commission shall determine whether the local school district will issue the bonds or the SFCC will issue the bonds. Local school districts may request authority from the SFCC to issue the bonds through the local fiscal court or municipal government. Such a request shall be submitted to the commission at the time the local school district accepts the offer of assistance.

(2) If the commission grants permission to issue bonds at the local level, the procedures for issuing the bonds shall be as follows:

(a) The local board of education shall obtain the services of a financial advisor;

(b) The contract with the financial advisor shall be submitted to the School Facilities Construction Commission for final approval after signature by the local school district and the financial advisor;

(c) The local board of education shall obtain the services of a trustee, paying agent, and registrar. Such institution shall meet eligibility criteria provided by the School Facilities Construction Commission.

(3) In situations where the size of the bond issues is small (less than \$500,000) or there is no local participation in the repayment, the School Facilities Construction Commission may determine that it is in the best interests of the School Facilities Construction Commission and the local school board for the School Facilities Construction Commission to manage the bond sale procedures. In cases where this determination is made, the following shall apply:

(a) The bonds will be sold in the name of the School Facilities Construction Commission;

(b) The School Facilities Construction Commission shall obtain the services of a financial advisor;

(c) At the discretion of the School Facilities Construction Commission, multiple projects may be combined into single bond issues. These will generally be limited to small projects and projects where the respective construction bid dates are contemporaneous;

(d) The School Facilities Construction Commission shall obtain the services of a trustee, paying agent, and registrar. Such institution shall meet the eligibility criteria provided by the School Facilities Construction Commission.

(4) The following procedures shall be followed by all participating districts in construction of SFCC debt service schedules:

(a) The School Facilities Construction Commission's portion of the bond sale shall be limited to a twenty (20) year issue, with level repayment schedule. The maximum annual repayment amount[s] shall not exceed the offer of assistance from the School Facilities Construction Commission;

1. The debt service schedule shall always have ten (10) years of payments based on six (6) month intervals or forty (40) payments. If the payments begin so that only one (1) payment is made in the first fiscal year of the schedule, payments may extend over twenty-one (21) fiscal years; however, in such cases the amounts of the first and last payments combined shall not exceed the amount of one (1) annual payment.

2. Annual payments shall be based on a fiscal year. The fiscal year of the SFCC shall be the same as used by state government, beginning on July 1 and ending the following June 30. All schedules shall be prepared in such a way that annual amounts based on a fiscal year are presented in a clear, easy-to-read format while each interest and principal payment is both segregated and totaled by payment period.

(b) The local school district's portion of the bond sale shall be structured to meet the unique financial needs of the district. Debt service on the bonds issued shall include the minimum amount required for eligibility to participate in the program as certified by the State Board for Elementary and Secondary Education. The minimum term of the local bond issue to meet eligibility criteria shall be twenty (20) years. At the discretion of the local board of education, the bond issue may include a local contribution to debt service in excess of the minimum required, and the length of the local portion of the repayment schedule may exceed twenty (20) years;

(c) Interest collected and accrued on funds derived from the bond sale shall ~~will~~ be allocated ~~(credited)~~ to the debt service schedules of the school district and the School Facilities Construction Commission in the same proportions as its respective participation in the bond issue;

1. For allocation purposes, each month is calculated as thirty (30) days.

2. The accrued interest allocated to the SFCC is calculated by multiplying the number of days times the "daily interest" as defined in Section 1 of this administrative regulation.

3. The number of days is calculated from the issue date of the bonds to the day the bonds are delivered, excluding the day of settlement.

4. For a typical six (6) month coupon, the number of days would be 180. For a longer coupon (i.e., seven (7) months) the divisor would be 210 days.

5. If local payments are involved in the bond issue, this same method shall be used to allocate the accrued interest available to the local district.

(d) The proceeds of the bond sale shall be continually invested until expended on the project or until the project is completed. Any remaining proceeds or investment income received after completion of the project shall be applied to the debt service. Credit against the district's and the commission's debt service schedule shall be applied in the same percentage as the participation in the bond issue or, if permitted by the bond resolution or indenture, excess funds may be applied to an approved project next in order priority;

(e) A certificate of project completion shall be filed with the School Facilities Construction Commission by the local school district. The certification shall summarize the application of the bond proceeds, investment earnings, and any remaining funds from either source. The certificate shall also verify the use of cash contribution as may be required for eligibility by the local school district;

(f) Fees paid to a financial advisor shall be in accordance with the following fee schedule. Fees exceeding this schedule shall be paid by the local board of education.

Maximum Fee Schedule
Services and Expenses of Fiscal Agent

- \$11 per \$1,000 on the first \$1 million
- \$10 per \$1,000 on the second million
- \$4 per \$1,000 all over \$2 million

Fee is based upon the amount of bonds actually issued.

Fee to include attorney fees, printing of bonds and official statements, advertising the bond issue, travel of the fiscal agent, and other normal expenses related to the bond closing.

Fee not to include title search or rating service.

Section 9. [8-] Cumulative Credit. Any eligible district which fails in any budget period to receive an allocation of state funds ~~[that is]~~ sufficient to fund the first priority project on the approved facilities plan of the district may request the approval of the School Facilities Construction Commission to accumulate credit subject to the availability of funds, for its unused state allocation for a period not to exceed four (4) years. Districts which receive funds in excess of those required to complete the first project may apply those funds to the next priority project on their approved facilities plan. In the event there are insufficient funds to complete the next project, those funds may accumulate as previously outlined. All fund credit accumulated in this manner shall be forfeited at any time that the local district fails to meet the eligibility criteria.

R.E. TARVIN, Secretary

APPROVED BY AGENCY: August 14, 1995

FILED WITH LRC: August 15, 1995 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on Tuesday, September 26, 1995, at 10 a.m. EDT in Room 267, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by Thursday, September 21, 1995, (five (5) calendar 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

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proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Dr. Robert Tarvin, Executive Director, School Facilities Construction Commission, Room 264, Capitol Annex, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Dr. Robert Tarvin, Executive Director

1. Type and number of entities affected: 176 local school districts.
2. Direct and indirect costs or savings on the:
 - a. Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. None
 - b. Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. None
 - c. Compliance, reporting and paperwork requirements of those affected, including factors increasing or decreasing costs (note any effects upon competition) for the:
 1. First year following implementation: None
 2. Second and subsequent years: None
3. 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: More consistent administration of debt service financing.
4. Assessment of anticipated effect on state and local revenues: None
5. Source of revenue to be used for implementation and enforcement of administrative regulation: None required.
6. To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
 - a. Geographical area in which administrative regulation will be implemented: None
 - b. Kentucky: None
7. Assessment of alternative methods; reasons why alternatives were rejected: None
8. Assessment of expected benefits:
 - a. Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None
 - b. State whether a detrimental effect on environment and public health would result if not implemented: None
 - c. If detrimental effect would result, explain detrimental effect: N/A
9. Identify any statute, rule, administrative regulation or government policy which may be in conflict, overlapping, or duplication: 702 KAR 4:160(4).
- a. Necessity of proposed regulation if in conflict: Proposed amendment eliminates/avoids overlapping/duplication.
- b. If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Yes
10. Any additional information or comments: None
11. TIERING: Is tiering applied? No. Tiering was not required as the requirements of this administrative regulation apply equally to all affected entities.

PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction (Amendment)

815 KAR 35:030. Kentucky certification of electrical contractors.

RELATES TO: KRS 227.450 through 227.500

STATUTORY AUTHORITY: KRS 227.4901

NECESSITY AND FUNCTION: In 1990, the General Assembly enacted KRS 227.4901 which requires that the Department of Housing, Buildings and Construction select and approve an examination designed to determine the competency of electrical contractors under the National Electrical Code, to certify those individuals passing the examination and to collect and compile reports on disciplinary actions taken against licensed electrical contractors by cities and counties. This administrative regulation is necessary in order to establish procedures of administration and reasonable fees to carry on the certification program. This amendment is necessary to establish a revival and reinstatement fee for those certified electrical contractors who fail to renew their certification in a timely manner. ~~[remove the antiquated grandfather clause and to clarify the penalty for failure to renew certification on a timely basis.]~~

Section 1. Definitions. (1) "Department" means the Department of Housing, Buildings and Construction.

(2) "NAIE" means the examination based upon the National Electrical Code which is developed, administered and scored by the National Assessment Institute.

(3) "NCPCCI" means the National Certification Program for Construction Code Inspectors.

(4) "Kentucky Certificate of Electrical Contractor Examination" means the written document issued by the department which certifies that the person whose name is listed thereon has successfully completed the examination required by this administrative regulation.

Section 2. Approved Examinations. (1) After the effective date of this amendment, any person seeking to obtain a Kentucky Certificate of Electrical Contractor Examination shall pass the examination known as the NAIE.

(2) The department shall issue or renew a Kentucky Certificate of Electrical Contractor Examination to any person who complies with the terms of this administrative regulation.

Section 3. Proof of Insurance. (1) An applicant shall submit to the department proof of \$250,000 liability insurance for electrical construction work by certificate from the insurance company and he shall also submit an affidavit verifying compliance with Kentucky worker's compensation and unemployment insurance laws.

(2) If the applicant submits proof of insurance as set forth in subsection (1) of this section, the department shall indicate that fact on the applicant's certificate. This proof shall be submitted annually, upon renewal, in order to continue to be noted upon the certificate.

Section 4. Application for Certificate. (1) Application shall be made to the department by the individual seeking certification on forms as outlined in Section 7 [6] of this administrative regulation.

(2) The original application shall be accompanied by a fee of \$100 to cover the administrative costs of processing the application, verifying examination scores and issuing certificates.

~~(3) [Each person seeking certification pursuant to this administrative regulation shall be required to pay an additional annual renewal fee in the sum of twenty five (25) dollars no later than June 30 of each year in order to maintain his certification. Failure to renew shall require the applicant to pay the renewal fee and to requalify, pursuant to this administrative regulation as a new applicant for certification.]~~

~~(4)]~~ The Kentucky Certificate of Electrical Contractor Examination

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is not a license to do business as an electrical contractor.

Section 5. Renewal of Certificates. (1) General. Each person seeking certification pursuant to this administrative regulation shall be required to pay an additional annual renewal fee in the sum of twenty-five (25) dollars no later than June 30 of each year in order to maintain the certification.

(2) Revival fee. Any certified electrical contractor who fails to renew his certification on or before July 1 of each year may have his certification renewed upon payment of the required renewal fee and a revival fee. The revival fee paid between July 1 and December 31 shall be twenty-five (25) dollars, in addition to the renewal fee. If the renewal and revival fees are not paid by January 1 of the following year, the certification shall be automatically cancelled.

(3) Reinstatement fee. The certification may then be reinstated upon payment of all delinquent renewal fees plus a revival fee of fifty (50) dollars.

Section 6. [5-] Notice of Penalty. Any certificate or notation of insurance obtained by misrepresentation or fraudulent representation shall void the certificate or notation.

Section 7. [6-] Electrical Contractor Certification Application Forms. (1) Application for electrical contractor certification.

COMMONWEALTH OF KENTUCKY DEPT. OF HOUSING, BUILDINGS & CONSTRUCTION APPLICATION FOR ELECTRICAL CONTRACTOR CERTIFICATION

NAME:

ADDRESS:

CITY:

ZIP CODE:

TELEPHONE #:

DATE OF BIRTH:

COMMONWEALTH OF KENTUCKY

COUNTY OF:

SIGNED:

having been duly sworn, states all information herein contained is true and correct to the best of his knowledge and belief; and further states that he will comply with applicable statutes and rules and administrative regulations of the Department of Housing, Buildings and Construction.

Subscribed and sworn to before me this ___ day of _____, 19__.

My commission expires:

Notary Public:

County:

NOTE: Attach check or money order for \$100.00 payable to the State Treasurer, Commonwealth of Kentucky.

RETURN TO: Office of the State Fire Marshal
Electrical Contractor Certification Clerk
1047 U.S. 127 South, Suite #1
Frankfort, KY 40601-4337

OFFICE USE ONLY:

(2) Renewal application for electrical contractor certification.

CERTIFICATE #: COMMONWEALTH OF KENTUCKY DEPT. OF HOUSING, BUILDINGS & CONSTRUCTION RENEWAL APPLICATION FOR ELECTRICAL CONTRACTOR CERTIFICATION

NAME:

ADDRESS:

CITY:

ZIP CODE:

TELEPHONE #:

DATE OF BIRTH:

COMMONWEALTH OF KENTUCKY

COUNTY OF:

SIGNED:

having been duly sworn, states all information herein contained is true and correct to the best of his knowledge and belief; and further states that he will comply with applicable statutes and the rules and administrative regulations of the Department of Housing, Buildings and Construction.

Subscribed and sworn to before me this ___ day of _____, 19__.

My commission expires:

Notary Public:

County:

NOTE: Attach check or money order for \$25.00 payable to the State Treasurer, Commonwealth of Kentucky.

RETURN TO: Office of the State Fire Marshal
Electrical Contractor Certification Clerk
1047 U.S. 127 South, Suite #1
Frankfort, KY 40601-4337

OFFICE USE ONLY:

(3) Kentucky Workers' Compensation and Unemployment Insurance compliance.

COMMONWEALTH OF KENTUCKY DEPT. OF HOUSING, BUILDINGS & CONSTRUCTION Kentucky Workers' Compensation & Unemployment Insurance

* The use of this form is optional. If you want your wallet card to indicate compliance with insurance, unemployment insurance and workers' compensation laws, file this form and a copy of your insurance certificate along with your application.

The affiant herein does swear or affirm that he is in full compliance with Kentucky Workers' Compensation and Unemployment Insurance laws and that he has a valid liability insurance policy covering his business of electrical contracting and installation in the total amount of at least \$250,000 as shown on the attached certificate from the insurance company.

Applicant:

STATE OF KENTUCKY

COUNTY OF:

Subscribed and sworn to me this ___ day of _____, 19__.

Notary Public:

My commission expires:

*NOTICE: If this information is not provided, you shall provide it for every electrical permit you seek from the city or county.

CHARLES A. COTTON, Commissioner

EDWARD J. HOLMES, Secretary

APPROVED BY AGENCY: August 4, 1995

FILED WITH LRC: August 9, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, September 26, 1995 at 10 a.m., in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 21, (five days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written

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notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact person: Judith G. Walden

(1) Type and number of entities affected: Electrical contractors who desire state certification and any local government agency licensing electrical contractors and issuing permits for electrical wiring.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: The administrative regulation will be implemented statewide, however, the cost of living and employment will not be impacted by this amendment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: Proof of workers' compensation, unemployment insurance and liability insurance required for each permit.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: Electrical contractors - \$100 for certification.

2. Second and subsequent years: Electrical contractors - \$25 renewal fee, plus \$25 or \$50 revival or reinstatement fee, if applicable.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Little impact on promulgating agency beyond record keeping. Program supported by fees.

1. First year: \$100 fee per applicant.

2. Continuing costs or savings: \$25 renewal fee per applicant.

3. Additional factors increasing or decreasing costs: \$25 or \$50 revival or reinstatement fee if renewal delinquent.

(b) Reporting and paperwork requirements: Applications, certificates and personnel to review insurance compliance.

(4) Assessment of anticipated effect on state and local revenues: There is no direct impact by this administrative regulation because it is not a mandatory certification program. Local governments may license or not, but if they do, they must use department test.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Not applicable to this amendment.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: Not applicable to this amendment.

(b) Kentucky: Application of this amendment will affect only a very few individuals who fail to renew their certification by the stated deadline and on a statewide basis will not have an economic impact.

(7) Assessment of alternative methods; reasons why alternatives were rejected:

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Not applicable to this amendment.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Not applicable to this amendment.

(c) If detrimental effect would result, explain detrimental effect:

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No known conflict with other statutes or regulations.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed

administrative regulation with conflicting provisions:

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. These amendments apply to any certified contractor who attempts to renew his certification.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation affects the electrical section of local government.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation requires any local government which chooses to license electrical contractors to accept and administer the particular test chosen by the department if the local government requires examination as a condition of licensure.

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:

CABINET FOR HUMAN RESOURCES Department for Medicaid Services (Amendment)

907 KAR 1:585. Estate recovery.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194.050, 205.520, 42 USC 1396a, b, d, p

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the Medicaid Program. KRS 205.520 empowers the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation sets forth provisions relating to estate recovery.

Section 1. Definitions. The following definitions shall be applicable: ~~(of Estate. The term)~~

(1) "Annual income" means gross annual income except in self-employment situations. In a self-employment situation, "annual income" means net gross income which is determined by subtracting from gross receipts the cost of producing the goods or services with cost determined using the same allowable deductions as are allowed for Internal Revenue Service tax purposes.

(2) "Estate" means a decedent's estate and shall include all real and personal property and other assets included within the individual's estate, as defined for purposes of state probate law.

(3) "Family member" means the spouse or relative within the third degree of consanguinity of an heir of a deceased individual with an estate from which the cabinet may be recovering if the spouse or relative is living in the household of the heir.

(4) "Institutionalized individual" means an individual age fifty-five (55) or older who received nursing facility (NF) services, intermediate care facility for the mentally retarded and developmentally disabled (ICF/MR/DD) services, home and community based services (HCBS) or alternative intermediate services for the mentally retarded (AIS/MR) with payment for these services made, wholly or in part, by the

Medicaid Program.

(5) "Period of institutionalization" means the period of time an institutionalized or permanently institutionalized individual received Medicaid services.

(6) "Permanently institutionalized individual" means an individual under age fifty-five (55) who received NF or ICF/MR/DD services for two (2) or more years with payment for these services made by the Medicaid Program.

(7) "Sole" means that there are no other assets that produce annual income of more than \$25,000 per surviving heir or family member.

Section 2. Recovery. (1) ~~[General.]~~ The Cabinet for Human Resources shall seek ~~[adjustment of]~~ recovery from the estate of any institutionalized or permanently institutionalized ~~[medical assistance properly paid on behalf of an]~~ individual ~~[under the Medicaid state plan through its Department for Medicaid Services working in cooperation with its Department of Law and in accordance with the requirements shown in 42 USC 1396p(b)(1)].~~

(2) The amount recovered shall not exceed the amount paid by the Medicaid Program on behalf of the individual for services received during a period of institutionalization.

Section 3. Exemptions and Limitations. (1) Recovery shall only be made from the estate of an institutionalized or permanently institutionalized individual, if there is no surviving spouse, or children under age twenty-one (21).

(2) Recovery shall not be made from that portion of the estate which is conveyed by will to a blind or disabled child.

(3) ~~[Hardship Waiver.]~~ The cabinet shall waive the application of the recovery provision if ~~[when]~~ recovery would work an undue hardship or is not cost effective.

(a) Undue hardship shall exist if the estate subject to recovery is:

1. Valued at \$5,000 or less;

2. The sole income-producing asset (for example, family farm or business) of the surviving family members who are heirs to the property and are related to the decedent within the third degree of consanguinity if the asset generates annual income of not more than \$50,000 for each surviving heir and \$50,000 for each surviving family member of a surviving heir; or

3. Is a homestead of \$50,500 or less.

(b) Recovery shall not be pursued when it is not cost effective to recover from the institutionalized or permanently institutionalized individual's estate.

1. In order to be cost effective, the administrative cost of recovering from the estate shall be less than the total value of the estate.

2. It shall not be considered cost effective to recover from an estate if the institutionalized or permanently institutionalized individual has not been a Medicaid recipient within two (2) or more years immediately prior to death.

(c) No recovery shall be made against the first \$50,500 of homestead property of any value.

(4) The Department for Medicaid Services shall grant an exemption of the recovery provisions on a case-by-case basis if circumstances exist which shall be directly related to a surviving family member within the third degree of consanguinity for continuing educational needs, health care needs or the needs of a person with a disability. ~~[as determined on the basis of criteria established by the Secretary, United States Department of Health and Human Services. Any person dissatisfied with the determination of the cabinet on the applicability of the waiver may file an appeal pursuant to 904 KAR 2:055. Any review on appeal shall take into consideration the arguments of the appellant and the criteria established by the Secretary for Health and Human Services.]~~

Section 4. [Death] Notification. (1) A general written notice

regarding estate recovery shall be provided by the Department for Medicaid Services (or the Department for Social Insurance acting on its behalf) to an institutionalized and permanently institutionalized individual (or an authorized representative acting on his behalf) at the time the individual requests coverage of nursing facility care under the Medicaid Program. ~~[A provider participating in the Medicaid Program having knowledge of a Medicaid recipient's death shall furnish in writing within ten (10) days to the Commissioner, Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, the following data:~~

(a) Recipient's full name;

(b) Medical assistance ID number;

(c) Date and place of death;

(d) Homestead address ~~(other than a medical facility address);~~

(e) Address on medical assistance identification card;

(f) Name and address of responsible party or guardian.]

(2) If an institutionalized or permanently institutionalized individual who was receiving NF, ICF/MR/DD, HCBS or AIS/MR services expires, the agency providing the services at the time of death ~~[Medicaid recipient expires in a Kentucky licensed health care facility participating in the Medicaid Program, the facility]~~ shall be responsible for reporting the death to the county Department for Social Insurance office within ten (10) days.

(3) Upon receipt of the notice of death as specified in subsection (2) of this section, the Department for Medicaid Services (or the Department for Social Insurance acting as its agent) shall serve written notice of the proposed recovery on the executor or legally authorized representative of the decedent institutionalized or permanently institutionalized individual's estate. The executor or legally authorized representative shall be required to notify individuals who are affected by the proposed recovery. If no executor or legally authorized representative exists, notice shall be provided to the family or heirs. The notice shall include the:

(a) Action the cabinet intends to initiate;

(b) Reason for the action;

(c) Procedures for application of exemption criteria;

(d) Procedures for applying for a hardship waiver; and

(e) Amount to be recovered.

Section 5. Estate Recovery Forms Manual. The Estate Recovery Forms Manual dated April 1995, incorporated by reference in this administrative regulation, may be reviewed during regular working hours (8 a.m. to 4:30 p.m., Eastern Standard Time) in the Office of the Commissioner, Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621. Copies may also be obtained from that office upon payment of an appropriate fee which shall not exceed approximate cost.

Section 6. Implementation Date. The provisions of this administrative regulation as amended shall apply to recovery of all claims paid on behalf of individuals from February 2, 1994.

MASTEN CHILDERS II, Commissioner, Secretary

APPROVED BY AGENCY: August 15, 1995

FILED WITH LRC: August 15, 1995 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1995 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1995, 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. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written

comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: W. K. Moore, Deputy Counsel for Administrative Law, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7900.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Masten Childers II, Commissioner

(1) Type and number of entities affected: nursing facility (NF) recipients, intermediate care facility for the mentally retarded and developmentally disabled (ICF/MR/DD) recipients, home and community based services (HCBS) recipients and alternative intermediate services for the mentally retarded and developmentally disabled (AIS/MR) recipients.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: None

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$500,000 to \$1,500,000 (savings).

2. Continuing costs or savings: \$500,000 to \$1,500,000 (savings).

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: Statewide

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect:

(9) 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:

(10) Any additional information or comments: This administrative regulation is being promulgated to comply with estate recovery guidelines issued in November, 1994 by the Health Care Financing Administration (HCFA). We have been verbally advised by HCFA on two occasions that failure to implement the estate recovery program by April 1, 1995 could result in a finding of noncompliance with federal Medicaid requirements. A finding of noncompliance, if sustained, could result in the withholding of federal financial participation necessary for operation of the Medicaid program.

(11) TIERING: Is tiering applied? 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 or arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to 42 USC 1396a et seq., the Commonwealth of Kentucky has exercised the option to establish a Medicaid Program for indigent Kentuckians. Having elected to offer Medicaid coverage, the state must comply with federal requirements contained in 42 USC 1396 et seq.

2. State compliance standards. This administrative regulation does not set compliance standards.

3. Minimum or uniform standards contained in the federal mandate. This administrative regulation does not set minimum or uniform standards.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation does not set stricter requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. No additional standard or responsibilities are imposed.

PROPOSED ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, AUGUST 15, 1995

TOURISM CABINET
Department of Travel Development
Division of Marketing and Advertising Services
(New Administrative Regulation)

300 KAR 1:010. Procedure for Regional Marketing and Matching Funds Program.

RELATES TO: KRS 148.522, 148.525

STATUTORY AUTHORITY: KRS Chapter 13A, 148.525

NECESSITY AND FUNCTION: KRS 148.525(2) provides that the Division of Marketing and Advertising Services shall be responsible for the state matching fund tourism advertising program. KRS 148.525(3) allows the Commissioner of the Department of Travel Development to promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A in order to carry out the provisions of KRS 148.525. This administrative regulation is to assure uniformity and consistency in administering the application, participation, and reimbursement requirements of the Regional Marketing and Matching Funds Program.

Section 1. General. The Regional Marketing and Matching Funds Program shall assist the Commonwealth's tourism industry by enhancing local, regional, and state economies, and by promoting tourism opportunities. The program shall provide financial and marketing assistance to the Commonwealth's nine established tourism regions and local, nonprofit organizations in order to promote tourism opportunities to markets outside their immediate areas.

Section 2. Regional Concept. The Regional Marketing and Matching Funds Program shall strive to support and assist in the continued development and growth of regional marketing. The Commonwealth's tourism industry may maximize limited advertising budgets by pooling state, regional, and local funds, and combining promotional projects. The State Matching Funds Program manager, within the Department of Travel Development, shall divide the Commonwealth's counties into nine (9) tourism regions, and shall require the formation of a regional committee within each of these regions in order to increase the effectiveness of the regional marketing effort. A map identifying these established tourism regions may be obtained from the Department of Travel Development, State Matching Funds Program Manager, 500 Mero Street, Suite 2200, Frankfort, Kentucky 40601.

Section 3. Eligible Promotional Projects. (1) An allowable regional promotional project shall be completed by any of the Commonwealth's nine (9) established tourism regions, and encompass promotion of tourism opportunities throughout the region to markets outside its immediate area.

(2) An allowable local promotional project shall promote a specific tourism event, attraction, or geographic area to markets outside the local area.

(3) An allowable regional or local promotional project includes only one (1) which is fully completed and documented as part of the Matching Funds Program cycle, between May 1 and April 30 of the following year. The Department of Travel Development may add or delete an allowable regional or local promotional project category to maintain current industry marketing trends. An allowable regional or local promotional project may include, but not be limited to, the following categories:

- (a) Tourism publications and videos;
- (b) Media advertisements;
- (c) Billboards and signage;

- (d) Brochure distribution services;
- (e) Postage and freight expenses; or
- (f) Consumer travel show and group tour marketplace expenses.

Section 4. Matching Funds Program Cycle. A Matching Funds Program participant shall comply with the following Matching Funds Program cycle dates:

(a) An applicant shall submit a state provided regional marketing and matching funds application on or before October 1 of the Matching Funds Program cycle regardless of whether state offices are open. An application shall be postmarked by October 1 or hand-delivered to the Department of Travel Development.

(b) Each regional committee shall provide a copy of the Strategic Master Plan for its region to the Department of Travel Development by October 1 of the Matching Funds Program cycle.

(c) Each regional committee shall review its regional application and any local application submitted from a county within its region between October 15 through November 30 of the Matching Funds Program cycle. Each regional committee shall submit a recommendation of funding to each applicant within its region to the State Matching Funds Program manager by November 30 of the Matching Funds Program cycle.

(d) The State Matching Funds Program manager shall review regional committee recommendations and shall make final decisions as to allocation of state matching funds to regional and local applicants between December 1 through December 31 of the Matching Funds Program cycle.

(e) The State Matching Funds Program manager shall send a project agreement form to each applicant notifying the applicant of the projects approved and of the state matching funds allocation. The project agreement form will be mailed to each applicant during the month of January of the Matching Funds Program cycle. Each applicant shall sign and return the project agreement form.

(f) Each approved Matching Funds Program participant shall submit to the State Matching Funds Program manager, between January and May 1 of the Matching Funds Program cycle, a state provided matching funds reimbursement request Phase I or Phase II form, including all required supporting documentation.

(g) Each approved Matching Funds Program participant shall submit all matching funds reimbursements requests on or before May 1 of the Matching Funds Program cycle regardless of whether state offices are open. A reimbursement request shall be postmarked by May 1 or hand-delivered to the Department of Travel Development.

Section 5. Matching Funds Distribution and State Match. The Kentucky General Assembly appropriates general funds each biennium for the Regional Marketing and Matching Funds Program. The nine (9) established tourism regions shall receive matching funds designated specifically for allowable regional promotional projects. The Department of Travel Development shall set aside a substantial portion of the program's matching funds to offer a state match of up to eighty (80) percent of an allowable regional promotional project. The Department of Travel Development shall set aside the remainder of the program's matching funds to offer a state match of up to fifty (50) percent of an allowable local promotional project.

Section 6. Regional Committee Selection. A regional committee within each of the nine (9) established regions shall consist of members from the public and private sectors throughout the Commonwealth. Only a tourist and convention commission, as established by KRS Chapter 91A, within a county, or a county judge/executive in a county without a tourist and convention commission, may appoint a representative. If a county has more than one (1) tourist and

convention commission, each commission within that county may appoint a representative to the committee. A representative shall serve a two (2) year term, and may be reappointed for successive two (2) year terms.

Section 7. Tourism Regional Strategic Master Plan. In order to maximize a regional marketing budget, each regional committee shall adopt a strategic master plan for its region by October 1 of the Matching Funds Program cycle, and shall provide a copy for the State Matching Funds Program manager. Each region shall rely on its plan throughout the year as the decision-making tool when examining the feasibility and desirability of marketing strategies.

Section 8. Matching Funds Application Process. An applicant shall complete a state provided regional marketing and matching funds application. In order to qualify for state matching funds, an applicant is required to propose allowable regional or local promotional projects totaling a minimum of \$1,000. Funding shall not be granted through the program for federal agencies, state agencies, or statewide promotions. Applications shall be postmarked or hand-delivered on or before October 1 of the Matching Funds Program cycle to the Department of Travel Development, State Matching Funds Program Manager, 500 Mero Street, Suite 2200, Frankfort, Kentucky 40601.

Section 9. Matching Funds Approval Process. The State Matching Funds Program manager shall review all regional and local applications. The State Matching Funds Program manager shall allow each of the established tourism regional committees to review applications and submit funding recommendations to the State Matching Funds Program manager. The State Matching Funds Program manager shall make final decisions as to eligibility and allocation of funds. The State Matching Funds Program manager shall determine the final allocation of funds for the program based upon the following criteria:

- (a) Allowable projects;
- (b) Project's potential to increase tourism activity;
- (c) Project's impact on local, regional, and state economies;
- (d) County's participation in its regional campaign;
- (e) Applicant's successful completion of similar projects; and,
- (f) Availability of funds.

The State Matching Funds Program manager shall send a project agreement form stating the amount of tourism matching funds allocated to the approved applicant for the current Matching Funds Program cycle. Each applicant shall sign this form and return it to the Department of Travel Development, State Matching Funds Program Manager, 500 Mero Street, Suite 2200, Frankfort, Kentucky 40601.

Section 10. Project Monitoring. The State Matching Funds Program manager shall review and approve all regional and local promotional projects, which include brochures, videos, and billboard advertisements, prior to their completion in order for these projects to remain eligible for funding.

Section 11. Reimbursement Procedures. Each approved regional and local program participant shall complete and submit a state provided reimbursement request form for completed projects no later than May 1 of the Matching Funds Program cycle. Reimbursement requests shall be postmarked or hand-delivered on or before May 1 of the Matching Funds Program cycle to the Department of Travel Development, State Matching Funds Program Manager, 500 Mero Street, Suite 2200, Frankfort, Kentucky 40601. Each reimbursement request form shall include the following:

- (a) Two (2) copies of each vendor's invoice;
- (b) Two (2) copies of each cancelled check; and
- (c) A sample of the completed project.

Only completed projects totalling a minimum of \$1,000 shall be eligible for reimbursement. Upon review and final approval of project documentation, the State Matching Funds Program manager shall

process for payment properly documented reimbursement requests. Prior to processing reimbursement requests, the State Matching Funds Program manager may request and require additional supporting documentation from regional or local Matching Funds Program participants to ensure program compliance. Regional or local Matching Funds Program participants failing to submit reimbursement request documentation by the May 1 deadline of the Matching Funds Program cycle shall forfeit allocated funds. The State Matching Funds Program manager may redistribute any forfeited funds to any other approved regional or local program participant.

Section 12. Incorporation by Reference. The document entitled "Regional Marketing and Matching Funds Program Manual FY 1995-96", which includes an application form, project agreement form, and a reimbursement request - Phase I and Phase II forms, is hereby incorporated by reference. It is available for public inspection and copying, subject to copyright law, at the Department of Travel Development, 500 Mero Street, Suite 2200, Frankfort, Kentucky, 8 a.m. to 4:30 p.m., EDT, Monday through Friday.

BOB STEWART, Commissioner

APPROVED BY AGENCY: August 8, 1995

FILED WITH LRC: August 9, 1995 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 25, 1995, at 1 p.m. Eastern Time, in the 24th Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency by September 20, 1995, 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: Robin Finney, Department of Travel Development, Division of Marketing & Advertising, Capital Plaza Tower, 500 Mero Street, Room 2200, Frankfort, Kentucky 40601, (502) 564-4930.

REGULATORY IMPACT ANALYSIS

Contact Person: Robin Finney

(1) Type and number of entities affected: Regional tourism organizations, local governmental agencies, local tourism commissions, local chambers of commerce, and other local nonprofit tourism entities.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Direct savings will result because the administrative body will not need to print a new matching funds manual each year.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

- (b) Reporting and paperwork requirements: None
- (4) Assessment of anticipated effect on state and local revenues: None
- (5) Source of revenue to be used for implementation and enforcement of administrative regulation: No additional revenue is required.
- (6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
 - (a) Geographical area in which administrative regulation will be implemented: None
 - (b) Kentucky: None
- (7) Assessment of alternative methods; reasons why alternatives were rejected: N/A
- (8) Assessment of expected benefits:
 - (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: N/A
 - (b) State whether a detrimental effect on environment and public health would result if not implemented: N/A
 - (c) If detrimental effect would result, explain detrimental effect. N/A
- (9) 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
 - (10) Any additional information or comments: None
 - (11) TIERING: Is tiering applied?: Yes. The concept of tiering is applicable to this administrative regulation. The administrative body offers regional matching funds participants an incentive to increase regional activity. Regional matching funds participants are eligible to receive up to an 80 percent state match while local matching funds participants are eligible to receive up to a 50 percent state match. In addition, a greater portion of the total matching funds is set aside for regional matching funds participants than for local matching funds participants. The administrative body also offers support services to only regional matching funds participants. The additional incentives offered to regional matching funds participants are to encourage the state's tourism industry to pool promotional dollars in order to maximize the state's and the tourism industry's limited advertising budgets.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes.
2. State what unit, part, or division of local government this administrative regulation will affect. This administrative regulation will affect any county or local office of government that makes an application for tourism matching funds.
3. State the aspect of service of local government to which this administrative regulation relates. Any local tourism promotional project undertaken by a county or local office of government in which tourism matching funds have been requested.
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. N/A

EDUCATION, ARTS AND HUMANITIES CABINET Department of Education Office of District Support Services (New Administrative Regulation)

702 KAR 3:280. School district Medicaid providers.

RELATES TO: KRS 156.070, 605.115

STATUTORY AUTHORITY: KRS 156.070, 156.160

NECESSITY AND FUNCTION: KRS 156.070 sets forth the Kentucky Board of Education's plenary powers over the management and control of local school districts and, along with KRS 156.160 gives the Kentucky Board of Education the authority to promulgate administrative regulations deemed necessary for the management of the school districts under its control. This administrative regulation is necessary to provide guidance for local school districts that are Medicaid providers.

Section 1. Definitions. (1) "School district Medicaid recipient" means one who has been determined eligible for Medicaid-covered benefits provided by a local school district participating in the Medicaid Program.

(2) "School district Medicaid provider" means a local school district who has entered into an agreement with the Department for Medicaid Services, Cabinet for Human Resources, to receive Medicaid reimbursement for health-related services provided by the district.

Section 2. School District Medicaid Provider Agreements. (1) Pursuant to KRS 605.115, the Department of Education shall enter into an agreement with the Department for Medicaid Services, Cabinet for Human Resources, to provide reimbursement upon request to local districts for Medicaid covered benefits provided to eligible students.

(2) Local school districts may enter into an agreement with the Department for Medicaid Services, Cabinet for Human Resources, to become eligible to receive Medicaid reimbursement for Medicaid covered services provided to eligible students pursuant to KRS 605.115. Local school districts which choose to participate shall be required to comply with provider participation criteria set forth in 907 KAR 1:715 promulgated by the Department for Medicaid Services, Cabinet for Human Resources.

Section 3. Administrative Guidelines. (1) To receive federal Medicaid reimbursement, local school districts shall provide the state's share of the Medicaid expenditure and shall be required to document and certify the expenditure of state funds for Medicaid reimbursable services provided to Medicaid eligible student recipients. This certification of the availability and expenditure of state funds shall be provided as needed to the Department for Medicaid Services by local school districts for verification of state matching funds entitling the local school district to reimbursement for specific Medicaid reimbursable services provided by the school district. Certification shall include a statement on the Medicaid claim form or a signed statement from the local school district superintendent or finance officer. The Department of Education and the Department for Medicaid Services, Cabinet for Human Resources, may examine any records, files, or documents necessary to verify expenditures for Medicaid covered services for which certification of state matching funds has been made.

(2) Documentation of available or expended state matching dollars to the Department for Medicaid Services, Cabinet for Human Resources, shall be provided as required by the Department for Medicaid Services and may include the following:

- (a) Records relating to time and attendance of service providers;
- or
- (b) Records of expenditures including invoices, related to the

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services provided by or through the local school district.

(3) Federal funds shall not be used by school districts to match Medicaid funds.

(4) Local school districts shall include in the annual audit an accounting of revenues and expenditures relative to serving Medicaid eligible student recipients. The Department of Education shall provide the Cabinet for Human Resources a copy of this annual audit.

(5) The Department for Medicaid Services, Cabinet for Human Resources, the Health Care Financing Administration of Health and Human Services, the Office of Inspector or their designated representatives may audit a local school district to verify compliance with all federal and state Medicaid statutes and administrative regulations relating to local school district receipt of Medicaid reimbursement for approved services.

Section 4. Parent/Guardian Consent. (1) Local school districts shall obtain written parent or guardian consent pursuant to the requirements of the Individuals with Disabilities Education Act (20 USC Chapter 33) prior to provision of services in an Individual Education Program (IEP).

(2) Parent or guardian written consent shall also be obtained by the school district on an annual basis for submission of claims for Medicaid reimbursement of health related services provided to students with educational disabilities as required by the student's IEP.

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

Kevin M. Noland
Acting Commissioner of Education

JOSEPH W. KELLY, Chairman

APPROVED BY AGENCY: August 14, 1995

FILED WITH LRC: August 14, 1995 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 29, 1995, 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 September 24, 1995, five days prior to the hearing, of their intent to attend. If the required 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, Acting Commissioner, Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATION IMPACT ANALYSIS

Contact: Tom Willis, Associate Commissioner

(1) Type and number of entities affected: 176 local school districts.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon

competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional reports to this agency will be required as a result of this administrative regulation.

(4) Assessment of anticipated effect on state and local revenues: Local school districts which participate will experience an increase in federal funds.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No additional revenue is required. Regulation will be enforced by Department of Education.

(6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 160.730 requires promulgation of a regulation on this subject.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: No

(c) If detrimental effect would occur, explain detrimental effect: N/A

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping or duplicative: None

(a) Necessity of proposed regulation, if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(10) Any additional information or comments: None

TIERING: Was tiering applied? No. The administrative regulation applies equally to all 176 local school districts.

EDUCATION, ARTS, AND HUMANITIES CABINET

Department of Education

Office of District Support Services

(New Administrative Regulation)

702 KAR 3:300. Approval for school district lease agreements.

RELATES TO: KRS 65.944, 65.946, 156.070

STATUTORY AUTHORITY: KRS 156.070, 156.160

NECESSITY AND FUNCTION: KRS 156.070 sets forth the Kentucky Board of Education's plenary powers over the management and control of local school districts. KRS 156.160 and 156.070 give the Kentucky Board of Education the authority to promulgate administrative regulations deemed necessary for the management of the school districts under its control. This administrative regulation is necessary to implement KRS 65.944, which requires approval of the chief state school officer prior to a school district entering into certain lease agreements and which mandates the promulgation of an administrative regulation.

Section 1. Administrative Guidelines. (1) To request approval of a lease agreement in excess of \$100,000 from the chief state school officer pursuant to KRS 65.944(1)(c), the following shall be submitted

to the Department of Education, Bureau of Management Support Services, prior to finalization of the lease agreement:

- (a) The terms of the lease, including the lease price;
- (b) The number of optional renewal periods;
- (c) The interest rate;
- (d) The date of issue;
- (e) The purpose of the lease; and
- (f) The name of any trustee of paying agent.

(2) At any time during the evaluation process, the Department of Education, Bureau of Management Support Services, may request additional documentation deemed necessary to properly evaluate the proposed lease agreement.

Section 2. Technology Leases. Pursuant to KRS 65.946, each school district shall submit to the Department of Education, Bureau of Management Support Services, each technology lease including evidence of the lease being limited to the three (3) year useful life of the equipment and approval of the district's technology plan.

Section 3. Final Approval and Reconsideration. (1) Final approval of a proposed school district lease agreement with a lease price of \$100,000 or more may be granted by the chief state school officer.

(2) Upon receiving approval from the Department of Education, a school district may enter into the lease at any time within the current fiscal year. A copy of the executed lease shall be submitted to the chief state school officer within ten (10) days of its execution.

(3) A school district may request reconsideration by the chief state school officer if alterations are made to the proposed lease which alleviate the concerns expressed by the Department of Education.

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

Kevin M. Noland
Acting Commissioner of Education

JOSEPH W. KELLY, Chairman

APPROVED BY AGENCY: August 14, 1995

FILED WITH LRC: August 14, 1995 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 29, 1995, 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 September 24, 1995, five days prior to the hearing, of their intent to attend. If the required 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, Acting Commissioner, Department of Kentucky, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATION IMPACT ANALYSIS

Contact: Tom Willis, Associate Commissioner

(1) Type and number of entities affected: 176 local school districts.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent

available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: No additional paperwork requirements for local school districts or the Department of Education. This administrative regulation documents procedures already being used to approve school district lease agreements.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. Existing staff in the Department of Education will be used to review school district lease agreements.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: School districts will be required to submit the details of certain lease agreements and receive approval from the Department of Education before executing certain leases. The Department of Education will be required to review and analyze certain lease agreements before granting approval.

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Existing staff in the Department of Education will be used for reviewing and analyzing school district lease agreements which are reviewable by statute.

(6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives are available.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would occur, explain detrimental effect:

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping or duplicative: 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:

(10) 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.

CABINET FOR WORKFORCE DEVELOPMENT State Board for Adult and Technical Education (New Administrative Regulation)

785 KAR 1:010. Testing program.

RELATES TO: KRS 151B.023, 151B.110, 151B.125

STATUTORY AUTHORITY: KRS 151B.023, 151B.110, 151B.125

NECESSITY AND FUNCTION: KRS 151B.110 delegates to the State Board for Adult and Technical Education the responsibility for adult education programs and services in Kentucky. KRS 151B.023 provides that the Department for Adult Education and Literacy is the agency solely designated for the purposes of adopting state plans

required for federal adult education programs and services in Kentucky. KRS 151B.125 recognizes the General Educational Development (GED) test for high school equivalency purposes in Kentucky. This administrative regulation establishes the means whereby adults may be tested by official GED testing centers to determine their eligibility for receiving a high school equivalency diploma.

Section 1. (1) The GED tests shall provide a valid means of measuring the educational achievement of adults who are nonhigh school graduates and of comparing their competency with that of high school graduates. The tests shall be high school level batteries consisting of five (5) comprehensive examinations: Test 1: Writing Skills Test (Parts I and II); Test 2: Social Studies Test; Test 3: Science Test; Test 4: Interpreting Literature and the Arts Test; Test 5: Mathematics Test. An applicant shall be certified as test-ready. An applicant presenting a GED-on-TV voucher from Kentucky Educational Television study shall not be required to meet the test-readiness prerequisite.

(2) The GED tests shall be administered to an applicant with a Kentucky address, officially withdrawn from school, who has reached his nineteenth (19) birthday. Officially withdrawn applicants who are at least seventeen (17) years of age and their last enrolled class has graduated or who have been out of formal classroom for a period of one (1) year may be administered the GED test. Applicants, officially withdrawn from school, who are sixteen (16) years of age shall meet one (1) of the following criteria:

- (a) Committed or placed in state correctional facility; or
- (b) Completed Job Corps Program of instruction.

(3) Applicants at least sixteen (16) years of age who believe exigent circumstances exist and who do not meet the conditions of subsection (2)(a) or (b) of this section may request exemptions from the local school superintendent or designee in the district where the applicant resides. Exemptions granted on the basis of exigent circumstances or denials shall be in writing. A copy of the decision shall be mailed or faxed within five (5) working days to the state GED administrator. Dissatisfaction resulting from denials may be appealed to the Commissioner of the Department for Adult Education and Literacy. Exigent circumstances may include: sentenced by a court to an educational program and program completed or admission to a postsecondary program which is contingent upon earning a high school equivalency diploma (GED). Official GED testing centers shall be established under contract with the GED Testing Service of the Commission on Accreditation with locations authorized by the State Board for Adult and Technical Education. GED testing services for individuals confined to state correctional and health institutions shall be approved by the State Board for Adult and Technical Education.

(4) Testing fees shall be established by the State Board for Adult and Technical Education at a uniform fee of twenty-five (25) dollars or five (5) dollars per subtest. The Department for Adult Education and Literacy shall not charge a fee for testing services provided for individuals confined to state correctional and health institutions.

(5) Applicants seeking a high school equivalency diploma shall complete the appropriate application form provided for this purpose prior to taking the GED test. This form shall be available from local adult education providers, local school superintendents or the Department for Adult Education and Literacy. Military personnel shall not be required to complete the application form prior to taking the test. Military personnel shall complete an application form before a high school equivalency diploma shall be issued. Military personnel may use the Military GED Application (Form M-300)

(6) If an applicant passes the five (5) subtests with a minimum standard test score of thirty-five (35) but does not attain an average standard score of forty-five (45), he shall be eligible to retake a subtest in an attempt to raise the overall standard score. The testing center proctor shall recommend which subtest may be retaken.

J. LARRY STINSON, Chairman
WILLIAM D. HUSTON, Secretary

APPROVED BY AGENCY: April 21, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 26, 1995, at 9 a.m. at the Capital Plaza Tower, 500 Mero Street, 3rd Floor Conference Room, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by September 21, 1995, 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: Beverly Haverstock, General Counsel, Cabinet for Workforce Development, 500 Mero Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: Approximately 18,000 examinees who are administered the GED tests each year, approximately 220 local adult education providers, and 56 GED testing centers will be affected.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: Fees for GED test administration are increased by \$10 per battery or \$2 per subtest to keep up with increasing costs to local testing centers.

2. Second and subsequent years: The increased fees may continue as needed on a cost-recovery basis.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There should be increased revenue to support the local testing centers statewide.

2. Continuing costs or savings: There should be some savings to the promulgating administrative body with a reduction in the test failure rate.

3. Additional factors increasing or decreasing costs: The increased fees will go to support the increasing costs to be covered by local testing centers.

(b) Reporting and paperwork requirements: This regulation should reduce paperwork and scoring costs by reducing the number of examinees who take the tests numerous times when they are not test ready.

(4) Assessment of anticipated effect on state and local revenues:

The only revenues that support GED testing come from fees assessed on the examinee. The increased fees which will increase revenue for the local GED testing centers are needed to achieve cost recovery.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: N/A

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Kentucky: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method considered. There are no federal or state funds to support the testing program. The testing fee is the only way to obtain cost recovery.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: This regulation was repealed from 780 KAR 9:010 and is being adopted as a new regulation in a new chapter due to the creation of the Department for Adult Education and Literacy. A test-readiness prerequisite was added and testing fees increased.

(11) TIERING: Is tiering applied? Tiering was not applied. Adult education services must be applied on a consistent and equitable basis in accordance with federal guidelines.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Policies of the GED Testing Service with the Commission on Educational and Credentials of the American Council on Education.

2. State compliance standards. This regulation specifies procedures whereby adults may be administered the GED tests at local testing centers and upon successful completion receive a High School Equivalency Diploma. This regulation outlines the eligibility requirements for testing, authority of the State Board for Adult and Technical Education to set the uniform testing fee, confidentiality of examinee test scores, and minimum score requirements.

3. Minimum or uniform standards contained in the federal mandate. This regulation specifies the minimum standards of applicant eligibility, scores to be earned for successful completion, and confidentiality of test scores. They reflect the minimum standards set by the American Council on Education.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This regulation imposes one requirement that is stricter than the policies of the American Council on Education. The additional requirement is that eligible applicants be certified as test-ready.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The test-readiness prerequisite is being imposed in order to prevent adults from experiencing failure, improve the overall passing rate, and reduce the cost of GED test scoring for examinees who were ill-prepared.

CABINET FOR WORKFORCE DEVELOPMENT State Board for Adult and Technical Education (New Administrative Regulation)

785 KAR 1:020. High school equivalency diploma.

RELATES TO: KRS 151B.023, 151B.110, 151B.125

STATUTORY AUTHORITY: KRS 151B.023, 151B.110, 151B.125

NECESSITY AND FUNCTION: KRS 151B.110 delegates to the State Board for Adult and Technical Education the responsibility for adult education programs and services in Kentucky. KRS 151B.023 provides that the Department for Adult Education and Literacy is the agency solely designated for the purposes of adopting state plans required for federal adult education programs and services in Kentucky. KRS 151B.125 recognizes the General Educational Development (GED) test for high school equivalency purposes in Kentucky and authorizes a fee to be assessed for duplicate equivalency diplomas. This administrative regulation establishes the means whereby a high school equivalency diploma shall be issued through the Department for Adult Education and Literacy to adults who pass the GED test.

Section 1. GED test scanner sheets from official testing centers shall be sent to the Department for Adult Education and Literacy for scoring. The Department for Adult Education and Literacy shall provide a high school equivalency diploma to an applicant who has taken the GED test and who has scored at least thirty-five (35) on each of the five (5) GED sub-tests and has an overall average standard score of forty-five (45) on the five (5) subtests.

Section 2. GED test scores shall be accepted as official only if reported by a state, territorial, or provincial department of education; a GED testing center; the Educational Testing Service (as the repository of score reports issued by the U.S. Armed Forces Institute); or the GED testing service.

Section 3. There shall be no charge for the issuance of an initial high school equivalency diploma or initial transcript. A five (5) dollar fee shall be collected for the issuance of a duplicate GED diploma or duplicate transcript. Fees shall be used to support the adult education program. Requests for scores shall be in writing and shall carry signature, birth date and Social Security number of the examinee.

J. LARRY STINSON, Chairman

WILLIAM D. HUSTON, Secretary

APPROVED BY AGENCY: April 21, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 26, 1995, at 9 a.m. at the Capital Plaza Tower, 500 Mero Street, 3rd Floor Conference Room, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by September 21, 1995, 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: Beverly Haverstock, General Counsel, Cabinet for Workforce Development, 500 Mero Street, Frankfort, Kentucky 40601.

ADMINISTRATIVE REGISTER - 642

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: Approximately 10,500 examinees who successfully complete the GED tests each year.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: N/A

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Kentucky: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A. This method is a consensus reached by a committee representing agency staff, testing center staff, local boards of education, and local adult education providers.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: This regulation was repealed from 780 KAR 9:020 and is being adopted as a new regulation in a new chapter due to the creation of the Department for Adult Education and Literacy.

(11) TIERING: Is tiering applied? Tiering was not applied. The guidelines used reflect policies of the GED Testing Service with the Commission on Educational and Credentials of the American Council on Education.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Policies of the GED Testing Service with the Commission on Educational and Credentials of the American Council on Education.

2. State compliance standards. The state compliance standards are the same as those specified by the American Council on Education.

3. Minimum or uniform standards contained in the federal mandate. The Department for Adult Education and Literacy shall provide a High School Equivalency Diploma to each applicant that has scored at least 35 on each of the five (5) subtests and has an overall average score of 45. These scores will be considered official only when reported and approved by an approved testing agency. There shall be a \$5 fee for any duplicate GED diploma or transcript.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The state compliance standards do not impose stricter, additional or different requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

CABINET FOR WORKFORCE DEVELOPMENT State Board for Adult and Technical Education (New Administrative Regulation)

785 KAR 1:030. Eighth grade equivalency certificate.

RELATES TO: KRS 151B.023, 151B.110, 151B.145

STATUTORY AUTHORITY: KRS 151B.023, 151B.110, 151B.145

NECESSITY AND FUNCTION: KRS 151B.110 delegates to the State Board for Adult and Technical Education the responsibility for adult education programs and services in Kentucky. KRS 151B.023 provides that the Department for Adult Education and Literacy is the agency solely designated for the purposes of adopting state plans required for federal adult education programs and services in Kentucky. Tests have been adopted to enable local boards of education to issue an eighth grade equivalency certificate to persons who have maintained a minimum average score of eight (8.0) on the required test. This administrative regulation establishes the means whereby local boards of education may issue an eighth grade equivalency certificate to adults who qualify.

Section 1. An eighth grade equivalency certificate shall be issued by local school districts to a person who meets the following qualifications:

(1) Is a resident of Kentucky;

(2) Is at least sixteen (16) years of age;

(3) Has been tested at a site designated by the local board of education and by a designated staff member; and

(4) Has attained a minimum average score of eight (8.0) on the required test.

Section 2. One (1) of the following tests shall be administered in order to qualify a person for an eighth grade equivalency certificate: ABLE - Adult Basic Learning Examination, Level III or (TABE) Test of Adult Basic Education, Level D.

J. LARRY STINSON, Chairman

WILLIAM D. HUSTON, Secretary

APPROVED BY AGENCY: April 21, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 26, 1995, at 9 a.m. at the Capital Plaza Tower, 500 Mero Street, 3rd Floor Conference Room, Frankfort, Kentucky. Individuals interested in being heard at this

hearing shall notify the contact person in writing by September 21, 1995, 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: Beverly Haverstock, General Counsel, Cabinet for Workforce Development, 500 Mero Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: Approximately 50 adults each year who are administered a test to qualify for Eighth grade equivalency.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: N/A

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Kentucky: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: This regulation was repealed from 780 KAR 9:030 and is being adopted as a new regulation in a new chapter due to the creation of the Department for Adult Education and Literacy.

(11) TIERING: Is tiering applied? Tiering was not applied. Specific eligibility requirements for individuals to receive an eighth grade equivalency certificate are defined in Section 1 of the regulation.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There are no federal mandates for this administrative regulation.

2. State compliance standards. This administrative regulation empowers the local school districts to issue an 8th grade equivalency certificate to persons who meet the following qualifications: are a resident of Kentucky; at least 16 years of age; have been tested at an approved site by an approved staff member and have attained a minimum average score of 8.0 on an approved test. The lists of tests that may be used are included in this administrative regulation.

3. Minimum or uniform standards contained in the federal mandate. There are no federal mandates for this administrative regulation.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? There are no federal mandates for this administrative regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

CABINET FOR WORKFORCE DEVELOPMENT State Board for Adult and Technical Education (New Administrative Regulation)

785 KAR 1:040. Approval of federal grants under the Adult Education Act as amended by the National Literacy Act of 1991, 20 USC 1201 et seq.

RELATES TO: KRS 151B.023, 151B.110, 151B.145, 20 USC 1201 et seq.

STATUTORY AUTHORITY: KRS 151B.110, 151B.145, 20 USC 1201 et seq.

NECESSITY AND FUNCTION: KRS 151B.110 delegates to the State Board for Adult and Technical Education the responsibility for adult education programs and services in Kentucky. KRS 151B.023 provides that the Department for Adult Education and Literacy is the agency solely designated for the purposes of adopting state plans required for federal adult education programs and services in Kentucky. 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.

Section 1. Definitions. "Adult education" includes job-specific and workplace essential skills instruction for workers in business and industry; literacy and adult basic education; adult secondary education, including General Educational Development (GED) preparation; the external diploma program; English as a second language; and family literacy and parent and child education (PACE) programs. Adult

education does not include vocational classes.

Section 2. Eligible Recipients. (1) Equal access for funding shall be provided to the following eligible recipients for federal adult education funds:

- (a) Local educational agencies;
- (b) Public or private nonprofit agencies;
- (c) Community-based organizations;
- (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 private nonprofit agency, organization or institution 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 shall be awarded only to the local educational agency or the public or private nonprofit entity that applies on behalf of the consortium.

(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 the 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 Adult Education Act as amended by the National Literacy Act of 1991.

(4) In selecting local recipients, the Department for Adult 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 diploma, who have not graduated from a school providing secondary education or its equivalent or who are workers or potential workers lacking the basic skills needed to function effectively in the workplace.

Section 3. Notice of Availability. Funds shall be awarded for competitive two (2) year grants for adult education. Workplace essential skills and family literacy grants shall be funded for specified time periods according to employer and community needs. Funding cycles during which applications may be received shall be announced every two (2) years for adult education. The deadline for receiving proposals shall be established and advertised statewide to ensure direct and equitable access for funding opportunities.

Section 4. Application Process. (1) Thirty (30) days prior notice shall be posted notifying potential applicants of the availability of funds and of the application process. Applications shall be submitted to the Department for Adult Education and Literacy, Cabinet for Workforce Development, on the established deadlines.

(2) An application for an adult education program under these grants shall be signed by the chief executive officer or the authorized official representing the eligible applicant.

(3) Application forms are available from the Department for Adult Education and Literacy, 3rd Floor, 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.

Section 5. Review Process. Applications shall be reviewed and evaluated by a committee selected by the Department for Adult Education and Literacy to determine the eligibility of applicants and the completeness of the information provided. Based on the criteria

given in Section 6 of this administrative regulation, the designated committee shall recommend to the Commissioner of the Department for Adult Education and Literacy the applications to be funded, not funded or sent back to the applicant for revision and resubmission.

Section 6. Criteria for Evaluating Applications. Applications for these subgrants 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 the most educationally-disadvantaged adults;
- (3) The extent to which the applicant gives special emphasis to adult literacy and basic education projects;
- (4) The extent to which the proposed program design, objectives, activities and evaluation address the identified needs of the population to be served;
- (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, availability of day care, transportation services and counseling services;
- (7) The extent to which the project objectives may be accomplished within the amount of the budget request;
- (8) The extent to which project objectives reflect plans for compliance with the indicators of program quality for Adult Education Programs as adopted by the State Board for Adult and Technical Education;
- (9) The extent to which workplace essential skills personnel meet prerequisite training requirements for the program in question;
- (10) The extent to which workplace essential skills programs are functionally-contexted to the needs of the workers in the workplaces served;
- (11) The extent to which preference for workplace essential skills program shall be given to applicants whose programs best serve to retain existing business and industry in the state or to recruit new industry to the state;
- (12) The adequacy of the evaluation procedures detailed;
- (13) The projected program goals with respect to recruitment, retention, and educational achievements;
- (14) The current program, activities and services receiving assistance from federal, state and local sources in the area proposed to be served by the applicant;
- (15) Cooperative arrangements that have been made to deliver services to adults, including arrangements with business, industry and volunteer literacy organizations;
- (16) Nonduplication and coordination of programs, services or activities made available to adults under other federal, state and local programs;
- (17) The past effectiveness of the applicants in providing services, especially with respect to the recruitment, retention and learning gains of the most educationally-disadvantaged adults;
- (18) The willingness to serve students who are referred as a result of contracts or legislation designed to serve the economically disadvantaged;
- (19) The utilization and direction of an advisory council as described by the Department for Adult Education and Literacy;
- (20) The completeness of proposal;
- (21) Evidence of joint planning in developing a county plan for service delivery.

Section 7. Distribution of Funds. (1) The Department for Adult Education and Literacy shall determine the allocation of these funds for basic grants to local providers. The funds available for this purpose shall be the amount remaining after the state's basic grant is reduced by the amount of funds needed for state administration, instruction in institutions, discretionary set-aside, special projects, teacher training, and Gateway Grants. Federal funds shall be

distributed in accordance with federal guidelines.

(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 through quality programming. Because of budgetary constraints, the department encourages the consolidation of very small programs that are in geographic proximity and shall not 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., 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. The Commissioner of the Department for Adult Education and Literacy or the designated representative shall notify the applicant of the disposition of the application, consisting of approval, disapproval, deferral or a request for modification. Deferral or disapproval of an application shall not preclude its reconsideration or resubmission at a later date. An applicant may appeal funding decisions to the Commissioner of the Department for Adult Education and Literacy.

Section 8. Administrative Costs. Local costs paid with federal funds for administration, planning, personnel development and interagency cooperation shall not exceed federal guidelines. If local administrative costs may exceed that amount, the Department for Adult Education and Literacy shall negotiate with local grant recipients to determine whether to provide supplementary state funds for noninstructional purposes.

J. LARRY STINSON, Chairman
WILLIAM D. HUSTON, Secretary

APPROVED BY AGENCY: April 21, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 26, 1995, at 9 a.m. at the Capital Plaza Tower, 500 Mero Street, 3rd Floor Conference Room, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by September 21, 1995, 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: Beverly Haverstock, General Counsel, Cabinet for Workforce Development, 500 Mero Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: All local adult education providers that access state and federal funds on a competitive basis. The current number of funded programs is approximately 220.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was

scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: No cost savings are expected in first year of two-year funding cycle. The first year, each program will need to complete the application process.

2. Second and subsequent years: Cost savings resulting from reduced paperwork and staff time will be realized in the second year of each two-year funding cycle.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: Cost savings through reduction of paperwork and employee time savings on second year of each two-year cycle.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Cost savings through reduction of paperwork and employee time savings on second year of each two-year cycle.

(4) Assessment of anticipated effect on state and local revenues: Indirect cost savings of state and local revenues through administrative cost savings on second year of each two-year period.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State and federal administration funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Kentucky: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A. State procedures reflect those in the federal mandate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: This regulation was repealed from 780 KAR 9:040 and is being adopted as a new regulation in a new chapter due to the creation of the Department for Adult Education and Literacy. Changes to applications procedures were made to reflect federal guidelines and to improve efficiency and program stability.

(11) TIERING: Is tiering applied? No. Adult education services must be applied on a consistent and equitable basis in accordance with federal guidelines.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 20 USC 1201 et seq., Adult Education Act, as amended by the National Literacy Act of 1991 ("the Act").
2. State compliance standards. The state compliance standards are the same as those mandated in "the Act."
3. Minimum or uniform standards contained in the federal mandate. Federal language defines each section of "the Act" to include agencies that are eligible to apply, procedures to follow for the notification of the availability of funds, the actual application process and the criteria to be used in the grant review process. Also included are standards to follow for the distribution of funds and the maximum allowed for program administration costs.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The state compliance standards do not impose stricter requirements than those required by the federal mandate.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

CABINET FOR WORKFORCE DEVELOPMENT
State Board for Adult and Technical Education
(New Administrative Regulation)

785 KAR 1:050. Approval of special experimental demonstration projects and adult education teacher training applications under the Adult Education Act as amended by the National Literacy Act of 1991, 20 USC 1201 et seq.

RELATES TO: KRS 151B.023, 151B.110, 20 USC 1201 et seq.

STATUTORY AUTHORITY: KRS 151B.023, 151B.110, 20 USC 1201 et seq.

NECESSITY AND FUNCTION: KRS 151B.110 delegates to the State Board for Adult and Technical Education the responsibility for adult education programs and services in Kentucky. KRS 151B.023 provides that the Department for Adult Education and Literacy is the agency solely designated for the purposes of adopting state plans required for federal adult education programs and services in Kentucky. 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 demonstration or experimental projects or adult education teacher training and staff development initiatives.

Section 1. Funding Set Aside for Special Experimental Demonstration Projects and Adult Education Teacher Training. Funds shall be used in compliance with federal guidelines for special demonstration or experimental projects involving innovative methods, systems, materials or programs that may have national significance or be of value in promoting effective programs or in adult education teacher training and staff development.

Section 2. Application, Funding, and Appeal Process. (1) Announcement of availability of funds. The Department for Adult Education and Literacy shall make an announcement through the Workforce Development Cabinet's public information services that funds will be available for special demonstration and teacher training projects. In addition, announcements shall be sent to those who request information about the application process and the availability of funds.

(2) Proposal submission.

(a) Applications shall be submitted to the Department for Adult Education and Literacy. Applicants may be:

1. Local educational agencies;
2. Public or private nonprofit agencies;
3. Community-based organizations;
4. Correctional educational agencies;
5. Postsecondary educational institutions;
6. Institutions which have the ability to provide literacy services to adults and families;
7. Institutions which serve educationally-disadvantaged adults;
8. Local housing authorities; and
9. Nonprofit consortiums that may include for-profit agencies, organizations, or institutions that contribute significantly to attaining the objectives of the Adult Education Act.

The chief executive officer of the local agency or an official designee shall be the person responsible for submitting applications. The applicant shall submit the number of copies required by the request for proposal to the Commissioner of the Department for Adult Education and Literacy or a designated representative.

(b) Applications for special experimental demonstration projects and adult education teacher training projects shall describe the nature, duration, purpose and plan of the projects, including a statement of the problem, a review of related literature or other background information, statement of objectives, procedures, time schedule, qualifications of personnel, facilities to be used, dissemination procedures, and the proposed budget, including a justification of the amount of funds requested and the portion of the cost to be borne by the applicant. Staff development and adult education teacher training projects shall be conducted as described by the Department for Adult Education and Literacy.

(3) Review of applications. The Commissioner of the Department for Adult Education and Literacy or the representative designated to review applications, shall name a panel of three (3) to five (5) persons who are knowledgeable in the area of adult education. Each panel member shall rate the applications independently according to a rating scale based on the priorities and criteria described in Section 3 of this administrative regulation. The panel shall arrive at a composite score for each application after discussion of the application. The panel shall then recommend to the Commissioner of the Department for Adult Education and Literacy the proposals to be approved and the amount of funds to be granted. Proposals for which adult education funds are requested are subject to approval by the Commissioner of the Department for Adult Education and Literacy.

(4) Appeal process. The Commissioner of the Department for Adult Education and Literacy or the designated representative shall notify the applicant of the disposition of the application, consisting of approval, disapproval, deferral or a request for modification. Deferral or disapproval of an application shall not preclude its reconsideration or resubmission at a later date. The applicant may appeal funding decisions to the Commissioner for Adult Education and Literacy.

Section 3. Priorities and Criteria. (1) The Department for Adult Education and Literacy shall provide funds for special experimental demonstration projects and teacher training projects as prescribed by the Adult Education Act as amended by the National Literacy Act of 1991, 20 USC 1201 et seq. Funds shall not be provided for instructional or support services that would normally be part of a regular program of classroom instruction. The funds shall not be utilized to continue an activity beyond the special grant period. The Department for Adult Education and Literacy may use these funds for activities that do not fit into one (1) of the other funding categories. The agency may support activities through direct expenditure or through contracts with outside parties. The agency may set aside a specific sum for these supplemental purposes including special experimental demonstration projects and teacher training. Priorities shall be set annually by the Department for Adult Education and Literacy based upon input from local adult education providers, the State Advisory Council for

Adult Education and Literacy and department staff to target the population to be served.

(2) The Department for Adult Education and Literacy shall use the following criteria to evaluate and recommend approval of proposals for grants for special experimental demonstration projects and teacher training:

- (a) Educational significance;
- (b) Adequacy of design or program plan;
- (c) Personnel and facilities;
- (d) Economic efficiency.

Section 4. Dissemination and Adoption. The special experimental demonstration project shall include a plan for disseminating its results to the U.S. Secretary of Education, the adult education clearinghouse, the state directors of adult education, adult education departments of colleges and universities, other selected projects and local adult education personnel.

Section 5. Monitoring. An assigned monitor from the staff of the Department for Adult Education and Literacy shall visit annually each program receiving funds for demonstration or experimental grants. Project personnel shall submit quarterly narrative and financial reports and provide an annual report to the Department for Adult Education and Literacy within thirty (30) days after termination of the project. Extensions may be requested through the Commissioner of the Department for Adult Education and Literacy.

Section 6. Evaluation of State Discretionary Program. At the completion of each fiscal year, projects shall be evaluated using the criteria listed in Section 3 of this administrative regulation. Special consideration for future adoption or continuation shall be given to projects that may feasibly be duplicated on a statewide basis.

Section 7. Evaluation of Individual Projects. Upon the termination of each demonstration or experimental project funded under this federal grant, the Department for Adult Education and Literacy shall use data gathered from the monitoring of projects and the reports submitted for the projects to assess the effectiveness of each activity. Members of the state adult education staff shall also survey the beneficiaries of each project to obtain their reactions to the activity. The department shall base the criteria used in measuring effectiveness upon the goals and objectives proposed in the application for funds and the extent to which they were achieved. Within ninety (90) days after the close of the program year, an evaluation of each funded project shall be sent to the U.S. Department of Education.

Section 8. Assurances. Assurances applicable to the Adult Education Act are applicable to the submission of these projects. The priorities established for these projects are designed to help the state achieve its goals under the State Plan for Adult Education and are consistent with the state's educational program.

Section 9. Adult Education Teacher Training. The Department for Adult Education and Literacy shall provide staff-development training opportunities for practitioners and Department for Adult Education and Literacy state staff.

(1) The needs of adult education teachers shall be determined by formal and informal needs assessments. Assigned staff in the Department for Adult Education and Literacy shall plan and implement local and statewide in-service sessions based upon those assessments and current state and national priorities in adult education. Teacher training projects approved shall meet these needs and priorities.

(2) In addition to in-service sessions, adult education teachers shall receive the following services:

(a) Clearinghouse of adult education materials, including software and videotapes, for teacher and student use;

(b) Instructional publications, including handbooks, bibliographies, and reviews of new materials;

(c) Daily technical assistance as required on test administration, teaching techniques, recruitment and materials; and

(d) Preservice training for new teachers, including instruction in characteristics of adult learners, test administration, management of instructional programs, teaching techniques and materials, and ways of helping adults with special needs.

J. LARRY STINSON, Chairman

WILLIAM D. HUSTON, Secretary

APPROVED BY AGENCY: April 21, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 26, 1995, at 9 a.m. at the Capital Plaza Tower, 500 Mero Street, 3rd Floor Conference Room, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by September 21, 1995, 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: Beverly Haverstock, General Counsel, Cabinet for Workforce Development, 500 Mero Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: All local adult education providers that access state and federal funds on a competitive basis. The current number of funded programs is approximately 220.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State and federal adminis-

tration funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Kentucky: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A. State procedures reflect those in the federal mandate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: This regulation was repealed from 780 KAR 9:050 and is being adopted as a new regulation in a new chapter due to the creation of the Department for Adult Education and Literacy. Changes to the regulation were made to promote efficiency, reduce paperwork, and provide the department with greater flexibility in order to more effectively serve the target population.

(11) TIERING: Is tiering applied? No. Adult education services must be applied on a consistent and equitable basis in accordance with federal guidelines.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 20 USC 1201 et seq., Adult Education Act, as amended by the National Literacy Act of 1991 ("the Act").

2. State compliance standards. The state compliance standards are the same as those mandated in the Act.

3. Minimum or uniform standards contained in the federal mandate. Federal language defines the funding set-asides uniform standards for special demonstration projects and adult education teacher training. These standards relate to the application procedures and criteria, and the appeal process for those applications denied. Also included are procedures for project dissemination, monitoring and evaluation. These procedures are designed to assist the state to achieve the goals stated in the State Plan for Adult Education.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The state compliance standards do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

CABINET FOR WORKFORCE DEVELOPMENT State Board for Adult and Technical Education (New Administrative Regulation)

785 KAR 1:060. Approval of applications under English literacy program the Adult Education Act as amended by the National Literacy Act of 1991, 20 USC 1201 et seq.

RELATES TO: KRS 151B.023, 151B.110, 151B.125, 151B.145, 151B.150

STATUTORY AUTHORITY: KRS 151B.023, 151B.110, 151B.125, 151B.145, 151B.150

NECESSITY AND FUNCTION: KRS 151B.110 delegates to the State Board for Adult and Technical Education the responsibility for adult education programs and services in Kentucky. KRS 151B.023 provides that the Department for Adult Education and Literacy is the agency solely designated for the purposes of adopting state plans required for federal adult education programs and services in Kentucky. KRS 151B.125 recognizes the General Educational Development (GED) test for high school equivalency purposes in Kentucky and allows a fee to be assessed for duplicate equivalency diplomas. This administrative regulation prescribes the policies, activities, and procedures for approving local applications for grants for educational programs for adults of limited English proficiency under the Adult Education Act as amended by the National Literacy Act of 1991, 20 USC 1201 et seq., contingent upon the availability of funds.

Section 1. Goals of Activities. The goals of activities funded under this administrative regulation shall be to help adults of limited English proficiency learn to communicate more effectively and carry out the daily affairs of life; to improve their employability through more proficient use of English; and, for those wishing to seek U.S. citizenship, to prepare them for citizenship as effective, functional members of society.

Section 2. Submission of Applications. Thirty (30) days prior notice shall be posted notifying potential applicants of the availability of funds and of the application process. Applications for grants under this section of the Adult Education Act shall be submitted to the Department for Adult Education and Literacy by the established deadlines. Grants shall be awarded under the same policies and procedures applicable to grants awarded for adult education programs under the Adult Education Act, as amended by the National Literacy Act of 1991, 20 USC 1201 et seq., contingent upon the availability of funds.

Section 3. Cooperation with Community-based Organizations. These funds may be used to supplement the funds used under the basic state grant to provide English as a second language and citizenship classes for adults of limited English proficiency. The Department for Adult Education and Literacy shall work cooperatively with community-based organizations to reach those most in need of services and to expand the number of persons served in these programs. When a notice of availability of funds is issued, the department shall specify that fifty (50) percent of the funds are reserved for community-based organizations that have demonstrated their capability to administer English proficiency programs.

Section 4. Criteria for Review of Applications. In reviewing applications for funds under the English Literacy Program, the Department for Adult Education and Literacy shall consider the following criteria:

- (1) The adequacy of recruitment plans;
- (2) The adequacy of educational assessment strategies;
- (3) The extent to which the proposed activities address the identified needs for English literacy;

- (4) The adequacy of retention strategies;
- (5) The adequacy of evaluation plans;
- (6) The extent to which support services for transportation, child care and counseling can be provided;
- (7) The planned coordination with other agencies and organizations; and
- (8) The extent to which the objectives can be accomplished within the budget requested.

Section 5. Evaluation of Programs. A program receiving these funds shall be evaluated on the basis of the measurable goals and objectives set forth in the application. The grant recipient shall submit reports comparing the stated objectives to the program accomplishments at the end of the program year.

Section 6. State Administration. The Department for Adult Education and Literacy shall not use more than five (5) percent of the funds available for state administration, technical assistance and training.

J. LARRY STINSON, Chairman
WILLIAM D. HUSTON, Secretary

APPROVED BY AGENCY: April 21, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 26, 1995, at 9 a.m. at the Capital Plaza Tower, 500 Merc Street, 3rd Floor Conference Room, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by September 21, 1995, 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: Beverly Haverstock, General Counsel, Cabinet for Workforce Development, 500 Mero Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: All local adult education providers that access state and federal funds on a competitive basis. The current number of funded programs is approximately 220.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

- 1. First year following implementation: None

- 2. Second and subsequent years: None
- (3) 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
 - (4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State and federal administration funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Kentucky: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A. State procedures reflect those in the federal mandate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: This regulation was repealed from 780 KAR 9:060 and is being adopted as a new regulation in a new chapter due to the creation of the Department for Adult Education and Literacy. Changes to regulation were made to promote efficiency, reduce paperwork, and provide the department with greater flexibility in order to more effectively serve the target population.

(11) TIERING: Is tiering applied? No. Adult education services must be applied on a consistent and equitable basis in accordance with federal guidelines.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 20 USC 1201 et seq., Adult Education Act, as amended by the National Literacy Act of 1991 ("the Act").

2. State compliance standards. The state compliance standards are the same as those mandated in the Act.

3. Minimum or uniform standards contained in the federal mandate. Federal language defines the goals of recipients under this section of the Act which is to assist adults of limited English proficiency to learn to communicate more effectively and to carry out the daily affairs of life; to become more employable and to prepare for citizenship, if they so choose. Specifically, standards are provided to guide the submission of applications, usually with community-based organizations, and the notice of availability of funds required. Standards also include criteria for the review of the application, the evaluation of program and the maximum percentage to be used for state administration costs.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The state compliance standards do not impose stricter requirements than those required by the federal

mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

CABINET FOR WORKFORCE DEVELOPMENT
State Board for Adult and Technical Education
(New Administrative Regulation)

785 KAR 1:070. Approval of applications for migrant farmworker and immigrant education under the Adult Education Act, as amended by the National Literacy Act of 1991, 20 USC 1201 et seq.

RELATES TO: KRS 151B.023, 151B.110, 151B.145

STATUTORY AUTHORITY: KRS 151B.023, 151B.110, 151B.145

NECESSITY AND FUNCTION: KRS 151B.110 delegates to the State Board for Adult and Technical Education the responsibility for adult education programs and services in Kentucky. KRS 151B.023 provides that the Department for Adult Education and Literacy is the agency solely designated for the purposes of adopting state plans required for federal adult education programs and services in Kentucky. This administrative regulation prescribes the purposes of grants to be awarded to support the planning, development, and evaluation of programs designed to provide adult education services and activities to meet the special needs of migrant farmworkers and immigrants.

Section 1. Projects for Migrant Farmworkers. The types of projects appropriate for meeting the needs of migrant farmworkers in Kentucky are those that provide adult literacy skills; adult high school or general educational development instruction; basic skills needed in the workplace, and the updating of those skills; and counseling, transportation, and child care services for students enrolled in literacy or general educational development (GED) programs.

Section 2. Projects for Immigrants. The types of projects appropriate for meeting the needs of immigrants include those listed in Section 1 of this administrative regulation and projects that provide literacy skills for adults of limited English proficiency and preparation for becoming U.S. citizens.

J. LARRY STINSON, Chairman
 WILLIAM D. HUSTON, Secretary

APPROVED BY AGENCY: April 21, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 26, 1995, at 9 a.m. at the Capital Plaza Tower, 500 Mero Street, 3rd Floor Conference Room, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by September 21, 1995, 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: Beverly Haverstock, General Counsel, Cabinet for Workforce Development, 500 Mero Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: All local adult education providers that access state and federal funds on a competitive basis. The current number of funded programs is approximately 220.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State and federal administrative funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Kentucky: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A. State procedures reflect those in the federal mandate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: This regulation was repealed from 780 KAR 9:070 and is being adopted as a new regulation in a new chapter due to the creation of the Department for Adult Education and Literacy. Changes to regulation were made to promote efficiency, reduce paperwork, and provide the department with greater flexibility in order to more effectively serve the target population.

(11) TIERING: Is tiering applied? No. Adult education services must be applied on a consistent and equitable basis in accordance with federal guidelines.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 20 USC 1201 et seq., Adult Education Act, as amended by the National Literacy Act of 1991 ("the Act").
2. State compliance standards. The state compliance standards are the same as those mandated in the Act.
3. Minimum or uniform standards contained in the federal mandate. Federal language defines projects appropriate to meet the needs of migrant farmworkers in Kentucky - those that provide adult literacy skills, adult high school or GED instruction, and instruction for basic skills needed in the workplace and the updating of those skills. Standards also include support services for counseling, transportation and child care.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The state compliance standards do not impose stricter requirements than those required by the federal mandate.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

CABINET FOR WORKFORCE DEVELOPMENT
State Board for Adult and Technical Education
(New Administrative Regulation)

785 KAR 1:080. Reporting requirements for adult education programs.

RELATES TO: KRS 151B.023, 151B.110, 151B.145

STATUTORY AUTHORITY: KRS 151B.110, 151B.145

NECESSITY AND FUNCTION: KRS 151B.110 delegates to the State Board for Adult and Technical Education the responsibility for adult education programs and services in Kentucky. KRS 151B.023 provides that the Department for Adult Education and Literacy is the agency solely designated for the purposes of adopting state plans required for federal adult education programs and services in Kentucky. This administrative regulation prescribes the required reports, time lines, and areas of required reporting for recipients of grants of federal funds for adult education programs under the Adult Education Act as amended by the National Literacy Act of 1991 20 USC 1201 et seq.

Section 1. Reporting Requirements. Programs shall submit quarterly reports of financial expenditures. The Department for Adult Education and Literacy may require additional reports. The Department for Adult Education and Literacy shall monitor and evaluate programs. Information necessary to complete the federal annual performance report including student enrollment and progress data shall be submitted within ten (10) days following the close of the program year.

J. LARRY STINSON, Chairman

WILLIAM D. HUSTON, Secretary

APPROVED BY AGENCY: April 21, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 26, 1995, at 9 a.m. at the Capital Plaza Tower, 500 Mero Street, 3rd Floor Conference Room, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by September 21, 1995, 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: Beverly Haverstock, General Counsel, Cabinet for Workforce Development, 500 Mero Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: All local adult education providers that access state and federal funds on a competitive basis. The current number of funded programs is approximately 220.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: Increased cost due to moving from yearly to quarterly reporting periods. However, necessary to promote accountability and fiscal responsibility.

2. Second and subsequent years: Same as first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Increased cost due to number of reports submitted. It is necessary; however, to promote accountability and fiscal responsibility.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: Number of funded programs corresponds directly with the number of reports submitted.

(b) Reporting and paperwork requirements: Increased cost due to number of reports submitted. It is necessary; however, to promote accountability and fiscal responsibility.

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State and federal administration funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Kentucky: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A. State procedures reflect those in the federal

mandate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: This regulation was repealed from 780 KAR 9:080 and is being adopted as a new regulation in a new chapter due to the creation of the Department for Adult Education and Literacy. Changes to regulation was made to provide flexibility in order to promote fiscal accountability and technical assistance activities.

(11) TIERING: Is tiering applied? No. Adult education services must be applied on a consistent and equitable basis in accordance with federal guidelines.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 20 USC 1201 et seq., Adult Education Act, as amended by the National Literacy Act of 1991 ("the Act").

2. State compliance standards. The state compliance standards are the same as those mandated in the Act.

3. Minimum or uniform standards contained in the federal mandate. Federal language defines the minimum reporting requirements which must be submitted to remain in compliance with the federal annual performance report and to achieve the monitoring and program evaluation requirements.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The state compliance standards do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

CABINET FOR WORKFORCE DEVELOPMENT State Board for Adult and Technical Education (New Administrative Regulation)

785 KAR 1:090. Approval of applications under Workplace Literacy Program under the Adult Education Act as amended by the National Literacy Act of 1991, 20 USC 1201 et seq.

RELATES TO: KRS 151B.023, 151B.110, 151B.145

STATUTORY AUTHORITY: KRS 151B.023, 151B.110, 151B.145
NECESSITY AND FUNCTION: KRS 151B.110 delegates to the

State Board for Adult and Technical Education the responsibility for adult education programs and services in Kentucky. KRS 151B.023 provides that the Department for Adult Education and Literacy is the agency solely designated for the purposes of adopting state plans required for federal adult education programs and services in Kentucky. This administrative regulation prescribes the policies, activities, and procedures for approval of demonstration grants to exemplary educational partnerships under the Adult Education Act as amended by the National Literacy Act of 1991, 20 USC 1201 et seq., contingent upon the availability of funds.

Section 1. Program Requirements. Grants under this administrative regulation may be used to fund seventy (70) percent of the cost of programs meeting the requirements of this administrative regulation and for administrative costs incurred by state and local educational agencies in establishing and evaluating the programs. Programs funded under this section shall be designed to improve the productivi-

ty of the workforce through improvement of the literacy skills needed in the workplace by:

(1) Providing adult literacy and other basic skills services and activities;

(2) Providing adult secondary education services and activities that may lead to the completion of a high school diploma or its equivalent;

(3) Meeting the literacy needs of adults with limited English proficiency;

(4) Upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products or processes;

(5) Improving the competency of adult workers in speaking, listening, reasoning and problem-solving; or

(6) Providing educational counseling, transportation and nonwork-hours child care services to adult workers while they participate in programs funded under this authority.

Section 2. Eligibility. An application to receive funds under this administrative regulation shall be submitted jointly by:

(1) A business, industry, or labor organization or private industry council; and

(2) A state educational agency, local educational agency, institution of higher education or school (including an area vocational school, an employment and training agency or a community-based organization).

Section 3. Application Requirements. The application shall set forth the respective roles of each member of the partnership, include evidence of experience in providing literacy services to working adults, describe the program and services to be offered, provide assurances that the funds received shall be used to supplement and not supplant funds otherwise available for this purpose and describe the evaluation procedures to be used to measure student achievement and the overall effectiveness of the program.

Section 4. Criteria for Evaluating Applications. Applications shall be evaluated according to the criteria listed below:

(1) The quality of the plan of operation, including program design, implementation and evaluation components;

(2) The commitment of the members of the partnership to the purposes of the program;

(3) The previous experience of applicant in providing literacy services to working adults and attendance at Department for Adult Education and Literacy workplace training sessions;

(4) The extent to which the objectives can be accomplished within the budget requested; and

(5) The extent to which the program supplements existing services and does not duplicate other programs provided for working adults under other federal, state and local programs.

Section 5. Evaluation. In addition to the evaluation of each program by the recipient of funds under this administrative regulation, the Department for Adult Education and Literacy may use the state procurement procedures to issue a contract with a third party to evaluate student achievement and overall effectiveness of the Workplace Literacy Program.

J. LARRY STINSON, Chairman

WILLIAM D. HUSTON, Secretary

APPROVED BY AGENCY: April 21, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 26, 1995, at 9 a.m. at the Capital Plaza Tower, 500 Mero Street, 3rd Floor Conference Room, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by September 21,

1995, 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: Beverly Haverstock, General Counsel, Cabinet for Workforce Development, 500 Mero Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: All local adult education providers that access state and federal funds on a competitive basis. The current number of funded programs is approximately 220.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State and federal administration funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Kentucky: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A. State procedures reflect those in the federal mandate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of

the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: This regulation was repealed from 780 KAR 9:090 and is being adopted as a new regulation in a new chapter due to the creation of the Department for Adult Education and Literacy. Changes to regulation were made to promote efficiency, reduce paperwork, and provide the department with greater flexibility in order to more effectively serve the target population.

(11) TIERING: Is tiering applied? No. Adult education services must be applied on a consistent and equitable basis in accordance with federal guidelines.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 20 USC 1201 et seq., Adult Education Act, as amended by the National Literacy Act of 1991 ("the Act").

2. State compliance standards. The state compliance standards are the same as those mandated in the Act.

3. Minimum or uniform standards contained in the federal mandate. Federal language defines the percentage of funds that may be used to support programs meeting the requirements of this administrative regulation and for administration costs incurred by state and local agencies in establishing and evaluating programs. Specific guidelines identify agencies that are eligible to apply; criteria to be used for application and approval; program design; implementation and program evaluation. These programs shall be designed to improve the productivity of the workforce through improvements in literacy skills.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The state compliance standards do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

CABINET FOR WORKFORCE DEVELOPMENT State Board for Adult and Technical Education (New Administrative Regulation)

785 KAR 1:100. Provision of instruction for individuals sentenced by a court to participate in educational programs.

RELATES TO: KRS 151B.023, 151B.110, 533.200, 533.210
STATUTORY AUTHORITY: KRS 13A.100, 151B.023, 151B.110, 533.210

NECESSITY AND FUNCTION: KRS 533.200 allows a judge to sentence individuals without high school credentials who are convicted of a crime by a court to participate in a program designed to improve their reading, living and employment skills. KRS 533.210 delegates responsibility for administering the program described in KRS 533.200 to the Department for Adult Education and Literacy. KRS 151B.023 and 151B.110 delegates to the Department for Adult Education and Literacy and the State Board for Adult and Technical Education the responsibility for adult education programs and services. This administrative regulation describes programs of instruction to be offered for individuals sentenced by courts to educational programs and establishes qualifications for persons or organizations offering instruction.

Section 1. Instructional Program. Students ordered by the court

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to attend adult education and literacy programs shall receive usual and customary services through existing local programs.

J. LARRY STINSON, Chairman
WILLIAM D. HUSTON, Secretary

APPROVED BY AGENCY: April 21, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 26, 1995, at 9 a.m. at the Capital Plaza Tower, 500 Mero Street, 3rd Floor Conference Room, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by September 21, 1995, 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: Beverly Haverstock, General Counsel, Cabinet for Workforce Development, 500 Mero Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: All local adult education providers that access state and federal funds on a competitive basis. The current number of funded programs is approximately 220.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State and federal administration funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled to receive oral and

written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Kentucky: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A. State procedures reflect those in the federal mandate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: This regulation was repealed from 780 KAR 9:100 and is being adopted as a new regulation in a new chapter due to the creation of the Department for Adult Education and Literacy. Changes to regulation were made to promote efficiency, reduce paperwork, and provide the department with greater flexibility in order to more effectively serve the target population.

(11) TIERING: Is tiering applied? No. Adult education services must be applied on a consistent and equitable basis in accordance with federal guidelines.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 20 USC 1201 et seq., Adult Education Act, as amended by the National Literacy Act of 1991 ("the Act").

2. State compliance standards. The state compliance standards define the conditions for participation in the "Sentence to Learn" Program. This program expects participants to attend and successfully complete improvement in reading, living and employability skills.

3. Minimum or uniform standards contained in the federal mandate. Individuals ordered to attend adult education and literacy programs shall receive usual and customary services through existing programs.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The state compliance standards do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

CABINET FOR WORKFORCE DEVELOPMENT State Board for Adult and Technical Education (New Administrative Regulation)

785 KAR 1:110. Qualifications for progressing satisfactorily through a GED program.

RELATES TO: KRS 151B.110, 151B.125, 161.011

STATUTORY AUTHORITY: KRS 151B.125, 161.011

NECESSITY AND FUNCTION: KRS 151B.110 delegates to the State Board for Adult and Technical Education the responsibility for adult education programs and services in Kentucky. KRS 161.011 authorizes the State Board for Adult and Technical Education to define progressing satisfactorily through the GED Program for the purposes of minimum qualifications for local school district classified employment positions. This administrative regulation provides the necessary definition.

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Section 1. Definition. (1) "Classified employee" is defined in KRS 161.011.

(2) "Individual with a disability" means a person who has a physical or mental impairment that substantially limits one (1) or more major life activities, has a record of an impairment, or is regarded as having an impairment.

Section 2. Satisfactory Progress Requirement. Making progress toward obtaining a General Educational Development (GED) Diploma means:

- (1) Enrollment in an adult education program on an appropriate instructional level;
- (2) Monthly verification of attendance by a program official;
- (3) A satisfactory progress rating on an annual report submitted to the local school superintendent; and
- (4) A minimum of two (2) years attendance or successful completion of the GED.

Section 3. Instructional Level, Testing, Reporting. (1) The adult education teacher shall determine the appropriate instructional level by administering a reliable, commercially prepared, standardized test designed for adult students.

(2) Standardized test shall be administered to a classified employee:

- (a) Prior to an employee's enrollment in the GED Program; and
 - (b) At least once a year after enrollment in the program.
- (3) A classified employee shall be evaluated through administration of periodic testing during the enrollment period to determine whether he is making progress toward obtaining a GED. Periodic testing shall be administered at intervals prescribed by the Department for Adult Education and Literacy.

(4) An employee's progress, whether satisfactory or unsatisfactory, shall be reported in writing on an annual basis to the local superintendent by the instructor.

(5) An employee who is determined not to be making progress will be governed by the provisions of KRS 161.011.

Section 4. Modification or Temporary Waiver of Program Requirements. (1) A written request may be submitted to a local school superintendent requesting that the requirements of this administrative regulation be modified or temporarily waived if:

- (a) The individual employee has a disability; or
 - (b) A person can provide written documentation that the requirements of this administrative regulation impose an undue hardship.
- (2) The local school superintendent shall provide the employee with a written determination within ten (10) days of the request for modification or temporary waiver specifying the:
- (a) Modifications which shall be made in the program requirements or by the program staff or facility to accommodate an employee with a disability; and
 - (b) Conditions under which a temporary waiver of program requirements will be considered or granted.

J. LARRY STINSON, Chairman

WILLIAM D. HUSTON, Secretary

APPROVED BY AGENCY: April 21, 1995

FILED WITH LRC: August 15, 1995 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 26, 1995, at 9 a.m. at the Capital Plaza Tower, 500 Mero Street, 3rd Floor Conference Room, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person in writing by September 21, 1995, 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: Beverly Haverstock, General Counsel, Cabinet for Workforce Development, 500 Mero Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: Approximately 220 local adult education providers and 56 GED testing centers.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State and federal administration funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(b) Kentucky: A public hearing was scheduled to receive oral and written comments on this administrative regulation. However, the hearing was cancelled as a result of the Notice of Intent being published and no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A. Method reflects those specified by the GED testing service with the Commission on Education and credentials of the American Council on Education.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky. None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(10) Any additional information or comments: This regulation was repealed from 780 KAR 9:130 and is being adopted as a new regulation in a new chapter due to the creation of the Department for Adult Education and Literacy. Changes to regulation were made for language clarification purposes and to provide greater flexibility in setting testing intervals which will enable the department to work more effectively with all programs.

(11) TIERING: Is tiering applied? Tiering is not applied. State compliance standards are the same as those specified by the American Council on Education.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Policies of the GED Testing Service with the Commission on Education and credentials of the American Council on Education.

2. State compliance standards. The state compliance standards are the same as those specified by the American Council on Education. Accommodations for individuals with disabilities comply with the American with Disabilities Act, PL 101-336.

3. Minimum or uniform standards contained in the federal mandate. This language defines an "Individual with a disability" and provides the criteria for making satisfactory progress toward the completion of a GED. Classroom instruction, testing and reporting as well as accommodations for individuals with disabilities are clearly defined and reflect compliance with the Americans with Disabilities Act, PL 101-336.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The state compliance standards do not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

LABOR CABINET Department of Workers' Claims (New Administrative Regulation)

803 KAR 25:150. Workers' compensation alternative dispute resolution systems.

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS 342.260, 342.277

NECESSITY AND FUNCTION: KRS 342.277 requires the Commissioner of the Department of Workers' Claims to promulgate administrative regulations putting forth the mechanism and criteria by which the Department of Workers' Claims may recognize as valid and binding a collective bargaining agreement between an employer and a recognized or certified exclusive bargaining representative. KRS 342.260 requires the Commissioner of the Department of Workers' Claims to promulgate rules and administrative regulations as are necessary to carry on the work of the Department of Workers' Claims and to implement the provisions of KRS Chapter 342. The function of this administrative regulation is to establish a mechanism by which the commissioner may recognize as valid and binding a collective bargaining agreement between an employer and a recognized or certified exclusive bargaining representative.

Section 1. Definitions. (1) "ADR" means alternative dispute resolution.

(2) "Collective bargaining agreement" means an agreement between an employer and a recognized or certified exclusive bargaining representative concerning workers' compensation claims and the resolution of workers' compensation disputes.

(3) "Certification" means the order issued by the commissioner

advising the employer and the recognized or certified exclusive bargaining representative that a program for alternative dispute resolution of disagreements as to entitlement to workers' compensation benefits for employees of the employer has been approved.

(4) "Recognized or certified exclusive bargaining representative" means the entity recognized or certified by the employees of an employer as the employees' representative for purposes of resolution of disputes relating to the employees' entitlement to workers' compensation benefits.

(5) "ADR plan administrator" means the person or entity designated by an employer and the recognized exclusive bargaining representative as the day-to-day administrator of the program for resolutions of disputes as to entitlement to workers' compensation benefits and the amount, manner of payment, and duration of benefits for work-related injuries and occupational diseases.

Section 2. Application; Plan Requirements. (1) Any employer and the recognized or certified exclusive bargaining representative, through their designated ADR plan administrator may apply for certification of a plan which supplements, modifies, or replaces the provisions of KRS Chapter 342 that relate to the resolution of disputes. The format for the application is set forth in Appendix A. The application and appended materials shall demonstrate that:

(a) The employer and the recognized or certified exclusive bargaining representative have entered into a binding collective bargaining agreement adopting the ADR plan for a period of no less than two (2) years and appointing the ADR plan administrator for no less than a period of one (1) year;

(b) Contractual agreements have been reached with the employer's workers' compensation carrier, group self-insurance fund, and any excess carriers relating to the ADR plan.

(c) Procedures have been established by which claims for benefits by employees will be lodged, administered and decided while affording procedural due process.

(d) The plan has designated forms upon which claims for benefits shall be made. Such forms shall comport substantially with the Procedure for Adjustments of Claim forms prescribed by 803 KAR 25:010.

(e) The system and means by which the employer's obligation to furnish medical services under KRS 342.020 and vocational rehabilitation and retraining benefits under KRS 342.732 and 342.710 shall be fulfilled and providers selected.

(f) The method by which mediators or arbitrators are to be selected.

(g) The decision of a mediator or arbitrator upon a referred matter shall have the same force and effect as that of an administrative law judge under KRS Chapter 342.

(h) Income benefits for disability will be no less than those provided by KRS Chapter 342.

(2) The commissioner shall review the application within thirty (30) days and by written order served upon the ADR plan administrator notify that the plan had been certified, denied, or needs to be amended, affording the applicant thirty (30) days in which to make suggested amendments. Any order denying an application shall specifically set forth the basis of the denial.

(3) Any applicant aggrieved by the order of the commissioner denying an application may within fifteen (15) days of the date of that order file with the commissioner a request for hearing setting forth a concise statement of the reasons why the commissioner's decision should be changed. The commissioner shall in no less than thirty (30) days schedule and hold a hearing pertaining to the matter. Within ten (10) days of the conclusion of the hearing, the commissioner shall issue a final order adopting, modifying or reversing the prior order relative to the application. An applicant aggrieved by that order may appeal to the Franklin Circuit Court within thirty (30) days of the entry of the order.

Section 3. Employees' Claims for Workers' Compensation Benefits. (1) Claims for benefits shall be filed with the ADR plan administrator within those periods of limitation prescribed by KRS Chapter 342. Within ten (10) days of the filing of a claim, the plan administrator shall serve a copy of the claim application upon the commissioner, who shall maintain records of all ADR claims and resolutions.

(2) Settlements of claims presented to the plan administrator shall be evidenced by a settlement agreement substantially comporting with Form 110-0, 110-1, or 110-R as adopted at 803 KAR 25:010. All such settlements shall be filed with the ADR plan administrator, who within ten (10) days shall forward a copy to the commissioner for recording.

(3) Upon assignment of claims, unless settled, mediators and arbitrators shall render final orders containing essential findings of fact, rulings of law and referring to other matters as pertinent to the questions at issue. The ADR plan administrator shall maintain a record of the proceedings.

Section 4. Special Fund Participation. (1) Participation by the special fund in any claim pending before the ADR plan administrator, a mediator, or arbitrator shall be sought as soon as possible after the existence of grounds for special fund liability is known. Written request for participation should be addressed to: Director of Special Fund, ATTN: ADR Clerk, Labor Cabinet, 1047 U.S. 127 South, Frankfort, Kentucky 40601. The request shall:

- (a) Specify the factual basis of alleged special fund liability;
- (b) Be accompanied by a copy of all written materials pertinent to the claim held by the requesting party and any material discoverable under KRS Chapter 342; and
- (c) Be accompanied by a current medical waiver and consent form executed by the claimant.

(2) Within fifteen (15) days following receipt of a request for participation in a pending ADR claim, the director of the special fund shall notify the parties, in writing, of whether it elects to join as a party in the ADR proceedings. A failure of the director of the special fund to respond to a request for participation shall be deemed a negative election.

(3) If the director of the special fund declines to participate in the ADR proceedings, the claimant, the employer, and the employer's insurance carrier shall retain the right to proceed against the special fund in the manner prescribed by KRS Chapter 342. Any claim against the special fund shall be filed with the Department of Workers' Claims within thirty (30) days after an award or settlement through ADR becomes final.

Section 5. Appeals. (1) A party to an ADR proceeding may appeal a final order to the Workers' Compensation Board in the same manner and in the same time frame as prescribed for an appeal from the decision of an administrative law judge. A copy of the notice of appeal shall be served by the appealing party on the plan administrator, who shall within twenty (20) days file with the commissioner a copy of the record of the proceedings before the mediator or arbitrator.

(2) The final order of the mediator or arbitrator shall be affirmed upon review unless the Workers' Compensation Board determines:

- (a) The mediator or arbitrator exceeded the authority vested by applicable law;
- (b) The final order is incomplete, ambiguous or so contradictory as to make implementation impracticable;
- (c) The mediator or arbitrator was patently biased or partial;
- (d) The mediator or arbitrator refused to admit reliable material or probative, but not redundant, evidence, which if accepted would tend to change the outcome of the proceeding; or
- (e) The final order of the mediator or arbitrator was procured by fraud.

(3) No issue or point of error shall be raised before the board

which was known or should have been known below, but was not raised before the arbitrator.

Section 6. Reporting Requirements. Annually, each ADR plan administrator shall submit a report to the commissioner containing the following information:

- (1) The number of employees within the ADR program;
- (2) The number of occurrences of work-related injuries or diseases;
- (3) The breakdown within the ADR program of injuries and diseases treated;
- (4) The total amount of disability benefits paid within the ADR program;
- (5) The total medical treatment cost paid within the ADR program;
- (6) The number of claims filed within the ADR program; and
- (7) The disposition of all claims.

APPENDIX A APPLICATION FOR CERTIFICATION OF AN ALTERNATIVE DISPUTE RESOLUTION PROGRAM

APPLICATION FOR CERTIFICATION

- (1) Employer's name, address, and telephone number.
- (2) Recognized or certified exclusive bargaining representative's name, address, and telephone number.
- (3) ADR plan administrator's name and address.
- (4)(a) Contract adopting ADR plan and appointing the ADR plan administrator.
- (b) Contract between employer and employer's workers' compensation carrier, group self-insurance fund, and any applicable excess carriers.
- (c) Description of procedures by which claims for benefits are to be lodged, administered and decided.
- (d) Forms substantially comporting with 803 KAR 25:010.
- (e) Description of procedure by which the employer is to furnish medical services, vocational rehabilitation, and retraining benefits, and method of selecting providers.
- (f) Description of the method by which mediators or arbitrators are to be selected.
- (g) A statement demonstrating that the decision of a mediator or arbitrator shall have the same force and effect as that of an administrative law judge.
- (h) A statement that income benefits for disability will be no less than those provided by KRS Chapter 342.

Employer Signature
Date: _____

Subscribed and Sworn to before me by _____, on
this the _____ date of _____, 19____.

Notary Public
My Commission expires _____, 19____.

Exclusive Bargaining Representative
Signature

Date: _____

Subscribed and Sworn to before me by _____, on
this the _____ date of _____, 19____.

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Notary Public

My Commission expires _____, 19____.

ADR PLAN ADMINISTRATOR SIGNATURE

Date: _____

Subscribed and Sworn to before me by _____, on this the _____ date of _____, 19____.

Notary Public

My Commission expires _____, 19____.

WALTER W. TURNER, Commissioner

APPROVED BY AGENCY: August 15, 1995

FILED WITH LRC: August 15, 1995 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 September 25, 1995. Individuals interested in attending this hearing shall notify this agency in writing by September 20, 1995, 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: Marcy D. Ches, Staff, Attorney, Department of Workers' Claims, 1270 Louisville Road, Perimeter Park West, Frankfort, Kentucky 40601, (502) 564-5550.

REGULATORY IMPACT ANALYSIS

Contact person: Marcy D. Ches

(1) Type and number of entities affected: This regulation will affect all Kentucky employers, in that each employer has the opportunity to apply for certificate of an alternative dispute resolution system for workers' compensation.

(2) Direct and indirect costs or savings on the:

(a) Cost of Living and employment in the geographical area in which the administrative regulations will be implemented, to the extent available from the public comments received: No impact anticipated on the cost of living and employment.

(b) Cost of doing business in geographical areas in which the administrative regulation will be implemented to the extent available from public comments received: The administrative regulation will be implemented throughout the entire Commonwealth and will have a favorable economic impact by decreasing the workers' compensation costs of those employers who choose an alternative dispute resolution system.

(c) Compliance, reporting, paperwork requirements:

1. First year following implementation. No significant increase or decrease is expected.

2. Second and subsequent years. No significant increase or decrease is expected.

(3) Effects on the promulgating administrative body.

(a) Direct and indirect costs or savings:

1. First year: This regulation is expected to lower the cost of processing claims for the Department of Workers' Claims.

2. Continuing costs or savings: This regulation is expected to continue to decrease the costs of claims processing to the Department of Workers' Claims.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No effect.

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue: The Kentucky Workers' Compensation Funding Commissioner pursuant to KRS 342.122.

(6) The economic impact on:

(a) Geographical area in which administrative regulation will be implemented. The administrative regulation will be implemented throughout the entire Commonwealth and will have a favorable economic impact by decreasing the workers' compensation costs of those employers who choose an alternative dispute resolution system.

(b) Kentucky. See response to (a) above.

(7) Assessment of alternative methods: Reasons why alternatives were rejected: KRS 342.277 requires the Commissioner of the Department of Workers' Claims to put in place a mechanism by which the Department of Workers' Claims may recognize as valid and binding agreements between employers and exclusive bargaining representatives concerning workers' compensation claims and the resolution of workers' compensation disputes. This administrative regulation was deemed to be the most reasonable and efficient in implementing KRS 342.277.

(8) Assessment of expected benefits:

(a) Effect on public health and environment: No effect is anticipated.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No effect.

(c) If detrimental effect would result; explain detrimental effect: No effect.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping or duplication: No conflict.

(a) Necessity of proposed regulation in conflict: No conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict.

(10) Any additional information or comments: None

(11) Tiering: Is tiering applied? (Explain why tiering was or was not used). The Commissioner of the Department of Workers' Claims is directed in KRS 342.277 to promulgate administrative regulations whereby the Department of Workers' Claims may recognize as valid and binding, a collective bargaining agreement between an employer and a recognized or certified exclusive bargaining representative. The statute applies to all employers doing business in the Commonwealth of Kentucky and does not provide for different treatment among different classes of employers. Therefore, tiering is inappropriate in this situation.

LABOR CABINET

Department of Workers' Claims

(New Administrative Regulation)

803 KAR 25:170. Filing of claims information with the Department of Workers' Claims.

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS Chapter 13A, 342.039

NECESSITY AND FUNCTION: KRS 342.039 requires the Commissioner of the Department of Workers' Claims to promulgate administrative regulations by which each insurance company writing workers' compensation policies in the Commonwealth, every group of self-insurers, and each employer carrying its own risk shall file detailed claim information contained in the model regulation developed by the National Association of Insurance Commissioners (NAIC) in conjunction with the International Association of Industrial Accident Boards and Commissions (IAIABC).

Section 1. Definitions. (1) "Commissioner" means the Commis-

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sioner of the Department of Workers' Claims appointed pursuant to KRS 342.228.

(2) "Data collection agent" means a business or entity that keys information into an electronic format and transmits the resulting data to the value added network used by the Department of Workers' Claims.

(3) "Value added network" means a business or entity that accepts electronic data transmissions and sorts the transmissions for delivery to various addressees.

Section 2. Reporting Requirements. (1) Each insurance company writing workers' compensation insurance policies in the Commonwealth of Kentucky, each group of self-insurers holding a valid certificate issued by the commissioner (or its third-party administrator), and each individual employer carrying its own risk and holding a valid certificate issued by the commissioner (or its third-party administrator) shall file the information required on the Form IA-1 with the Department of Workers' Claims as soon as practicable and not later than three (3) weeks from the date on which an employee has reported a work-related injury or occupational disease to the employer.

(2) Each insurance company writing workers' compensation insurance policies in the Commonwealth of Kentucky, each group of self-insurers holding a valid certificate issued by the commissioner (or its third-party administrator), and each individual employer carrying its own risk and holding a valid certificate issued by the commissioner (or its third-party administrator) shall file the information required on the Form IA-2 with a data collection agent or a Department of Workers' Claims value added network, in electronic format, every sixty (60) days for as long as the disability of an employee continues and whenever payments to an employee are commenced, terminated, changed, or resumed.

(3) Each insurance company writing workers' compensation insurance policies in the Commonwealth of Kentucky, each group of self-insurers holding a valid certificate issued by the commissioner (or its third-party administrator), and each individual employer carrying its own risk and holding a valid certificate issued by the commissioner (or its third-party administrator) shall file a medical report containing the information extracted from the standardized uniform health claim forms prescribed by the Health Policy Board of the Commonwealth of Kentucky pursuant to KRS Chapter 216 and the administrative regulations promulgated pursuant thereto. This information shall be filed with the Department of Workers' Claims as soon as practicable and not later than three (3) weeks following the payment or denial of a bill submitted on a uniform health claim form in a workers' compensation case.

Section 3. Data Collection Agents. If an insurance company, group self-insurer (or its third-party administrator) or an individual self-insurer (or its third-party administrator) is unable to transmit the information required under this administrative regulation to a value added network utilized by the Department of Workers' Claims using its own facilities and resources, it shall employ a data collection agent capable of transmitting the information to a value added network utilized by the Department of Workers' Claims. The Department of Workers' Claims shall maintain a directory of businesses capable of providing this service that have asked to be listed as potential data collection agents.

Section 4. Forms. (1) Forms IA-1 and IA-2 are filed herewith and incorporated by reference.

(2) Obtaining forms.

(a) Forms are available to the public at main and branch office of the Department of Workers' Claims:

1. Frankfort - Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601;

2. Louisville - 410 West Chestnut Street, Louisville, Kentucky

40202;

3. Paducah - 220 B. North 8th Street, Paducah, Kentucky 42001; and

4. Pikeville - 412 Second Street, Pikeville, Kentucky 41501.

(b) Office hours of each office are 9 a.m. to 4 p.m. local time, Monday through Friday inclusive, for this purpose.

WALTER W. TURNER, Commissioner

APPROVED BY AGENCY: August 15, 1995

FILED WITH LRC: August 15, 1995 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 September 25, 1995. Individuals interested in attending this hearing shall notify this agency in writing by September 20, 1995, 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: Valerie L. Salven, General Counsel, Department of Workers' Claims, 1270 Louisville Road, Perimeter Park West, Frankfort, Kentucky 40601, (502) 564-5550.

REGULATORY IMPACT ANALYSIS

Contact Person: Mike Wood, Director

(1) Type and number of entities affected: This administrative regulation will affect each insurance company writing workers' compensation insurance policies in the Commonwealth of Kentucky, each group of self-insurers holding a valid certificate issued by the Commissioner of the Department of Workers' Claims, and each individual employer carrying its own risk and holding a valid certificate issued by the Commissioner of the Department of Workers' Claims. There are presently 18 groups and approximately 260 individual workers' compensation self-insurers.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No public comments were received concerning this proposed administrative regulation following the "Notice of Intent" period.

(b) Cost of doing business in geographical area in which the administrative regulation will be implemented to the extent available from public comments received. No public comments have been received.

(c) Compliance, reporting, paperwork requirements.

1. First year following implementation. This proposed administrative regulation will require the filing of a large amount of claims information with the Department of Workers' Claims that has not been previously required. The information will be filed electronically, however, and the Department of Workers' Claims has been informed by people in the insurance industry that many companies already maintain this information in electronic format for their own use.

2. Second and subsequent years. Same as first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Some additional costs will be incurred as the result of maintaining an expanded database within the Department of Workers' Claims. Provision was made for additional staffing as the result of HB 928 of the 1994 General Assembly, however, and it will be the responsibility of the reporting entity to place information in an

electronic format and transmit it to a "value-added network" for delivery to the Department of Workers' Claims.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None known.

(b) Reporting and paperwork requirements: The Department of Workers' Claims will be receiving an enormous amount of claims information that has not previously been reported to it. This information will be placed in the agency's computer database and will include information concerning the severity of work-related injuries, the amount of income benefits paid, and the amount of medical benefits paid with a description of the services provided. This information will be reported in a format similar to a national model that is used in other states, allowing the Department of Workers' Claims to compare its data to that received by workers' compensation agencies in other states.

(4) Assessment of anticipated effect on state and local revenues: None, because the Department of Workers' Claims is not funded from the general fund.

(5) Source of revenue: The Kentucky Workers' Compensation Funding Commission pursuant to KRS 342.122.

(6) The economic impact on:

(a) Geographic area in which administrative regulation will be implemented. This administrative regulation will be implemented throughout the state of Kentucky, and will require insurance carriers or self-insured employers who are not able to provide claims information in an electronic format to employ a data collection agency to provide this service.

(b) Kentucky: See response to (a) above.

(7) Assessment of alternative methods: Reasons why alternatives were rejected: This regulation was required by KRS 342.039, enacted by the 1994 General Assembly. Alternative methods of data collection and transmittal were rejected as being too costly either to the agency or to the employers and insurance carriers.

(8) Assessment of expected benefits:

(a) Effect on public health and environment: No effect.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: No effect.

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping or duplication: KRS 342.038 places the burden upon the employer, and not its insurance carrier, to file reports of injury, etc. with the Department of Workers' Claims. There is at present no penalty for an insurance carrier if a first report of injury or subsequent report is not filed, under either KRS 342.038 and 342.990. This is a matter which should be addressed by the 1996 General Assembly. At present there is not any impediment to the promulgation of this administrative regulation, but a statutory change will be necessary to enable the agency to enforce this regulation with administrative fines if necessary.

(a) Necessity of proposed regulation if in conflict: The problem is enforceability, not conflict, and this administrative regulation is required by KRS 342.039.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? (Explain why tiering was or was not used) No. All insurance carriers, group self-insurers and individual self-insurers are required to file the same information with the Department of Workers' Claims. Tiering is not appropriate since a reliable database would not result from different requirements for multiple classes.

**CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(New Administrative Regulation)**

904 KAR 3:100. Restaurant certification for accepting food stamp coupons.

RELATES TO: KRS 194.050, 7 CFR 271.2, 278.2(b), PL 101-624, Food Stamp Program 92-05, Administrative Letter 031-92, Administrative Letter No. 046-92, Food Stamp Policy Memo 2-082

STATUTORY AUTHORITY: KRS 194.050, 7 CFR 271.4

NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer a Food Stamp Program. KRS 194.050 provides that the secretary shall, by administrative regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This administrative regulation sets forth the procedures used by the cabinet to certify restaurants that want to enter into an agreement with the cabinet to accept food stamp coupons.

Section 1. Definitions. (1) "Homeless individual" means one who:

(a) Lacks a fixed and regular nighttime residence; or

(b) Has a primary nighttime residence that is:

1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations; or

2. An institution that provides a temporary residence for individuals intended to be institutionalized; or

3. A temporary accommodation in the residence of another individual; or

4. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(2) "Restaurant" means:

(a) A fixed licensed commercial food service establishment that engages in the preparation, service, and sale of ready-to-eat foods in portions to the consumer;

(b) A public or private nonprofit establishment (e.g., soup kitchen, temporary shelter), approved by the cabinet, that sells food to homeless persons;

(c) A retail food store establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption.

(d) Establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments shall not be included.

Section 2. Eligible Recipients. Homeless food stamp recipients may use food stamps at authorized restaurants to purchase low cost meals.

Section 3. Authorization Process. (1) A restaurant wanting to accept food stamps from eligible food stamp recipients as defined in Section 2 of this administrative regulation shall:

(a) Enter into a contract with the cabinet to accept food stamps for low cost meals in accordance with Section 4 of this administrative regulation;

(b) Provide a copy of the contract between the cabinet and the restaurant to the Food and Consumer Service (FCS) field office;

(c) Be authorized as a retailer by the FCS field office;

(d) Offer low cost meals consistent with the goals of the National Food Stamp Program.

(2) A restaurant that operates a dining facility at more than one

(1) site shall enter into a separate contract with the cabinet for each

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dining facility.

(3) A restaurant that only provides a meal delivery service shall not be permitted to enter into a contract with the cabinet to accept food stamps.

Section 4. Low Cost Meals. (1) The establishment shall offer a ten (10) percent price reduction to eligible persons.

(2) Further reductions shall not be required if the establishment is already giving a ten (10) percent or more discount to the elderly and the homeless individual is elderly.

Section 5. Restaurant Requirements. (1) Sales tax shall not be charged on eligible foods purchased with food stamps;

(2) Restaurants shall require a household purchasing meals to show the quality meals identification card marked "QM" establishing the household's right to purchase meals with food stamps.

Section 6. Changemaking. (1) A restaurant shall be allowed to give up to ninety-nine (99) cents in cash as change.

(2) When change of over one (1) dollar is due, a restaurant shall use an unmarked or uncanceled one (1) dollar food stamp.

(3) A public or private nonprofit homeless meal provider shall be prohibited from giving cash change in a food stamp transaction.

Section 7. Material Incorporated by Reference. (1) The form necessary for restaurant certification for accepting food stamp coupons is being incorporated by reference dated August 15, 1995. This form is the FSQM-1, revised 7/95.

(2) Material incorporated by reference may be inspected and copies at the Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

JOHN L. CLAYTON, Commissioner

MASTEN CHILDERS II, Secretary

APPROVED BY AGENCY: July 7, 1995

FILED WITH LRC: July 27, 1995 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1995 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 September 16, 1995 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, 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

Agency Contact Person: Marty Mason, Director

(1) Type and number of entities affected: This regulation is promulgated to implement Section 1713 of PL 101-624. The specified provision allows homeless persons participating in the Food Stamp Program to purchase meals from authorized public and private nonprofit meal providers including shelters and soup kitchens. The cabinet estimates that the amendment to this administrative regulation will affect less than 1,000 individuals.

(2) Direct and indirect cost or savings to those affected: None

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent

available from the public comment received: No hearing was requested as a result of the Notice of Intent being published and no comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No hearing was requested as a result of the Notice of Intent being published and no comments were received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: Insignificant in that a new type of identification card will be required to identify the homeless.

(a) Direct and indirect cost or savings: None

1. First Year: None

2. Continuing cost or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: 100% federal funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No hearing was requested as a result of the Notice of Intent being published and no comments were received.

(b) Kentucky: No hearing was requested as a result of the Notice of Intent being published and no comments were received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect:

(9) 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: None

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Federal and state statutes mandate that eligibility requirements for the Food Stamp Program be implemented in a like manner on a statewide basis, thereby prohibiting tiering.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Restaurant certification is a state option and not mandated by federal statute or regulation.

2. State compliance standards. Same as item #1.

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. None

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? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. No

3. State the aspect or service of local government to which this administrative regulation relates. None

4. How does this administrative regulation affect the local government or any service it provides? None

**KENTUCKY HEALTH POLICY BOARD
(New Administrative Regulation)**

909 KAR 1:021. State Health Plan.

RELATES TO: KRS 216B.010 to 216B.130

STATUTORY AUTHORITY: KRS 216B.015(19), 216.2905(2)(h)

NECESSITY AND FUNCTION: KRS 216B.015(19) requires the Kentucky Health Policy Board to oversee development and annual updating of the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the board is given responsibility in KRS 216.2905(2)(h).

Section 1. Incorporation by Reference. (1) The 1996-1998 Kentucky State Health Plan is hereby incorporated by reference.

(2) This document may be inspected, copied, or obtained at the Kentucky Health Policy Board, 909 Leawood Drive, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m. Monday through Friday.

JACK B. HALL, Chairman

APPROVED BY AGENCY: August 10, 1995

FILED WITH LRC: August 14, 1995 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 29, 1995, at 10 a.m. in the Board Room of the Kentucky Health Policy Board, 909 Leawood Drive, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by September 24, 1995, five days before 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 hearing, you may submit written comments on the proposed regulation. Send written notification of intent to attend the public hearing or written comments on the proposed regulation to: Jack B. Hall, Chairman, Kentucky Health Policy Board, 909 Leawood Drive, Frankfort, Kentucky 40601, (502) 564-4040, Fax: 502-564-5931.

REGULATORY IMPACT ANALYSIS

Contact Person: Jack B. Hall

(1) Type and number of entities affected: Health care facilities and services throughout the Commonwealth.

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: The regulation is intended to improve the health status of Kentuckians by identifying areas of greatest need and most effective interventions, and to contain health care costs by avoiding unnecessary duplication of costly medical services and equipment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments have been received.

(c) Compliance, reporting and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: New health care facilities and services as defined by KRS 216B.015 and regulations pursuant thereto that apply for certificates of need are required by KRS 216B.040(2)(a)(2)(a) to be consistent with criteria for those facilities and services in the state health plan. Specific, objective criteria will facilitate compliance with this requirement and further the goal of reducing unnecessary health care expenditures.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Specific, objective criteria for the administration of the certificate of need program will save the administrative body costs associated with administering ambiguous criteria.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: KRS 216B.015(19) mandates annual updates of the state health plan.

(4) Assessment of anticipated effect on state and local revenue: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees paid by applicants for certificates of need; appropriations for Health Policy Board.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographic area in which administrative regulation will be implemented: None; uniform implementation across Kentucky.

(b) Kentucky: No public comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Express statutory mandate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environmental and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: See above.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? (Explain why tiering was or was not used): Tiering was not applied because this regulation applies equally to all entities statewide.

**KENTUCKY HEALTH POLICY BOARD
(New Administrative Regulation)**

909 KAR 1:055. Certificate of need expenditure minimums.

RELATES TO: KRS 216B.010 to 216B.130, 216B.455, 216B.990(2)

STATUTORY AUTHORITY: KRS 216B.040, 216B.130

NECESSITY AND FUNCTION: KRS 216B.040 authorizes the Kentucky Health Policy Board to promulgate administrative regulations. KRS 216B.130 requires the board to annually adjust expenditure minimums provided in KRS Chapter 216B. This administrative regulation provides for the adjustment of expenditure minimums for capital expenditures and major medical equipment for the period beginning July 15, 1995 and ending July 14, 1996.

ADMINISTRATIVE REGISTER - 663

Section 1. (1) Expenditure minimums or limits provided in KRS Chapter 216B and administrative regulations promulgated pursuant thereto shall be adjusted for the twelve (12) month period beginning July 15, 1995 and ending July 14, 1996 to reflect the changes in the preceding year.

(2) The U.S. Department of Commerce, Bureau of Census Implicit Price Deflator for Construction shall be used in making these adjustments. The change in the deflator for the twelve (12) month period ending January, 1995 represents a four and one-half (4.5) percent increase.

Section 2. The expenditure minimums provided in KRS Chapter 216B shall be increased for the twelve (12) month period from July 15, 1995 to July 14, 1996 as follows:

(1) The expenditure minimum of \$1,500,000 for capital expenditure shall be increased to \$1,567,500.

(2) The expenditure minimum of \$1,500,000 for major medical equipment shall be increased to \$1,567,500.

Section 3. 902 KAR 20:136 is hereby repealed.

JACK B. HALL, Chairman

APPROVED BY AGENCY: August 10, 1995

FILED WITH LRC: August 14, 1995 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 28, 1995, at 1:30 p.m. in the Board Room of the Kentucky Health Policy Board, 909 Leawood Drive, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by September 23, 1995, five days before 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 hearing, you may submit written comments on the proposed regulation. Send written notification of intent to attend the public hearing or written comments on the proposed regulation to Jack B. Hall, Chairman, Kentucky Health Policy Board, 909 Leawood Drive, Frankfort, Kentucky 40601, (502) 564-4040.

REGULATORY IMPACT ANALYSIS

Contact Person: Jack B. Hall

(1) Type and number of entities affected: New health care facilities and services throughout the commonwealth

(2) Direct and indirect costs or savings on the:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: The regulation is intended to contain health care costs by avoiding unnecessary duplication of costly medical services and equipment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments have been received.

(c) Compliance, reporting and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) 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: As in the past, the certificate of need authority will review applications to determine

whether they exceed minimum expenditure thresholds.

(4) Assessment of anticipated effect on state and local revenue: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees paid by applicants for certificates of need.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographic area in which administrative regulation will be implemented: None; uniform implementation across Kentucky.

(b) Kentucky: No public comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Annual adjustment of expenditure threshold is required by statute. Because the majority of expenses falling under certificate of need regulation are construction expenses, the Bureau of the Census Implicit Price Deflator for Construction was the most appropriate and widely used measure of cost increase.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environmental and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: See above.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? (Explain why tiering was or was not used): Tiering was not applied because this regulation applies equally to all entities statewide.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the August 7, 1995

The August meeting of the Administrative Regulation Review Subcommittee was held on Monday, August 7, 1995, at 10 a.m. in Room 149 of the Capitol Annex. Representative Jesse Crenshaw, Chairman, called the meeting to order, and the secretary called the roll. The minutes of the July 10, 1995 meeting were approved.

Present were:

Members: Representative Jesse Crenshaw, Chairman; Senators John David Preston, Nick Kafoglis, Fred Bradley; Representatives Woody Allen, Jim Bruce and Jimmy Lee.

LRC Staff: Greg Karambellas, O. Joseph Hood, Tom Troth, Patrice Carroll, Susan Wunderlich, Peggy Jones, Donna Valencia, Ava Crow.

Guests: Laurent Crenshaw; Laura H. Hendrix, Londa L. Wolanin, KHEAA and KHCSLC; Debby Milton, Gordon Mullis, Marilyn Eaton-Thomas, Kentucky Infrastructure Authority; Bill Gatewood, Division of Water; D. Brent Irvin, Gary Munsie, Board of Dentistry; Donn Dutton, Alan F. Hamilton, Ed Logsdon, Department of Agriculture; Mike Herrington, R. Stephen Jones, Tom hoechner, Larry Brown, Economic Development Cabinet; Stephen A. Coleman, Soil and Water Conservation Commission; Sara M. Jackson, Division of Charitable Gaming; Sandy Pullen, Transportation Cabinet; Betty Lindsey, Kevin Noland, Department of Education; Carla H. Montgomery, Department of Insurance; Judith Walden, Department of Housing, Buildings and Construction; Anne Hager, Karen Doyle, Cabinet for Human Resources; Nancy Galvagni, Sarah S. Nicholson, Kentucky Hospital Association; Marie Alagia Cull, Humana; Carl Breeding, Breeding, McIntyre & Cunningham; Jim Carlross, Kentucky Association of Realtors; Audrey Black CRA Managed Care, Inc.; Marisa Morgan; Tom Marshak.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Kentucky Higher Education Assistance Authority

11 KAR 4:040. Educational institution participation requirements. This administrative regulation was amended to comply with KRS 13A.222 by: (1) removing a reference to KRS 13A.100 in the Statutory Authority section; (2) adding language in Section 1(6) to make the provision a complete sentence; and (3) deleting the word "will" and inserting the word "may" in Section 10, Line 1.

Kentucky Higher Education Student Loan Corporation

15 KAR 1:040. Eligibility for insured student loans made directly by the corporation. This administrative regulation was amended to comply with KRS 13A.222 by: (1) removing a reference to KRS 13A.100 in the Statutory Authority section; and (2) deleting language in Section 1(14) to comply with KRS 13A.222 drafting requirements.

Kentucky Infrastructure Authority

200 KAR 17:050. Guidelines for federally assisted wastewater revolving fund. This administrative regulation was amended to: (1) delete "shall mean" and insert "means" in the definitions section; (2) divide Section 3 and Section 7(3) into subsections, paragraphs and subparagraphs; (3) reformat Section 4(2) to incorporate an application by reference; and (4) correct typographical errors.

In response to questions by Representative Bruce, cabinet personnel responded that this administrative regulation: (1) sets guidelines for determining interest rates; (2) does not significantly alter or change the wastewater program; and (3) applies only to the federally assisted wastewater fund.

Economic Development cabinet: Kentucky Economic Development Finance Authority

307 KAR 1:030. Kentucky Rural Economic Development Act Tax Credit Program. This administrative regulation was amended to: (1) establish more specific criteria for determining what constitutes "skilled", "semiskilled", "unskilled", "managerial", and "technical" jobs to be created as a part of the tax incentive program; and (2) require a letter from applicants outlining the reasons why the company would not locate in the Commonwealth "but for" the tax incentives.

In response to questions from Senator Kafoglis, cabinet personnel responded that: (1) an existing Kentucky company that wants to expand its operations can take advantage of the tax incentive program; (2) 45 percent of all projects undertaken since the statute was enacted have been expansions of Kentucky companies; (3) the statute requires that the cabinet look to the "but for" test when determining eligibility; and (4) if an existing Kentucky company is a subsidiary of a national or multinational corporation and is competing with other states for the proposed expansion, then the "but for" test would arguably be met.

In response to questions from Representative Bruce, cabinet personnel responded that this program is available only in Kentucky counties where the unemployment rate exceeds Kentucky's average unemployment rate for the preceding five (5) years.

Representative Bruce pointed out that: (1) the program discriminates against those counties who have many people unemployed but who have a low unemployment rate because the unemployed have lived their whole life on welfare; and (2) the cabinet has employed the law firm of Sites and Harbison rather than the Attorney General to do its legal work.

Cabinet personnel responded that: (1) the cabinet has attempted to look at various criteria for measuring the unemployed in a given county, including measuring: (a) per capita income; and (b) persons below the poverty level; but (2) the only uniform method of measurement for every county in Kentucky is the unemployment rate; (3) certain potentially needy counties are excluded from consideration because they do not meet the unemployment rate criteria; and (4) the Cabinet consulted with the Attorney General prior to engaging Sites and Harbison, as required by law, and was informed that the Attorney General could not provide the necessary services.

Senator Preston pointed out that: (1) the definition of "eligible company" in KRS 154.22-010(9) includes "any corporation, partnership, sole proprietorship, or business trust"; (2) Section 3 of this administrative regulation expands the definition of "eligible company" to include a "limited liability and foreign limited liability company"; (3) the expansion of this definition could be challenged by a company who was turned down when a "limited liability company" was approved; (4) KRS 154.22-010(9) was adopted before Kentucky recognized "limited liability" companies and partnerships; (5) the cabinet is attempting to include limited liability companies under the definition of "corporation"; (6) pursuant to KRS 446.010(8) the definition of "corporation" may also include an "association"; (7) KRS 275.015(8) defines "limited liability company" as an "unincorporated association" formed pursuant to the limited liability statute; (8) the General Assembly should amend KRS 154.22-010(9) to include "limited liability company" and "registered limited liability partnership" in the definition of "eligible company."; and (9) the subcommittee should refer the issue to the appropriate interim committee for drafting of clarifying legislation.

Senator Preston further stated that: (1) there is no specific statutory authority for the \$500 application fee and the administrative fee required in Section 5(2)(a) and (b); and (2) this subcommittee should refer the issue of statutory authorization of the fees to the appropriate interim committee to draft clarifying legislation.

In response to questions from Chairman Crenshaw, cabinet personnel stated that: (1) when an application for tax incentives is received, the company is required to provide two levels of justification that "but for" the tax incentives the company would not locate in Kentucky; (2) the company must provide a letter from the company outlining: (a) the project; (b) the states in which the company is looking; (c) any other relevant information; and (c) "but for" the tax incentives the company would not locate in Kentucky; (3) the application also requires the company to "certify" that "but for" the incentives the company will not locate in Kentucky; (4) once preliminary approval is given, the company executes a financing agreement which also requires the company to "certify" that it will not locate in Kentucky "but for" the incentives.

Chairman Crenshaw asked if the Cabinet does any independent analysis of the company or whether the Cabinet simply relies upon the company's assertions that it will not locate in Kentucky "but for" the incentives.

Cabinet personnel responded that: (1) when companies consider locating in Kentucky, the Jobs Development Division of the Cabinet has a general working knowledge of the applicant and knows what other states the company may be considering; and (2) the tax incentive program rely heavily upon information supplied by the Jobs Development Division when considering applications for tax credits.

In response to questions by Senator Kafoglis, Cabinet personnel responded that: (1) the Cabinet is required to rely upon information the company provides in its application when determining eligibility; (2) information taken from the application is used to grant preliminary approval; (3) a company is not entitled to the tax credits based upon a preliminary approval; (4) incentives are given only after the company enters a final a financing agreement; (5) verification of the information submitted in the application is completed at the financing agreement stage; (6) before a financing agreement is signed the company is required to: (a) submit verification of the company's debts relating to the project; (b) have the lender sign as a party to the agreement; and (c) submit an annual statement from the company's accountants that the funds are being properly expended; (7) if a project costs less than anticipated in the application and agreements, the company is required to reduce the amount of tax incentives accordingly.

A motion was approved to refer the following issues to the appropriate interim committee for drafting of clarifying legislation.

(a) whether KRS 154.22-010(9) should be amended to include "limited liability companies" and "limited liability partnerships" in the definition of "eligible company" pursuant to KRS 154.22-010(9); and

(b) whether KRS Chapter 154 should be amended to specifically authorize the \$500 application and administrative fee required by Section 5(2)(a) and (b) of this administrative regulation.

KIDFA

307 KAR 4:010. Kentucky Industrial Development Act Tax Credit Program. This administrative regulation was amended to: (1) provide that a full-time equivalent position include those jobs whose work week averages thirty (30) or more hours per week; (2) establish more specific criteria for determining what constitutes "skilled", "semi-skilled", "unskilled", "managerial", and "technical" jobs to be created as a part of the tax incentive program; (3) require that an applicant submit a statement concerning whether the projects involves: (a) a relocation from an existing facility; or (b) the acquisition of an existing facility.

Senator Preston pointed out that the issues relating to the statutory authorization for including a "limited liability company" and "limited liability partnership" in the definition of "eligible company" and the statutory authorization for the \$500 application and administrative fee were concerns in this administrative regulation.

Chairman Crenshaw asked why the administrative regulation sets full time equivalent jobs at thirty (30) hours per week while the initial staff review indicated that thirty-five (35) or more hours per week was the standard for full time equivalent jobs.

Cabinet personnel responded that thirty (30) hours per week was chosen as a "full time equivalent job" to be consistent with the cabinet's other economic development programs, such as KIDFA.

A motion was approved to refer the following questions to the appropriate interim committee for drafting of clarifying legislation.

(a) whether KRS 154.28-010(8) should be amended to include "limited liability companies" and "limited liability partnerships" in the definition of "eligible company" pursuant to KRS 154.22-010(9); and

(b) whether KRS Chapter 154 should be amended to specifically authorize the \$500 application and administrative fee required by Section 5(2)(a) and (b) of this administrative regulation.

Department of Housing, Buildings and Construction: Electrical inspectors

815 KAR 35:015. Certification of electrical inspectors. This administrative regulation was amended to comply with KRS 13A.222 drafting language.

In response to Representative Lee's question, Ms. Walden explained that the administrative regulation: (1) requires applicants seeking certification as electrical inspectors to complete a national examination; (2) includes a provision allowing the Department to administer a test in certain instances when a local government is unable to employ someone who has been properly tested; (3) allows an applicant for licensure to receive a temporary electrical inspector certification for a nine month duration (formerly 18 month duration) to allow those persons time to prepare for the examination and become fully qualified; and (4) encourages temporary inspectors to pass the national examination sooner.

The Subcommittee determined that the following administrative regulations complied with statutory requirements:

Board of Dentistry

201 KAR 8:220. Clinical examination for licensure of dentists. In response to Representative Jim Bruce's inquiry, Brent Irvin, Assistant Attorney General and Counsel for the Board stated that the administrative regulation: (1) does not increase fees for licensure or examination; (2) permits candidates for licensure to choose a clinical examination among one of three testing entities and (3) allows transfer of clinical examination results to the Kentucky Board of Dentistry for testing not conducted in Kentucky.

201 KAR 8:277. Examination for licensure of dental hygienists.

Department of Agriculture: Livestock Sanitation

302 KAR 20:076E. Identification of "farm fresh" cattle. Commissioner Ed Logsdon, Alan Hamilton and Donna Dutton were present, representing the Department. Commissioner Logsdon stated that under the previous administrative regulation stockyards were to provide a department form that allowed the seller to designate "farm fresh" cattle and the stockyard was to designate those cattle as "farm fresh cattle" when they were being sold. Commissioner Logsdon stated that several stockyards blatantly said they wouldn't comply. He stated that this emergency administrative regulation provides a penalty for noncompliance.

Soil and Water Conservation Commission: Administration

416 KAR 1:010 (& E). Administration of Kentucky soil and water quality cost-share fund. Cabinet personnel stated that: (1) this administrative regulation establishes guidelines and conditions for farmers and woodland owners to receive financial assistance in implementing best management practices for farms and wooded areas; and (2) the emergency administrative regulation was previously reviewed by this subcommittee.

Justice Cabinet: Division of Charitable Gaming

In response to questions from Chairman Crenshaw, cabinet personnel responded that: (1) there was a notice of intent hearing on

these emergency administrative regulations; (2) over 200 individuals attended the notice of intent hearing; (3) the hearing on the ordinary administrative regulations was canceled because no one requested to appear at the hearing; and (4) the administrative regulations before the subcommittee today do not appear to be controversial.

Chairman Crenshaw pointed out that: (1) many comments were received initially concerning the charitable gaming administrative regulations; (2) the subcommittee has attempted to work with the Division of Charitable Gaming and interested parties to resolve the concerns over these administrative regulations; (3) the subcommittee is hopeful that a consensus has been reached with all those who expressed concern about the administrative regulations; and (4) if questions remain the subcommittee wants to give all parties a chance to be heard.

500 KAR 11:001 & E. Definitions. Representative Bruce noted his objection to this administrative regulation.

500 KAR 11:070 & E. Exempt activities. Cabinet personnel pointed out that: (1) this administrative regulation relates to KRS 238.535(1) which allows certain groups to conduct charitable gaming at certain minimal levels without a license; (2) the organization must inform the division in writing that the organization believes it is exempt from licensure; (3) a procedure is established for notifying the division in this administrative regulation; (4) the form for notification is incorporated by reference; (4) this exemption notice must be filed only once; and (5) the organization must notify the division if its exempt status changes.

In response to a question from Representative Lee, cabinet personnel stated that an organization is exempt if: (1) gross proceeds on raffle do not exceed \$5000 in one year; (2) gross proceeds on bingo do not exceed \$5000 in one year and \$300 in one week; or (3) a charity fund raising event does not exceed \$5000 in one year.

In response to questions from Senator Kafoglis, cabinet personnel responded that: (1) an organization can obtain a license application at any county clerk's offices or from the division of charitable gaming; (2) the statute has a specific procedure for doing a background check before a license is issued; (3) the Division of Charitable Gaming grants the license; (4) when the law was enacted, there was a great deal of media coverage concerning the new charitable gaming statute; (5) once the law was enacted, the public was presumed to know the provisions of the statute; (6) the division has attempted to contact as many groups as possible concerning the new law.

Senator Kafoglis pointed out that: (1) in every community there are high school athletic boosters and other organizations that may have \$5000 raffle; and (2) these organizations may be exempt from licensure, but do not realize they need to file a notice of exemption.

In response to questions from Senator Kafoglis, cabinet personnel responded that: (1) when an organization like the high school band boosters conducts a \$5000 raffle and fails to file for an exemption, the division send a "cease and desist" letter; (2) this letter is perhaps the most effective educational tool the division uses; (3) high schools are not eligible to conduct charitable gaming because they do not meet the definition of a charitable organization set out in Section 501(c)(3) of the Internal Revenue Code; (4) booster clubs in many cases do qualify for the statutory exemption; (5) the division has assisted numerous school clubs in obtaining the statutory exemption; (6) the charitable gaming industry does an excellent job of policing itself when it comes to notifying the division concerning its competitors; (7) the division's inspectors also receive information about organizations conducting gaming activities that may or may not be exempt; (8) the division is doing its best to get control of charitable gaming activities in the state, but some activities are still being conducted without appropriate licenses or exemptions; (9) a person or organization who violates the charitable gaming statutes can be charged with a misdemeanor; (10) administrative penalties can include: (a) suspension or revocation of a license; (b) issuance of a "cease and desist" letter; or (c) an administrative fine of up to \$1,000; (11) the policy of the Division has been to issue "cease and desist" letters when the

offense is a one time raffle involving a booster club or similar organization; (12) if the Division learns of the raffle or other activity after the fact, the Division still issues the "cease and desist" letter; and (13) the statute also provides that an organization can become licensed after the fact if they consider themselves exempt and then raise more money than the minimum necessary for licensure.

Representative Bruce noted his objection to this administrative regulation.

500 KAR 11:080 & E. Special charity fundraising event. Cabinet personnel pointed out that: (1) this administrative regulation defines a special charity fundraising event as; (a) an event which occurs over a period not longer than five (5) days; and (b) the prizes awarded do not exceed \$5000; (2) any licensed groups can conduct these events twice a year; and (3) the event must consist of noncasino type games.

Representative Bruce pointed out that certain gambling activities are conducted at Fort Campbell and Fort Knox.

Cabinet personnel responded that: (1) the division cannot regulate activities on Federal lands; but (2) is working closely with the United States Attorney's Office on some important issues relating to gambling activities on military bases.

Representative Bruce noted his objection to this administrative regulation.

500 KAR 11:090 & E. Special limited charitable games. Cabinet personnel pointed out that: (1) this is a special limited gaming activity; (2) this type of game can be conducted only twice a year; (3) the activity may last no longer than 72 hours; (3) casino type games may be used; (4) a separate license must be issued; (5) low cost wheel type games, as defined in the administrative regulation, are excluded from this special license requirement.

Representative Bruce noted his objection to this administrative regulation.

500 KAR 11:100 & E. Division employees prohibited from playing charitable games. This administrative regulation prohibits division employees from playing charitable games unless the director determines that playing the game is a necessary part of the employees work activities.

In response to a question from Representative Crenshaw, cabinet personnel responded that: (1) the Division of Charitable Gaming has only 21 employees; and (2) the prohibition from playing charitable games does not apply to employees of the Justice cabinet.

Department of Education: Office of District Support Services: School Terms, Attendance and Operation

702 KAR 7:081. Repeal of 702 KAR 7:080. Kevin Noland, general counsel and acting commissioner, stated to the Subcommittee that this administrative regulation and 702 KAR 7:091 are being repealed because they are redundant of provisions found in the Kentucky High School Athletic Manual.

702 KAR 7:091. Repeal of 702 KAR 7:090.

Office of Learning Programs Development: Office of Instruction

704 KAR 3:470. Ranking of certified school personnel. Dr. Betty Lindsey, representing the Cabinet, stated that this administrative regulation requires that the ranking of certified school personnel conform to the standards and requirements set by the Education Professional Standards Board.

Education Professional Standards Board

704 KAR 20:056. Dating of certification. Dr. Lindsey stated that the purpose of this administrative regulation is to allow persons obtaining statements of eligibility to enjoy the full four years of eligibility. Senator Kafoglis asked what happened after the four years expired. Dr. Lindsey stated that a person who had not completed the required service would have to take an examination again, but would not have to take additional coursework.

Department of Insurance: Insurance Fraud

806 KAR 47:010. Designation of a contact person. Carla

Montgomery appeared before the Subcommittee representing the Department. She stated the purpose of this administrative regulation is to establish a contact person to communicate with the Department concerning possible fraudulent insurance acts. Senator Kafoglis asked if this really needed to be done by administrative regulation. Ms. Montgomery stated that there were so many insurance companies, and some of them so large, that it would be very helpful to have a designated contact person. Representative Bruce stated that insurance companies could be hard to deal with, and he felt this would be helpful.

806 KAR 47:020. Reporting fraudulent insurance. Ms. Montgomery stated that the purpose of this administrative regulation is to require reports in writing, filed within fourteen days of determination that a suspected fraudulent insurance act had been committed.

806 KAR 47:030. Requirements for special investigative units. Ms. Montgomery said that this administrative regulation states what insurance companies are to implement concerning special investigative units. Senator Kafoglis asked if insurance companies could pool and hire outside help to do this. Ms. Montgomery responded that pooling is acceptable.

Department of Housing, Buildings and Construction: Kentucky Building Code

815 KAR 7:100. The Kentucky Building Code. In response to Representative Bruce's inquiry, Judith Walden, General Counsel for the Department stated the administrative regulation amends: (1) Section 6 to include language requiring fire hydrants to be spaced so that the hose line does not exceed 500 feet; and (2) Section 7 adding language to remove confusion about the remoteness of multiple exits in rooms, spaces or buildings requiring more than one (1) exit.

In response to Senator Kafoglis question whether the multiple exit provision applies to residential housing, Ms. Walden explained: (1) the provision does not apply to single family dwellings; and (2) it applies to all buildings if the size and use of the building requires two exits, then both exits cannot be at the same location as this would obviously defeat the purpose of having fire exits.

Heating, Ventilation, and Air Conditioning Requirements

815 KAR 8:040E. Heating, ventilation, and air conditioning (HVAC) contractor application reviews. Ms. Walden stated that the reason for the emergency nature of this administrative regulation is that the Department faced a mandatory deadline to have licensing procedures in place by July 1, 1995 for Heating, Ventilating, and Air Conditioning Contractors (HVAC) contractor status; and (2) the existing administrative regulation licensing HVAC contractors did not address issues concerning work experience.

Plumbing

815 KAR 20:110. Traps and cleanouts. Ms. Walden explained that the amendment to this administrative regulation was necessary to clarify the Department will allow the use of any non corrosive material, such as plastic, in back water valves.

Cabinet for Human Resources: Department for Social Insurance: Public Assistance

904 KAR 2:046. Adverse action; conditions. Ann Hager, Cabinet representative, stated that amendments to this administrative regulation implement language required by the Americans with Disabilities Act.

904 KAR 2:050. Time and manner of payments. Ms. Hager explained that amendments to this administrative regulation also implement language required by the Americans with Disabilities Act changes.

The following administrative regulations were deferred to the next Subcommittee meeting, unless otherwise noted, upon agreement by the Subcommittee and the promulgating agency:

Finance and Administration Cabinet: Kentucky Private Activity Bond Allocation Committee

200 KAR 15:010. Formula for allocation of private activity bonds.

Personnel Pilot Program

200 KAR 22:030E. Comprehensive Employment Manual of Department of Vocational Rehabilitation for Use in the Pilot Personnel Program.

200 KAR 22:060E. Comprehensive employment manual of the Department of Personnel for use in the Pilot Personnel Program.

Real Estate Commission

201 KAR 11:400. Agency disclosure requirements.

Board of Nursing

201 KAR 20:240. Fees for applications and services.

Kentucky Board of Certification of Marriage and Family Therapists

201 KAR 32:010E. Definitions.

201 KAR 32:020E. Equivalent course of study.

201 KAR 32:030E. Fees.

Justice Cabinet: Charitable Gaming

500 KAR 11:030E. Charity game ticket standards.

500 KAR 11:040E. Bingo standards.

500 KAR 11:050E. Raffle standards.

500 KAR 11:060E. Tipping prohibited.

Transportation Cabinet: Nonpublic School Transportation

600 KAR 5:010 & E. Transportation of nonpublic school students. Sandy Pullen, Cabinet representative, stated that this administrative regulation: (1) is part of a major controversy that has stalled implementation of the emergency administrative regulation; and (2) is currently being challenged in a law suit which contends that the General Assembly did not give the Cabinet sufficient guidance on how to spend 2 million dollars for transportation of non public school children [appropriated in Part XI of Chapter 5 of the Acts (House Bill 2) of the First 1994 Extraordinary Legislative Session for each of the fiscal years of the biennium].

Representative Lee questioned why the administrative regulation was before the Administrative Regulation Review Subcommittee for consideration if the Cabinet was under a court order not to implement the emergency administrative regulation?

Ms. Pullen responded that the Cabinet: (1) is under a court order not to issue the checks and disperse funds; and (2) has cut the first round of checks and placed them in a safe until the court makes a final determination whether the Cabinet may issue the checks.

Representative Lee offered a motion requesting the Cabinet to defer consideration of the administrative regulation until a determination is made by the courts.

Ms. Pullen responded, the first round of checks have already been issued under the emergency administrative regulation, but not yet dispersed.

Chairman Crenshaw: (1) affirmed Ms. Pullen's concern that this administrative regulation involves complex issues; and (2) stated that it would appear to be in the Cabinet's best interests to defer consideration until a court has ruled on the Cabinet's authority to implement this administrative regulation.

Ms. Pullen agreed to defer the administrative regulation for one month until she has spoken with the Cabinet's legal counsel.

Senator Preston stated: (1) Part XI of Chapter 5 of the Acts (House Bill 2) of the First 1994 Extraordinary Legislative Session provides only a minor reference to the 2 million dollar appropriation for non public transportation; (2) it appears the Cabinet has issued an administrative regulation with very little statutory authority; (3) that the Cabinet should not take further regulatory action until the: (a) court rules on the controversy; or (b) General Assembly provides greater statutory guidance for the use of the appropriation; (4) to move forward with this administrative regulation without such directives

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would very likely result in the Cabinet exceeding statutory authority.

Representative Bruce expressed concern that he did not want the Cabinet to agree to deferral if it might delay use of the monies for the non public school children.

Ms. Pullen responded that deferral for one month was fine, because the Cabinet cannot issue the checks until the court has made a final determination.

Chairman Crenshaw noted that the administrative regulation was deferred without objection.

Labor Cabinet: Department of Workers' Claims

803 KAR 25:190. Utilization review and audit.

Cabinet for Human Resources: Department for Social Insurance: Food Stamp Program

904 KAR 3:050E. Claims and additional administrative provisions.

904 KAR 3:060E. Administrative disqualification hearings and penalties.

Department for Social Services: Children's Residential Services

905 KAR 7:250E. Kentucky educational collaborative for state agency children.

Department for Medicaid Services

907 KAR 1:025. Payments for nursing facility and intermediate care facility for the mentally retarded services.

Kentucky Health Policy Board: Administration

909 KAR 1:021E. Updated 1992-1995 State Health Plan.

909 KAR 1:055E. Certificate of need expenditure minimums.

The following administrative regulation was withdrawn by the promulgating agency:

Cabinet for Human Resources: Department for Medicaid Services

907 KAR 1:560. Medicaid hearings and appeals for recipients.

The Subcommittee adjourned at 11:30 a.m. until September 11, 1995 at 10 a.m. in Room 149 of the State Capitol.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

SPECIAL SUBCOMMITTEE ON ENERGY

Meeting of July 21, 1995

The following administrative regulation was available for consideration by the Special Subcommittee on Energy during its meeting of July 21, 1995, having been referred to the Committee on July 11, 1995, pursuant to KRS 13A.290(6): 807 KAR 5:058.

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None.

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None.

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None.

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the July 21, 1995 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Meeting of July 26, 1995

The following administrative regulations were available for consideration by the Interim Joint Committee on State Government during its meeting of July 26, 1995, having been referred to the Committee on July 11, 1995, pursuant to KRS 13A.290(6):

9 KAR 1:010
9 KAR 1:040
31 KAR 4:100
31 KAR 4:110

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None.

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

9 KAR 1:010
9 KAR 1:040

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced

administrative regulations is reflected in the minutes of the July 26, 1995 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

9 KAR 1:010 is amended as follows:

In Section 1, After "Candidates", delete the remainder of the paragraph and insert in lieu thereof "is defined by KRS 11A.010(13)".
In Section 2(2), after "Candidates" delete "for public offices".

9 KAR 1:040 is amended as follows:

In the RELATES TO, add the statutory citations of KRS 11A.231, 11A.233(1), and 11A.990.

In the STATUTORY AUTHORITY, add the statutory citations of KRS 11A.110(3) and (4).

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE

Meeting of July 26, 1995

The following administrative regulations were available for consideration by the Interim Joint Committee on Health and Welfare during its meeting of July 26, 1995, having been referred to the Committee on July 12, 1995, pursuant to KRS 13A.290(6):

902 KAR 14:060 & E
902 KAR 14:070E
902 KAR 14:080E
902 KAR 14:090E
902 KAR 55:095
902 KAR 115:020
904 KAR 2:017 & E
907 KAR 1:013E
907 KAR 1:585E
907 KAR 1:605
907 KAR 1:610
907 KAR 1:660
907 KAR 1:680 & E
909 KAR 1:090E

The following administrative regulation was found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

907 KAR 1:013E

The Committee rationale for the finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None.

The following administrative regulations were deferred pursuant to KRS 13A.300: None.

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the July 26, 1995 meeting. Additional committee findings, recommendations, or comments, if any, are attached hereto.

Reasons for Deficiency Finding: 907 KAR 1:013E

Hospitals would be able to receive disproportionate share payments in excess of the value of indigent health care that a hospital

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could document it has provided, in violation of KRS 205.640(c). Almost all hospitals had already been transmitted the interim base disproportionate share payment by CHR before the Interim Joint Committee on Health and Welfare had been able to review the regulation.

1995 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

Interim Joint Committee on Transportation Meeting of August 1, 1995

The following administrative regulations were available for consideration by the Interim Joint Committee on Transportation during its meeting on Tuesday, August 1, 1995, having been referred to the Committee on July 10, 1995, pursuant to KRS 13A.290(6):

601 KAR 1:005 - Safety Regulations

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None.

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

601 KAR 1:005 - Safety Regulations. The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

Section 2(2) after the word "May" to insert the number "10" and bracket and strike through the number "1".

The following administrative regulations were deferred pursuant to KRS 13A.300: None.

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the August 1, 1995 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON EDUCATION Meeting of August 3, 1995

The following administrative regulations were available for consideration by the Interim Joint Committee on Education during its meeting of August 3, 1995, having been referred to the Committee on July 11, 1995, pursuant to KRS 13A.290(6):

704 KAR 20:020

704 KAR 20:021

704 KAR 20:305

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None.

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None.

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None.

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the August 3,

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates C2

The Locator Index lists all administrative regulations published in VOLUME 22 of the Administrative Register from July, 1995 through June, 1996. It also lists the page number on which each administrative regulation is published, the effective date of the administrative regulation after it has completed the review process, and other action which may affect the administrative regulation. NOTE: The administrative regulations listed under VOLUME 21 are those administrative regulations that were originally published in the Volume 21 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1995 bound Volumes were published.

KRS Index C9

The KRS Index is a cross-reference of statutes to which administrative regulations relate. These statute numbers are derived from the RELATES TO line of each administrative regulation submitted for publication in VOLUME 22 of the Administrative Register.

Subject Index C13

The Subject Index is a general index of administrative regulations published in VOLUME 22 of the Administrative Register, and is mainly broken down by agency.

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VOLUME 21

The administrative regulations listed under VOLUME 21 are those administrative regulations that were originally published in the Volume 21 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1995 bound Volumes were published.

EMERGENCY ADMINISTRATIVE REGULATIONS: (Note: Emergency regulations expire 170 days from publication, or 170 days from publication plus number of days of requested extensions, or upon replacement or repeal, whichever occurs first)

| | | |
|-----------------|----------|----------|
| 32 KAR 1:110E | 1863 | 12-20-94 |
| Expires | | 7-21-95 |
| 32 KAR 1:120E | 1864 | 12-20-94 |
| Expires | | 7-21-95 |
| 32 KAR 1:130E | 1865 | 12-20-94 |
| 32 KAR 1:150E | 2646 | 3-22-95 |
| 200 KAR 22:020E | 2051 | 2-14-95 |
| Replaced | | 7-6-95 |
| 200 KAR 22:030E | 2648 | 3-24-95 |
| 201 KAR 32:010E | 2969 | 4-27-95 |
| 201 KAR 32:020E | 2970 | 4-27-95 |
| 201 KAR 32:030E | 2972 | 4-27-95 |
| 301 KAR 6:001E | 2649 | 3-16-95 |
| Replaced | 3091 | 7-12-95 |
| 301 KAR 6:010E | 2650 | 3-16-95 |
| Replaced | 3092 | 7-12-95 |
| 301 KAR 6:020E | 2651 | 3-16-95 |
| Replaced | 3093 | 7-12-95 |
| 301 KAR 6:030E | 2653 | 3-16-95 |
| Replaced | 3095 | 7-12-95 |
| 301 KAR 6:040E | 2655 | 3-16-95 |
| Replaced | 3097 | 7-12-95 |
| 302 KAR 20:076E | 2972 | 5-12-95 |
| 401 KAR 42:060E | 20 Ky.R. | 2-15-94 |
| 401 KAR 42:070E | 20 Ky.R. | 2-15-94 |
| 401 KAR 42:080E | 20 Ky.R. | 2-15-94 |
| 416 KAR 1:010E | 2657 | 3-24-95 |
| 500 KAR 11:001E | 2430 | 3-15-95 |
| 500 KAR 11:030E | 2431 | 3-15-95 |
| 500 KAR 11:040E | 2434 | 3-15-95 |
| 500 KAR 11:050E | 2436 | 2-28-95 |
| 500 KAR 11:060E | 2437 | 2-28-95 |
| 500 KAR 11:070E | 2438 | 3-15-95 |
| 500 KAR 11:080E | 2439 | 2-28-95 |
| 500 KAR 11:090E | 2440 | 2-28-95 |
| 500 KAR 11:100E | 2441 | 2-28-95 |
| 600 KAR 5:010E | 2973 | 5-11-95 |
| 735 KAR 1:010E | 2661 | 4-4-95 |
| Replaced | | 7-6-95 |
| 735 KAR 1:020E | 2663 | 4-4-95 |
| Replaced | | 7-6-95 |
| 902 KAR 14:060E | 2058 | 1-18-95 |
| Replaced | 3103 | 7-26-95 |
| 902 KAR 14:070E | 2442 | 3-1-95 |
| 902 KAR 14:080E | 2444 | 3-1-95 |
| 902 KAR 14:090E | 2450 | 3-1-95 |
| 903 KAR 5:290E | 2453 | 3-15-95 |
| Withdrawn | | 7-6-95 |
| 904 KAR 2:015E | 2061 | 1-18-95 |
| Replaced | 2804 | 6-21-95 |

| | | |
|----------------|------|----------|
| 904 KAR 2:017E | 2065 | 1-18-95 |
| Replaced | 2808 | 7-26-95 |
| 904 KAR 2:035E | 2075 | 1-18-95 |
| Replaced | 2817 | 6-21-95 |
| 904 KAR 3:030E | 2077 | 1-18-95 |
| Replaced | 2822 | 6-21-95 |
| 904 KAR 3:050E | 2454 | 2-17-95 |
| 904 KAR 3:060E | 2458 | 2-17-95 |
| 905 KAR 2:140E | 2079 | 1-18-95 |
| Replaced | | 6-21-95 |
| 905 KAR 7:250E | 2461 | 2-17-95 |
| 907 KAR 1:009E | 1276 | 9-30-94 |
| Replaced | 1981 | 5-17-95 |
| 907 KAR 1:010E | 1277 | 9-30-94 |
| Replaced | 1982 | 5-17-95 |
| 907 KAR 1:013E | 2974 | 5-12-95 |
| 907 KAR 1:016E | 1873 | 12-29-94 |
| Replaced | 2837 | 6-21-95 |
| 907 KAR 1:585E | 2665 | 3-21-95 |
| 907 KAR 1:671E | 1701 | 12-13-94 |
| Replaced | | 6-21-95 |
| 907 KAR 1:680E | 2979 | 4-19-95 |
| Replaced | 3107 | 7-26-95 |
| 908 KAR 2:090E | 1710 | 11-29-94 |
| Replaced | 2718 | 5-17-95 |
| 909 KAR 1:070E | 1714 | 12-15-94 |
| Replaced | 3028 | 5-17-95 |
| 909 KAR 1:080E | 2667 | 4-14-95 |
| 909 KAR 1:090E | 2980 | 5-2-95 |

ORDINARY ADMINISTRATIVE REGULATIONS:

| | | |
|----------------|------|-----------------|
| 9 KAR 1:010 | | |
| Amended | 3059 | (See Volume 22) |
| 9 KAR 1:015 | 2566 | (See Volume 22) |
| 9 KAR 1:020 | | |
| Amended | 2516 | |
| Withdrawn | | 6-5-95 |
| 9 KAR 1:030 | | |
| Amended | 2517 | (See Volume 22) |
| 9 KAR 1:035 | 2568 | (See Volume 22) |
| 9 KAR 1:040 | | |
| Amended | 3060 | (See Volume 22) |
| 11 KAR 12:060 | | |
| Amended | 2723 | (See Volume 22) |
| 11 KAR 12:070 | | |
| Amended | 2724 | (See Volume 22) |
| 31 KAR 4:100 | 3086 | (See Volume 22) |
| 31 KAR 4:110 | 3087 | (See Volume 22) |
| 200 KAR 20:010 | | |
| Amended | 2725 | (See Volume 22) |
| 200 KAR 22:020 | 2840 | (See Volume 22) |
| 201 KAR 1:064 | 3088 | 8-10-95 |
| 201 KAR 1:300 | | |
| Amended | 3061 | (See Volume 22) |
| 201 KAR 11:400 | 3089 | |
| 201 KAR 30:050 | | |

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| Regulation Number | 22 Ky.R Page No. | Effective Date | Regulation Number | 22 Ky.R Page No. | Effective Date |
|-------------------|------------------|-----------------|-------------------|------------------|-----------------|
| Amended | 2727 | (See Volume 22) | Repealed | 2342 | 6-1-95 |
| 201 KAR 30:120 | | | 603 KAR 5:191 | 2342 | 6-1-95 |
| Amended | 2729 | (See Volume 22) | 603 KAR 9:010 | | |
| 201 KAR 30:140 | | | Amended | 2239 | |
| Amended | 2731 | 8-10-95 | As Amended | 3025 | 6-1-95 |
| 301 KAR 2:050 | | | 603 KAR 9:020 | 2343 | |
| Amended | 2732 | 6-14-95 | Amended | 2718 | 6-1-95 |
| 301 KAR 2:111 | | | 701 KAR 5:100 | | |
| Amended | 3064 | 7-12-95 | Amended | 2241 | 6-1-95 |
| 301 KAR 2:125 | 2841 | 6-14-95 | 702 KAR 1:140 | 2861 | (See Volume 22) |
| 301 KAR 2:171 | | | 702 KAR 3:120 | | |
| Repealed | 2569 | 5-10-95 | Amended | 2243 | 6-1-95 |
| 301 KAR 6:001 | 3091 | 7-12-95 | 702 KAR 3:130 | | |
| 301 KAR 6:010 | 3092 | 7-12-95 | Amended | 2244 | 6-1-95 |
| 301 KAR 6:020 | 3093 | 7-12-95 | 702 KAR 3:245 | | |
| 301 KAR 6:030 | 3095 | 7-12-96 | Amended | 2789 | |
| 301 KAR 6:040 | 3097 | 7-12-95 | Died* | | 6-14-95 |
| 302 KAR 15:010 | | | 702 KAR 3:246 | 2862 | |
| Amended | 2734 | (See Volume 22) | Died* | | 6-14-95 |
| 302 KAR 31:015 | | | 702 KAR 3:280 | 2864 | |
| Amended | 2159 | (See Volume 22) | Died* | | 6-14-95 |
| 307 KAR 2:010 | | | 702 KAR 7:010 | | |
| Amended | 2737 | (See Volume 22) | Amended | 2791 | |
| 307 KAR 3:010 | | | Died* | | 6-14-95 |
| Amended | 2739 | (See Volume 22) | 702 KAR 7:020 | | |
| 401 KAR 5:001 | | | Amended | 2793 | 7-6-95 |
| Amended | 2741 | | 702 KAR 7:030 | | |
| Withdrawn | | 6-15-95 | Repealed | 2865 | 7-6-95 |
| 401 KAR 5:026 | | | 702 KAR 7:031 | 2865 | 7-6-95 |
| Amended | 2753 | | 702 KAR 7:040 | | |
| Withdrawn | | 6-15-95 | Repealed | 2866 | 7-6-95 |
| 401 KAR 5:029 | | | 702 KAR 7:041 | 2866 | 7-6-95 |
| Amended | 2771 | | 702 KAR 7:050 | | |
| Withdrawn | | 6-15-95 | Amended | 2794 | (See Volume 22) |
| 401 KAR 5:030 | 2843 | (See Volume 22) | 703 KAR 4:010 | | |
| 401 KAR 5:031 | | | Amended | 2245 | |
| Amended | 2777 | | As Amended | 3027 | 6-1-95 |
| Withdrawn | | 6-15-95 | 704 KAR 3:035 | | |
| 418 KAR 1:010 | 2845 | (See Volume 22) | Amended | 2531 | 6-1-95 |
| 418 KAR 1:020 | 2847 | (See Volume 22) | 704 KAR 20:010 | | |
| 418 KAR 1:030 | 2849 | (See Volume 22) | Repealed | 3073 | 8-3-95 |
| 418 KAR 1:040 | 2852 | (See Volume 22) | 704 KAR 20:020 | | |
| 418 KAR 1:050 | 2854 | 7-12-95 | Amended | 3073 | 8-3-95 |
| 418 KAR 1:060 | 2856 | 7-12-95 | 704 KAR 20:021 | 3100 | 8-3-95 |
| 418 KAR 1:070 | 2859 | (See Volume 22) | 704 KAR 20:305 | | |
| 501 KAR 6:020 | | | Amended | 3076 | (See Volume 22) |
| Amended | 3067 | 8-10-95 | 735 KAR 1:010 | 2866 | (See Volume 22) |
| 501 KAR 6:050 | | | 735 KAR 1:020 | 2870 | (See Volume 22) |
| Amended | 2519 | 6-1-95 | 803 KAR 25:010 | 2576 | |
| 501 KAR 6:120 | | | Amended | 3032 | 6-15-95 |
| Amended | 2785 | (See Volume 22) | 803 KAR 25:011 | | |
| 501 KAR 6:130 | | | Repealed | 3032 | 6-15-95 |
| Amended | 2520 | 6-1-95 | 803 KAR 25:021 | 2581 | |
| Amended | 3069 | 8-10-95 | Amended | 3036 | (See Volume 22) |
| 501 KAR 6:140 | | | 803 KAR 25:026 | 255 | |
| Amended | 2787 | (See Volume 22) | Amended | 3039 | (See Volume 22) |
| 600 KAR 4:010 | | | 803 KAR 25:190 | 3102 | (See Volume 22) |
| Amended | 2521 | 6-1-95 | 806 KAR 9:220 | | |
| 600 KAR 4:020 | | | Amended | 2797 | (See Volume 22) |
| Amended | 2527 | 6-1-95 | 806 KAR 9:230 | 2872 | (See Volume 22) |
| 600 KAR 5:010 | 3098 | (See Volume 22) | 807 KAR 5:058 | | |
| 601 KAR 1:005 | | | Amended | 2799 | (See Volume 22) |
| Amended | 3070 | 8-1-95 | 815 KAR 20:070 | | |
| 603 KAR 5:190 | | | Amended | 2533 | 6-1-95 |

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| Regulation Number | 22 Ky.R Page No. | Effective Date | Regulation Number | 22 Ky.R Page No. | Effective Date |
|-------------------|------------------|-----------------|-------------------|------------------|-----------------|
| 902 KAR 14:060 | 3103 | 7-26-95 | 907 KAR 1:010 | | |
| 902 KAR 55:095 | 2589 | (See Volume 22) | Amended | 1982 | 5-17-95 |
| 902 KAR 115:020 | 3106 | (See Volume 22) | 907 KAR 1:016 | | |
| 904 KAR 2:001 | | | Amended | 2837 | 6-21-95 |
| Amended | 2535 | 5-17-95 | 907 KAR 1:025 | | |
| 904 KAR 2:015 | | | Amended | 3079 | |
| Amended | 2804 | 6-21-95 | 907 KAR 1:560 | 2874 | |
| 904 KAR 2:016 | | | Withdrawn | | 8-7-95 |
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Fish and Wildlife Resources

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WORKERS' CLAIMS

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