

ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION FRANKFORT, KENTUCKY

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MONDAY, APRIL 1, 1996

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MEETING NOTICE

The Administrative Regulation Review Subcommittee is scheduled to meet on April 11, 1996.
See tentative agenda beginning on page 1767 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 - April 11, 1996, 10 a.m.
Room 149, Capitol Annex**

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

COUNCIL ON HIGHER EDUCATION

Public Educational Institutions

13 KAR 2:045. Determination of residency status for admission and tuition assessment purposes.

STATE BOARD OF ELECTIONS

Forms and Procedures

31 KAR 4:061. Repeal of 31 KAR 4:060.
31 KAR 4:070. Recanvass procedures.

PERSONNEL CABINET

Classified

101 KAR 2:036. Compensation plan and pay incentive systems.

Unclassified

101 KAR 3:045. Compensation plan and compensation incentive systems.

FINANCE AND ADMINISTRATION CABINET

Purchasing

200 KAR 5:314. Disclosure of contractor's financial records and information to certain governmental entities. (Not Amended After

Hearing

Personnel Pilot Programs

200 KAR 22:120E. Comprehensive Employment Manual of the Kentucky Department for the Blind: Business Enterprise Program for use in the Pilot Personnel Program.

GENERAL GOVERNMENT CABINET

State Board of Examiners and Registration of Architects

201 KAR 19:035. Qualifications for examination.

Board of Nursing

201 KAR 20:070E. Licensure by examination.

Kentucky Real Estate Appraisers Board

201 KAR 30:040. Standards of practice administrative regulation.

INDEPENDENT ADMINISTRATIVE BODIES

Kentucky Lottery Corporation

202 KAR 3:020. Procurement procedures.

Kentucky Spinal Cord and Head Injury Research Program

202 KAR 4:010 (&E). Spinal Cord and Head Injury Research Program.

TOURISM DEVELOPMENT CABINET

Department of Fish and Wildlife Resources

Fish

301 KAR 1:016. Use of public lands and waters at department owned lakes. (Deferred from March)

Game

301 KAR 2:049. Seasons for furbearers and small game of specified areas.
301 KAR 2:221 (&E). Waterfowl seasons and limits.
301 KAR 2:222 (&E). Waterfowl hunting requirements.
301 KAR 2:223 (&E). Waterfowl reporting requirements.
301 KAR 2:224 (&E). Waterfowl hunting zones.

Licensing

301 KAR 5:020 (&E). License agent requirements and responsibilities.
301 KAR 5:030 (&E). Purchasing licenses and obtaining replacement licenses.

Water Patrol

301 KAR 6:001. Definitions for 301 KAR Chapter 6.
301 KAR 6:020. Boating safety equipment.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Department for Environmental Protection

Division for Air Quality

Air Quality - General Administrative Procedures

401 KAR 50:010. Definitions and abbreviations of terms used in 401 KAR Chapter 50, 51, 53, 55, 57, 59, 61, 63, and 65.
401 KAR 50:033. Acid rain phase II application forms.

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Air Quality - New Source Requirements; Nonattainment Areas

401 KAR 51:001. Definitions and abbreviations of terms used in 401 KAR Chapter 51.

Air Quality - New Source Standards

401 KAR 59:001. Definitions and abbreviations of terms used in 401 KAR Chapter 59.

Air Quality - Existing Source Standards

401 KAR 61:001. Definitions and abbreviations of terms used in 401 KAR Chapter 61.

Air Quality - General Standards of Performance

401 KAR 63:001. Definitions and abbreviations of terms used in 401 KAR Chapter 63.

Air Pollution - Mobile Source-related Emissions

401 KAR 65:001. Definitions and abbreviations of terms used in 401 KAR Chapter 65.

JUSTICE CABINET

Juvenile Detention Facilities

500 KAR 6:110E. Medical and Health Care Services.

500 KAR 6:150E. Programs.

500 KAR 6:190E. Waiver of compliance.

500 KAR 6:200E. Physical plant.

Department of Corrections

Office of the Secretary

501 KAR 6:020. Corrections policies and procedures.

501 KAR 6:060. Northpoint Training Center.

501 KAR 6:130. Western Kentucky Correctional Complex.

Department of State Police

Trial Board Proceedings

502 KAR 50:010. Admissibility of evidence.

TRANSPORTATION CABINET **Department of Vehicle Regulation**

Division of Motor Carriers

601 KAR 1:005. Safety regulations.

601 KAR 1:029. Definitions relating to 601 KAR 1:030 through 601 KAR 1:145.

601 KAR 1:030. Hearings.

601 KAR 1:031. Procedure when no protest to notice of hearing is filed.

601 KAR 1:040. Application for operating authority and registration of motor carriers authorized to operate by the Interstate Commerce Commission. (Repeals 601 KAR 1:085; 090; 105; 170).

EDUCATION, ARTS, AND HUMANITIES CABINET **Kentucky Board of Education** **Department of Education**

Office of Chief State School Officer

701 KAR 5:076. Repeal of 701 KAR 5:075, Antinepotism certifications of superintendents.

Office of District Support

School Administration and Finance

702 KAR 3:270E. SEEK funding formula. (Deferred from February)

School Terms, Attendance and Operation

702 KAR 7:065 (&E). Designation of agent to manage high school interscholastic athletics.

LABOR CABINET

Occupational Safety and Health

803 KAR 2:317 & E. Special Industries.

803 KAR 2:320E. Air contaminants.

803 KAR 2:404 & E. Personal protective and life-saving equipment.

803 KAR 2:412 & E. Fall protection.

803 KAR 2:425E. Toxic and hazardous substances.

803 KAR 2:500E. Maritime employment.

PUBLIC PROTECTION AND REGULATION CABINET **Department of Mines and Minerals**

Division of Gas and Oil

805 KAR 1:150. Content of the operations and reclamation proposal; form on which the proposal is filed. (Amended After Hearing) (Deferred from March)

Department of Insurance

Authorization of Insurers and General Requirements

806 KAR 3:160. Life and health reinsurance agreements.

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Kinds of Insurance; Limits of Risk; Reinsurance
806 KAR 5:025. Credit for reinsurance.

CABINET FOR FAMILIES AND CHILDREN Department for Social Insurance

Public Assistance
904 KAR 2:015E. Supplemental programs for persons who are aged, blind, or have a disability.

CABINET FOR HEALTH SERVICES Department for Medicaid Services

Medicaid Services
907 KAR 1:009E. Physicians' services. (Deferred from December)
907 KAR 1:010E. Payments for physicians' services. (Deferred from December)
907 KAR 1:060E. Medical transportation.
907 KAR 1:061E. Payments for medical transportation.

Department for Mental Health and Mental Retardation

Substance Abuse
908 KAR 1:340E. Narcotic Treatment Programs.

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.

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NOTICES OF INTENT TO PROMULGATE ADMINISTRATIVE REGULATIONS

OFFICE OF THE ATTORNEY GENERAL Division of Administrative Hearings

Date: March 8, 1996
Office of the Attorney General
Division of Administrative Hearings

- (1) Regulation Number and Title; or Subject Matter if New: **40 KAR 5:010**, Required training of administrative hearing officers.
- (2) The Office of the Attorney General, Division of Administrative Hearings, intends to promulgate an administrative regulation governing the required training for hearing officers.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 30, 1996, at 9 a.m. at 1024 Capital Center Drive, Conference Room A, 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 April 30, 1996, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Office of the Attorney General, Division of Administrative Hearings, 1024 Capital Center 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 Office of the Attorney General, Division of Administrative Hearings, 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 13B.030.
 - (b) The administrative regulation that the Office of the Attorney General, Division of Administrative Hearings, intends to promulgate will not amend an existing administrative regulation. It will specify the scope and content of the 18 hours of initial training and 6 hours of annual continuing training required of persons wishing to act as administrative hearing officers.
 - (c) This administrative regulation is required by KRS 13B.030. The necessity and function of the proposed administrative regulation is as follows:
 1. To specify the hours of education required for hearing officers;
 2. To specify the course content of initial training of hearing officers;
 3. To specify the hours of continuing education required of hearing officers; and
 4. To ensure that courses are taught by qualified individuals and organizations.
 - (d) The benefits expected from administrative regulation are:
 1. Raise the standards of professionalism among hearing officers;
 2. Ensure their basic familiarity with KRS Chapter 13B; and
 3. Promote ongoing skill enhancement of hearing officers.
 - (e) The administrative regulation will be implemented as follows: Upon the effective date of the administrative regulation, persons wishing to act as hearing officers for hearings under KRS Chapter 13B will be required to complete the initial and continuing training required by this administrative regulation and submit evidence of compliance.

FINANCE AND ADMINISTRATION CABINET Office of the Secretary

Date: March 15, 1996
Finance and Administration Cabinet
Office of the Secretary

- (1) **200 KAR 5:021**.
- (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 April 30, 1996, at 9 a.m. in Room 386, Capitol Annex, 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 April 30, 1996, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Ed Ross, Controller,

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Office of the Controller, 702 Capitol Annex, Suite 384, 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 following address: Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601.

(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 45A.045(2).

(b) The proposed regulation will incorporate the 1996 Finance and Administration Cabinet Manual of Policies and Procedures by reference.

(c) The "necessity and function" of the proposed administrative regulation is as follows: The Finance and Administration Cabinet is required by KRS 45A.045(2) to promulgate administrative regulations to govern purchasing by various state agencies, and to publish a manual of policies and procedures, which is to be incorporated by reference as an administrative regulation. This amendment updates the 1994 Finance and Administration Cabinet Manual of Policies and Procedures to include policies and procedures regarding use of the Commonwealth of Kentucky Procurement Card Program.

(d) The benefit expected from this proposed administrative regulation is as follows: To comply with KRS 45A.045(2) and to inform all agencies of the executive branch of state government of the updated procurement and related policies and procedures.

(e) This administrative regulation will be implemented by the Finance and Administration Cabinet operating by the updated policies and procedures.

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources

Date: March 15, 1996

Tourism Development Cabinet

Department of Fish and Wildlife Resources

(1) Regulation Numbers and Titles: **301 KAR 1:201**, Fishing limits; **301 KAR 4:200**, Cyprus AMAX and Robinson Forest Wildlife Management Areas use requirements and restrictions; **301 KAR 2:211**, Deer and turkey hunting on federal areas.

(2) The Department of Fish and Wildlife Resources intends to amend the administrative regulations cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 30, 1996, at 9 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, five miles west of Frankfort on U.S. 60.

(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 April 30, 1996, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601.

(b) In 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 from the department 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 150.015, 150.021, 150.170, 150.175, 150.240, 150.470, and 150.620

(b) The administrative regulations that the department intends to promulgate will:

1. Amend 301 KAR 1:201 as follows: Increase the size limit of largemouth bass and smallmouth bass at Laurel Lake, Kentucky Lake, and Barkley Lake to fifteen (15) inches and remove the provision which allows anglers to keep one bass below the size limit at Kentucky and Barkley lakes; increase the size limit of largemouth bass at Sympson Lake in Nelson County to fifteen (15) inches; impose a nine (9) inch crappie size limit at Taylorsville Lake; establish a three-fish-of-any-species creel limit at the Lower Game Farm Lake and restrict fishing to children twelve (12) years of age and younger; impose a one (1) fish, twenty (20) inch size limit on brown trout on the Cumberland tailwaters from the dam to the Kentucky-Tennessee state line; and on the Cyprus/AMAX-Robinson Forest Wildlife Management area open lakes (except Starfire Lake) to fishing year-round, impose limits on channel catfish, largemouth bass and sunfish extend the fishing season on Starfire Lake by one month by setting an opening date of June 1.

2. Amend 301 KAR 4:200 to move the fishing portion of this administrative regulation to 301 KAR 1:201.

3. Amend 301 KAR 2:211 to adjust season dates and limits on federal areas open to deer hunting.

(c) The necessity and function of the proposed administrative regulations is to adjust fishing limits for the 1997 season to match harvest to specific conditions on certain bodies of water, and to adjust deer hunting requirements on federal areas to meet military training schedules or other federal requirements.

(d) The benefits expected from the administrative regulations are improved fish management and better fishing; better management of deer population and deer hunting activities on federal areas.

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(e) This administrative regulations will be implemented by publication of their provisions in guides and brochures and through mass media outlets, and enforcement by the department's divisions of law enforcement and water patrol, as appropriate.

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

Date: March 15, 1996

Natural Resources and Environmental Protection Cabinet
Department of Environmental Protection
Division of Waste Management

(1) The regulation numbers and titles of the regulations to be amended are: **401 KAR 42:005** - Definitions related to 401 KAR Chapter 42; and **401 KAR 48:005** - Definitions Related to 401 KAR Chapter 48.

(2) The Natural Resources and Environmental Protection Cabinet intends to promulgate two administrative regulations 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 April 30, 1996, at 7 p.m. EST, at Capital Plaza Tower Auditorium, Mero Street, Frankfort, Kentucky.

(4)(a) The public hearing will be held if 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 by April 30, 1996, the public hearing will be canceled.

(5) Persons wishing to request a public hearing should mail their written request to the following address: Division of Waste Management, Attention James Hale, 14 Reilly Road, Frankfort, Kentucky 40601, and phone number (502) 564-2225 ext. 221.

(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 Division of Waste Management at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation governing definitions is KRS 13A.222 and 224.10-100.

(b) The administrative regulations that the Natural Resources and Environmental Protection Cabinet intends to promulgate will amend two existing administrative regulations.

(c) The necessity and function of the proposed administrative regulations is to comply with KRS Chapter 13A requirements concerning the location of definition regulations and to provide consistency with other waste management administrative regulations that define terms.

(d) The benefit expected from these administrative regulations is compliance with the provisions of KRS Chapter 13A regarding definitions and their placement within administrative regulations and to provide consistency with other definition regulations used within the waste management programs.

(e) The administrative regulations will be implemented by the Division of Waste Management, Department for Environmental Protection by providing oversight for the regulated community. All administrative regulations will be made available to the public.

JUSTICE CABINET Department of Corrections

Date: March 14, 1996

Justice Cabinet
Department of Corrections

(1) Regulation Number and Title: **501 KAR 6:020**, Department of Corrections: use of force, inmate grievance procedure; inmate packages; assessment center operations; and risk assessment.

(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 April 30, 1996 at 9 a.m., in the Fifth Floor Conference Room, 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 April 30, 1996, 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:

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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. Use of force (9.1) shall be amended to (a) reflect the correct references, (b) clarify the inclusion of the use of mechanical restraints, (c) clarify the progressive levels of force, and (d) comply with drafting rules in KRS Chapter 13A.

2. Inmate grievance procedure (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.

3. Inmate packages (16.4) shall be amended to limit the number of home mailed packages to one per inmate, provide a list of authorized items for home mailed packages, and clarify the procedure to be followed in placing vendor orders.

4. Assessment center operations (17.2) shall be amended to reflect the current practice of reporting operational matters to the warden.

5. Risk assessment (27-12-02) shall be amended to delete the needs portion of an assessment for classification for community supervision and the classification document has been validated on the risk items with the assistance of the National Council on Crime and Delinquency.

(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 the 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: March 13, 1996

Justice Cabinet

Department of Corrections

(1) Regulation Number and Title: **501 KAR 6:170**, Green River Correctional Complex: inmate personal funds; escape plan; emergency squad: selection, training and evaluation; response units; natural disasters/earthquake; drug abuse testing; procedure for operation in event of dense fog, inclement weather or loss of power; inmate death; construction crew entry and exit guidelines; entry and exit procedures; institutional inspections; storage, issue and use of chemical agents; contraband control: collection, preservation and disposition of contraband and identification of physical evidence; emergency release from locked areas; medical restraints; eye care; dental care; special management unit; food service general guidelines; food service: security; dining room guidelines; food service: inspection and sanitation; food service: purchasing, storage and farm products; library services; recreation programs.

(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 April 30, 1996, 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 April 30, 1996, 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 6:170, as follows:

1. Inmate personal funds (02-07-01) shall be established to outline the guidelines for the management of the personal funds of inmates at the GRCC.

2. Escape plan (08-03-01) shall be established to outline the guidelines for an operating procedure in the event of an escape at the GRCC.

3. Emergency squad: selection, training and evaluation (08-05-01) shall be established to provide the guidelines for the emergency squad at the GRCC.

4. Response Units (08-06-01) shall be established to outline the guidelines for the Response Units at the GRCC.

5. Natural disaster/earthquake (08-07-01) shall be established to outline the guidelines in the event of a natural disaster or earthquake at the GRCC.

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6. Drug abuse testing (09-02-01) shall be established to outline the guidelines for drug abuse testing of inmates at the GRCC.
 7. Procedure for operation in event of dense fog, inclement weather or loss of power (09-03-01) shall be established to outline the operating procedure in the event of dense fog, inclement weather or loss of power at the GRCC.
 8. Inmate death (09-04-01) shall be established to outline the guidelines and the operating procedures in the event of an inmate death at the GRCC.
 9. Construction crew entry and exit guidelines (09-05-01) shall be established to outline the guidelines for the entry and exit of construction crews at the GRCC.
 10. Entry and exit procedures (09-06-01) shall be established to outline the guidelines for entry and exit procedures at the GRCC.
 11. Institutional inspections (09-07-01) shall be established to outline the guidelines for institutional inspections at the GRCC.
 12. Storage, issue and use of chemical agents (09-08-01) shall be established to outline the guidelines for the storage, issue and use of chemical agents at the GRCC.
 13. Contraband control: collection, preservation and disposition of contraband and identification of physical evidence (09-09-01) shall be established to outline the guidelines regarding contraband control at the GRCC.
 14. Emergency release from locked areas (09-10-01) shall be established to outline the guidelines for staff and inmates regarding emergency release from locked areas at the GRCC.
 15. Medical restraints (13-07-01) shall be established to outline the guidelines for the use of medical restraints on inmates at the GRCC.
 16. Eye care (13-08-01) shall be established to outline the guidelines for eye care for inmates at the GRCC.
 17. Dental care (13-09-01) shall be established to outline the guidelines for dental care for inmates at the GRCC.
 18. Special management unit (10-01-01) shall be revised to comply with current operating procedures for the special management unit at the GRCC.
 19. Food service general guidelines (11-01-01) shall be revised to comply with current operating procedures for food service at the GRCC.
 20. Food service: security (11-02-01) shall be revised to comply with current operating procedures for food service security at the GRCC.
 21. Dining room guidelines (11-03-01) shall be revised to comply with current operating procedures for the dining room at the GRCC.
 22. Food service: inspections and sanitation (11-07-01) shall be revised to comply with current operating procedures for food service inspections and sanitation at the GRCC.
 23. Food service: purchasing, storage and farm products (11-08-01) shall be revised to comply with current operating procedures for food service purchasing, storage and farm products at the GRCC.
 24. Library services (21-01-01) shall be revised to comply with current operating procedures for the library services at the GRCC.
 25. Recreation programs (22-01-01) shall be revised to comply with current operating procedures for recreation programs at the GRCC.
- (c) The necessity and function of the proposed administrative regulation is: To update operating procedures at the Green River 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.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

February 29, 1996

Public Protection and Regulation Cabinet
Department of Insurance

- (1) Regulation Number and Title: 806 KAR 17:066, Medicare supplement insurance policies.
- (2) The Public Protection and Regulation Cabinet, Department of 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 April 30, 1996, at 10 a.m., at the Department of Insurance, 215 West Main Street, 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 April 30, 1996, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Attention: Carla H. Montgomery.
- (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 Insurance 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 Medicare supplements is KRS 304.2-110, 304.14-510, 304.32-250, 304.38-150.

(b) The administrative regulation that the Department of Insurance intends to promulgate will amend 806 KAR 17:066 Medicare supplement insurance policies. It will amend the administrative regulation to conform with federal mandates as required by the Social Security Act Amendments of 1994 (SSAA-94), 42 USCA 1395ss.

(c) The necessity and function of the proposed administrative regulation is as follows: States are required to make these amendments by the federal government in order to maintain approval of Medicare supplement policies without certification from the Secretary of Health & Human Services for the Medicare supplement policies. If this administrative regulation is amended, Kentucky has met minimum federal standards and can continue to sell Medicare supplement insurance policies without interruption.

(d) The benefits expected from this administrative regulation are: Kentucky can continue to sell Medicare supplement policies without having the policies certified by the Secretary of Health & Human Services and maintain approval by the federal government for meeting minimum federal standards.

(e) The administrative regulation will be implemented as follows: The department will continue to implement this administrative regulation as it has done in the past.

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

March 1, 1996

Public Protection and Regulation Cabinet
Department of Housing, Buildings and Construction

(1) Regulation Number and Title: **815 KAR 8:030**, Apprentice heating, ventilation, and air conditioning (HVAC) mechanic registration and certification 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 Tuesday, April 30, 1996, 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 twenty (20) days prior to April 30, 1996, the public hearing will be canceled.

(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 815 KAR 8:030, Apprentice heating, ventilation, and air conditioning (hvac) mechanic registration and certification requirements, by proposing the following changes:

1. To recognize an apprentice registered with the Division of Employment Standards, Kentucky Labor Cabinet as conforming with the registration requirements of KRS Chapter 198B; and

2. To delete the required apprentice registration fee of \$10.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation sets forth the requirements for registration and certification of apprentice mechanics which registration shall be used to satisfy the experience requirements necessary before an apprentice is eligible to be licensed by examination.

(d) The benefits expected from this administrative regulation are: Statewide apprentice registration will assist the industry in providing proof of experience. Public protection in quality work shall result from verified experience.

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

Date: March 7, 1996

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 Tuesday, April 30, 1996, in the department's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort,

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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 twenty (20) days prior to April 30, 1996, 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 new products approved by the State Plumbing Code Committee, i.e., Fernco Proflex Shielded Couplings; Canplas Industries LTD Specialty DWV Fittings; increase the maximum polyethylene sewer pipe size for underground storm water drainage; and add an additional backwater valve model for solvent cement joints.

(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.

CABINET FOR HEALTH SERVICES Department for Health Services

Date: April 1, 1996

Cabinet for Health Services

Department for Health Services

(1) **902 KAR 55:100**, Laetrite manufacturing standards.

(2) The Cabinet for Health Services, Department for Health Services intends to promulgate a new 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 April 29, 1996 at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 E. 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 April 29, 1996, 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., Acting General Counsel, Cabinet for Health Services, 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 Street, 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 Health Services' 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 laetrite manufacturing standards is KRS 217.950, 194.050, and Executive Order 95-79.

(b) The administrative regulation that the Department for Health Services intends to promulgate will not amend an existing regulation. It will prescribe minimum standards for manufacturers in preparing, compounding, processing and packaging laetrite. It will also establish standards of purity and provide for inspections of the facilities for manufacture and for testing of samples.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 217.950 provides that Amydgalin (laetrite) may be manufactured in this state subject to licensing by the Cabinet for Human Resources and directs the Secretary for Human Resources to adopt administrative regulations which prescribe minimum standards for manufacturers in preparing, compounding,

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processing, and packaging the substance. The secretary is also directed to establish standards of purity and make periodic tests and inspections of both the facilities for manufacture and samples to ascertain the purity, quality, and identity. Executive Order 95-79, effective 12/28/95, reorganizes the Cabinet for Human Resources and places the Department for Health Services and its programs under the Cabinet for Health Services.

(d) The benefits expected from administrative regulation are: Protection of citizens of the Commonwealth who take laetrile. There are no federal standards because laetrile is unapproved in the United States and it is illegal to import into the United States or into Kentucky. State law requires that standards be set for the manufacture of laetrile in Kentucky.

EMERGENCY ADMINISTRATIVE REGULATIONS NOW IN EFFECT

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

STATEMENT OF EMERGENCY
200 KAR 5:021E

Pursuant to KRS 13A.190, the Governor of the Commonwealth of Kentucky does hereby declare that the proposed administrative regulation, 200 KAR 5:021E, should be enacted on an emergency basis in order to implement, through the provisions of KRS 45A.100, a Pilot Procurement Card Program. To facilitate and implement the provisions of the Procurement Card Program in the most cost effective terms of the approved procurement card agreement, it is necessary to promulgate these administrative regulations on an emergency basis. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
JOHN P. MCCARTY, Secretary

FINANCE AND ADMINISTRATION CABINET
Office of the Secretary

200 KAR 5:021E. Manual of policies and procedures.

RELATES TO: KRS Chapter 45A

STATUTORY AUTHORITY: KRS 45A.045(2)

EFFECTIVE: March 15, 1996

NECESSITY AND FUNCTION: The Finance and Administration Cabinet is required by KRS 45A.045(2) to promulgate administrative regulations to govern purchasing by various state agencies, and to publish a manual of policies and procedures, which is to be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This administrative regulation implements the requirement that this manual be incorporated by reference as an administrative regulation. This administrative regulation repeals 200 KAR 5:020, Finance and Administrative Cabinet Manual of Policies and Procedures, which is a previous version of the manual incorporated by reference in this administrative regulation.

Section 1. The purchasing policies and procedures of the "Finance and Administration Cabinet Manual of Policies and Procedures (1996 [4994])", is hereby adopted and incorporated by reference, the same as if set forth at length, in and as a part of the administrative regulations of the Finance and Administrative Cabinet adopted pursuant to KRS Chapter 45A. The "Finance and Administration Cabinet Manual of Policies and Procedures (1996 [4994])" shall be available for public inspection and copying Monday through Friday, excluding state holidays, from 8 a.m. to 4:30 p.m. at the Office of Management and Budget, Finance and Administrative Cabinet, Capitol Annex, Frankfort, Kentucky.

JOHN P. McCARTY, Secretary

APPROVED BY AGENCY: March 14, 1996

FILED WITH LRC: March 15, 1996 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Ed Ross, Controller

(1) Type and number of entities affected: This regulation will affect all agencies desiring to participate in the Procurement Card Program. The pilot program will initially affect agencies within the General Government Cabinet, Finance and Administration Cabinet,

and the Workforce Development Cabinet. However, it is anticipated to impact agencies in all cabinets of 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, to the extent available from the public comments received. There is not anticipated to be any direct or indirect cost or savings on the cost of living and employment in the geographical area in which the administrative regulation will be implemented. A public hearing on this regulation has not yet taken place.

(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 is not anticipated to be any direct or indirect cost or savings on the cost of doing business in the geographical area in which the administrative regulation will be implemented. A public hearing on this regulation has not yet taken place.

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

1. First year following implementation: There are no anticipated compliance, reporting or paperwork requirements. There should be no effect upon competition.

2. Second and subsequent years: There are no anticipated compliance, reporting or paperwork requirements. There should be no effect upon competition.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The Office of the Controller will be required to assist each agency in implementing the Procurement Card Program. The implementation of the program in the initial agency is expected to cost the Office of the Controller \$3,000. This reflects 3 weeks staff time at \$45,000 per year. Implementation in each agency thereafter is estimated to cost \$400, estimated at 2 days staff time. While these individuals are already salaried employees of the agency, this process will necessitate they not perform other required duties to complete the implementation process. A one-time charge for customized software, utilized in the payment process, of \$1,500 will be paid by the Office of the Controller. After the pilot period and until the software is installed in 31 agency sites, the software will cost on a tiered basis from \$150 to \$50 per month. On-going operation of the program is anticipated to result in minimal savings to the Office of the Controller, as the effort required to make payments through the Procurement Card Program will be offset by the effort required previously to process the payments to the direct merchants. Savings in agencies will depend on the internal procedures associated with their individual procurement practices.

2. Continuing costs or savings: Implementation in each successive agency is anticipated to cost the Office of the Controller \$400, estimated at 2 days staff time. While these individuals are already salaried employees of the agency, this process will necessitate they not perform other required duties to complete the implementation process. After the pilot period and until the software is installed in 31 agency sites, the software will cost on a tiered basis from \$150 to \$50 per month. On-going operation of the program is anticipated to result in minimal savings to the Office of the Controller, as the effort required to make payments through the Procurement Card Program will be offset by the effort required previously to process the payments to the direct merchants. Savings in agencies will depend on the internal procedures associated with their individual procurement practices.

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3. Additional factors increasing or decreasing costs: None foreseen at this time.

(b) Reporting and paperwork requirements: Reporting and paperwork will be diminished by the agency, the Office of the Controller, and the Office of the Treasury via a single electronic payment to the issuing bank instead of multiple payments to individual merchants.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Office of the Controller will be required to absorb all additional implementation costs in its operating budget.

(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 impact is expected; however, there has not yet been a public hearing on the regulation.

(b) Kentucky: No impact is expected; however, there has not yet been a public hearing on the regulation.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Continuation of the current practice of making individual payments to each of the Commonwealth's merchants for each procurement would require a continuation of exorbitant personnel time for low-cost dollar purchases. The utilization of procurement cards will enable agencies to utilize staff in areas that have the greatest financial impact on the operation of their legislated program.

(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 impact is expected.

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

(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: To the best of the knowledge of the Office of the Controller and the Division of Purchases, there are no statutes, administrative regulations or governmental policies which are in conflict, are overlapping, or duplicate this administrative regulation.

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Yes. Tiering was applied to specify that the administrative regulation only affect Small Purchase Procedures. Small Purchases account for approximately 25% of the Commonwealth's purchase order documents, and less than 1% of the Commonwealth's total purchase order expenditures.

STATEMENT OF EMERGENCY

806 KAR 17:066E

This emergency administrative regulation amends 806 KAR 17:066, Medicare supplement insurance policies. The Federal Department of Health and Human Services has directed the department to amend the above administrative regulation by April 28, 1996 in accordance with 42 USCA 1395ss. If a state fails to make these changes by the above date, Medicare supplement policies cannot be sold in that state unless the Secretary of Health and Human Services certifies that the policies meet federal standards. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed at a later date.

PAUL E. PATTON, Director
LAURA M. DOUGLAS, Secretary
THEODORE RICH, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 17:066E. Medicare supplement insurance policies.

RELATES TO: KRS 304.12-020, 304.14-500 to 304.14-550, 304.17-305, 304.17-318, 304.18-036, 304.18-095, 304.32-157, 304.32-165, 304.32-270, 304.38-193, 304.38-196, 304.38-200

STATUTORY AUTHORITY: KRS 304.2-110, 304.14-510, 304.32-250, 304.38-150

EFFECTIVE: February 29, 1996

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.14-510 provides that the Commissioner of Insurance may make reasonable administrative regulations establishing minimum standards for Medicare supplement insurance policies. KRS 304.32-250 provides that the Commissioner of Insurance may make reasonable administrative regulations which he deems necessary for the proper administration of KRS 304.32. KRS 304.38-150 provides that the Commissioner of Insurance may make reasonable administrative regulations which he deems necessary for the proper administration of KRS Chapter 304.38. This administrative regulation establishes minimum standards for Medicare supplement insurance policies.

Section 1. Definitions. [~~For the purposes of this administrative regulation:~~]

(1) "Applicant" means:

(a) In the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and

(b) In the case of a group Medicare supplement policy, the proposed certificate holder.

(2) "Certificate" means any certificate delivered to or issued under a group Medicare supplement policy.

(3) "Certificate form" means the form on which the certificate is delivered or issued for delivery by the insurer.

(4) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.

(5) "Insurance policy" means an insurance policy; ~~[-]~~ a subscriber contract issued by a nonprofit hospital, medical-surgical, dental, and health service corporation; ~~[-]~~ and an enrollee contract issued by a health maintenance organization.

(6) "Issuer" includes insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity delivering or issuing for delivery in this state Medicare supplement policies or certificates.

(7) "Medicare" means the "Health Insurance for the Aged Act," "Title XVIII of the Social Security Amendments of 1965," as then constituted or later amended (42 USC 1395 et seq.).

(8) "Medicare supplement policy" means a group or individual policy of insurance; ~~[-]~~ a subscriber contract issued by a nonprofit hospital, medical-surgical, dental, and health service corporation; ~~[-]~~ or an enrollee contract issued by a health maintenance organization, other than a policy issued pursuant to a contract under Section 1876 [~~or Section 1833~~] of the federal Social Security Act (42 USC Section 1395 et seq.) or an issued policy under a demonstration project specified in 42 USC 1395ss(g)(1) [~~authorized pursuant to amendments to the federal Social Security Act~~], which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare.

(9) "Policy form" means the form on which the policy is delivered

or issued for delivery by the issuer.

Section 2. Purpose, Applicability, and Scope. (1) The purpose of this administrative regulation is to provide for the reasonable standardization of coverages and simplification of terms and benefits of Medicare supplement policies, to facilitate public understanding and comparison of such policies, to eliminate provisions contained in such policies which may be misleading or confusing in connection with the purchase of such policies or in connection with the settlement of claims, and to provide for full disclosure in the sale of health insurance coverages to persons eligible for Medicare.

(2) Except as otherwise specifically provided in Sections 11 and 12 of this administrative regulation, this administrative regulation shall apply to:

(a) All Medicare supplement policies delivered or issued for delivery in this state on or after the effective date of this administrative regulation; and

(b) All certificates issued under group Medicare supplement policies, which certificates have been delivered or issued for delivery in this state.

(3) This administrative regulation shall not apply to a policy or contract of one (1) or more employers or labor organizations, or of the trustees of a fund established by one (1) or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

Section 3. Policy Definitions and Terms. A ~~[No]~~ policy or certificate shall not be advertised, solicited, or issued for delivery in Kentucky as a Medicare supplement policy or certificate unless the policy or certificate contains terms or definitions which conform to those in this section.

(1) "Accident," "accidental injury," or "accidental means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.

(a) The definition shall not be more restrictive than the following: "injury or injuries for which benefits are provided means accidental bodily injury sustained by the injured person which is a direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

(b) Such definition may provide that injury shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability, or similar law, or motor vehicle no-fault insurance plan, unless such a definition is prohibited by law.

(2) "Benefit period," or "Medicare benefit period," shall not be defined as more restrictive than as that defined in the Medicare program.

(3) "Convalescent nursing home," "extended care facility," or "skilled nursing facility" shall not be defined more restrictively than as defined in the Medicare program.

(4) "Health care expenses" means expenses of health maintenance organizations associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers.

(a) These expenses shall not include:

1. Home office and overhead costs;
2. Advertising costs;
3. Commissions and other costs of acquiring insurance business;
4. Taxes;
5. Capital costs;
6. Administrative costs; and
7. Claims processing costs.

(5) "Hospital" may be defined in relation to its status, facilities, and available services or to reflect its accreditation by the Joint

Commission on Accreditation of Hospitals, but shall not be defined more restrictively than as defined in the Medicare program.

(6) "Medicare" shall be defined in the policy and certificate. Medicare may be substantially defined as "the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as then constituted or later amended," or Title I, Part I of P.L. 89-97, as enacted by the 89th Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof, or words of similar import.

(7) "Medicare eligible expenses" shall mean expenses of the kinds covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

(8) "Physician" shall not be defined more restrictively than as defined in the Medicare program.

(9) "Sickness" shall not be defined to be more restrictive than the following: "sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force." The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, or employer's liability, or similar law.

Section 4. Policy Provisions. (1) Except for permitted preexisting condition clauses as described in Sections 5(1)(a) and 6(1)(a) of this administrative regulation, a ~~[No]~~ policy or certificate shall not ~~[may]~~ be advertised, solicited or issued for delivery in this state as a Medicare supplement policy if ~~the~~ ~~[such]~~ policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

(2) A Medicare supplement policy shall not contain a probationary or elimination period.

(3) A Medicare supplement policy or certificate shall not use waivers to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

(4) A ~~[No]~~ Medicare supplement insurance policy in force in this state shall not contain benefits which duplicate benefits provided by Medicare.

Section 5. Minimum Benefit Standards. (1) A policy or certificate shall not be advertised, solicited, or issued for delivery in Kentucky as a Medicare supplement policy or certificate if it does not meet or exceed the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are consistent with these standards. This section applies to Medicare supplement policies issued prior to January 1, 1992.

(2) General standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this administrative regulation.

(a) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(b) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(c) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with these changes.

(d) A "noncancellable," "guaranteed renewable," or "noncan-

cellable and guaranteed renewable" Medicare supplement policy shall not:

1. Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium; or

2. Be cancelled or nonrenewed by the issuer solely on the grounds of deterioration of health.

(e)1. Except as authorized by the commissioner, an issuer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

2. If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in subparagraph 4 of this paragraph, the issuer shall offer certificate holders an individual Medicare supplement policy. The issuer shall offer the certificate holder at least the following choices:

a. An individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; and

b. An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in Section 6(2) of this administrative regulation.

3. If membership in the group is terminated, the insurer shall:

a. Offer the certificate holder the conversion opportunities described in subparagraph 2 of this paragraph; or

b. Offer the certificate holder continuation of coverage under the group policy.

4. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the ~~successor~~ issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(f) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits.

(3) Minimum benefit standards.

(a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(b) Coverage for either all or none of Medicare Part A inpatient hospital deductible amount;

(c) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(d) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety (90) percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

(e) Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B; and

(f) Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out of pocket amount equal to the Medicare Part B deductible maximum benefit.

(g) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations

or already paid for under Part A, subject to the Medicare deductible amount.

Section 6. Benefit Standards for Policies or Certificates Issued or Delivered on or after January 1, 1992. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in Kentucky on or after January 1, 1992. A policy or certificate shall not be advertised, solicited, delivered, or issued for delivery in Kentucky as a Medicare supplement policy or certificate unless it complies with these benefit standards.

(1) General standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this administrative regulation:

(a) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(b) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents, and shall not contain a probationary or elimination period.

(c) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost-sharing amounts under Medicare shall be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

(d) A Medicare supplement policy or certificate shall not provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(e) Each Medicare supplement policy shall be guaranteed renewable; and

1. The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual; and

2. The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

3. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under subparagraph 5 of this paragraph, the issuer shall offer certificate holders an individual Medicare supplement policy which (at the option of the certificate holder):

a. Provides for continuation of the benefits contained in the group policy; or

b. Provides for benefits which otherwise meet the requirements of this subsection.

4. If an individual is a certificate holder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall offer continuation and conversion coverages in accordance with subparagraph 3 of this paragraph.

5. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the ~~successor~~ issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(f) Termination of a Medicare supplement policy or certificate shall be without prejudice or any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

(g)1. A Medicare supplement policy or certificate shall provide that

benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificate holder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificate holder notifies the issuer of such policy or certificate within ninety (90) days after the date the individual becomes entitled to such assistance. ~~[Upon receipt of timely notice, the issuer shall return to the policyholder or certificate holder that portion of the premium attributable to the period of Medicaid eligibility, subject to adjustment for paid claims.]~~

2. If the suspension occurs and if the policyholder or certificate holder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstituted (effective as of the date of termination of the entitlement to medical assistance) as of the termination of the entitlement if the policyholder or certificate holder provides notice of loss of the entitlement within ninety (90) days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of the entitlement.

3. Reinstitution of coverages:

(i) Shall not provide for any waiting period with respect to treatment of preexisting conditions;

(ii) Shall provide for coverage which is substantially equivalent to coverage in effect before the date of suspension; and

(iii) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage not been suspended.

(2) Standards for basic ("core") benefits common to all benefit plans. Every issuer shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare supplement insurance benefit plans in addition to the basic "core" package, but not in lieu thereof.

(a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(b) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

(c) Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the diagnostic related group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional 365 days;

(d) Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations; and

(e) Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

(3) Standards for additional benefits. The following additional benefits shall be included in Medicare supplement benefit Plans "B" through "J" only as provided by Section 7 of this administrative regulation.

(a) Medicare Part A deductible: coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period;

(b) Skilled nursing facility care: coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A;

(c) Medicare Part B deductible: coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement;

(d) Eighty (80) percent of the Medicare Part B excess charges:

coverage for eighty (80) percent of the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge;

(e) 100 percent of the Medicare Part B excess charges: coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge;

(f) Basic outpatient prescription drug benefit: coverage for fifty (50) percent of outpatient prescription drug charges, after a \$250 calendar year deductible, to a maximum of \$1,250 in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(g) Extended outpatient prescription drug benefit: coverage for fifty (50) percent of outpatient prescription drug charges, after a \$250 calendar year deductible to a maximum of \$3,000 in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(h) Medically necessary emergency care in a foreign country: coverage to the extent not covered by Medicare for eighty (80) percent of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of \$250, and a lifetime maximum benefit of \$50,000. For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

(i) Preventive medical care benefit: coverage for the following preventive health services:

1. An annual clinical preventive medical history and physical examination that may include tests and services from subparagraph 2 of this paragraph and patient education to address preventive health care measures.

2. Any one (1) or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

a. Fecal occult blood test and/or digital rectal examination;

b. Mammogram;

c. Dipstick urinalysis for hematuria, bacteriuria and proteinuria;

d. Pure tone (air only) hearing screening test, administered or ordered by a physician;

e. Serum cholesterol screening (every five (5) years);

f. Thyroid function test; or

g. Diabetes screening.

3. Influenza vaccine administered at any appropriate time during the year and tetanus and diphtheria booster (every ten (10) years).

4. Any other tests or preventive measure determined appropriate by the attending physician.

Reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of \$120 annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

(j) At-home recovery benefit: coverage for services to provide short-term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery.

1. For purposes of this benefit, the following definitions shall apply:

a. "Activities of daily living" include, but are not limited to bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

b. "Care provider" means a duly qualified or licensed home health

aide/homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

c. "Home" shall mean any place used by the insured as a place of residence, provided that such place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

d. "At-home recovery visit" means the period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four (4) hours in a twenty-four (24) hour period of services provided by a care provider is one (1) visit.

2. Coverage requirements and limitations:

a. At-home recovery services provided shall ~~must~~ be primarily services which assist in activities of daily living.

b. The insured's attending physician shall ~~must~~ certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

c. Coverage is limited to:

(i) No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare-approved home health care visits under a Medicare-approved home care plan of treatment.

(ii) The actual charges for each visit up to a maximum reimbursement of forty (40) dollars per visit.

(iii) \$1,600 per calendar year.

(iv) Seven (7) visits in any one (1) week.

(v) Care furnished on a visiting basis in the insured's home.

(vi) Services provided by a care provider as defined in this section.

(vii) At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded.

(viii) At-home recovery visits received during the period the insured is receiving Medicare-approved home care services or no more than eight (8) weeks after the service date of the last Medicare-approved home health care visit.

3. Coverage is excluded for:

a. Home care visits paid for by Medicare or other government programs; and

b. Care provided by family members, unpaid volunteers, or providers who are not care providers.

(k) New or innovative benefits: an issuer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. New or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of a simplification of Medicare supplement policies.

Section 7. Standard Medicare Supplement Benefit Plans. (1) An issuer shall make available to each prospective policyholder and certificate holder a policy form or certificate form containing only the basic "core" benefits, as defined in Section 6(2) of this administrative regulation.

(2) Groups, packages, or combinations of Medicare supplement benefits other than those listed in this section shall not be offered for sale in this state, except as may be permitted in Sections 6(3)(k) and 8 of this administrative regulation.

(3) Benefit plans shall be uniform in structure, language, designation, and format to the standard benefit Plans "A" through "J" listed in this subsection and conform to the definitions in Section 8 of this administrative regulation. Each benefit shall be structured in accordance with the format provided in Section 6(2) and (3) of this administrative regulation and list the benefits in the order shown in

this subsection. For purposes of this section, "structure, language, and format" means style, arrangement and overall content of a benefit.

(4) An issuer may use, in addition to the benefit plan designations required in subsection (3) of this section, other designations to the extent permitted by law.

(5) Make-up of benefit plans:

(a) Standardized Medicare supplement benefit Plan "A" shall be limited to the basic ("core") benefits common to all benefit plans, as defined in Section 6(2) of this administrative regulation.

(b) Standardized Medicare supplement benefit Plan "B" shall include only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible as defined in Section 6(3)(a) of this administrative regulation.

(c) Standardized Medicare supplement benefit Plan "C" shall include only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in Section 6(3)(a), (b), (c), and (h) of this administrative regulation, respectively.

(d) Standardized Medicare supplement benefit Plan "D" shall include only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in Section 6(3)(a), (b), (h), and (j) of this administrative regulation, respectively.

(e) Standardized Medicare supplement benefit Plan "E" shall include only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and preventive medical care as defined in Section 6(3)(a), (b), (h), and (i) of this administrative regulation, respectively.

(f) Standardized Medicare supplement benefit Plan "F" shall include only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, the skilled nursing facility care, the Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Section 6(3)(a), (b), (c), (e), and (h) of this administrative regulation, respectively.

(g) Standardized Medicare supplement benefit Plan "G" shall include only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, eighty (80) percent of the Medicare Part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in Section 6(3)(a), (b), (d), (h), and (j) of this administrative regulation, respectively.

(h) Standardized Medicare supplement benefit Plan "H" shall consist of only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, basic prescription drug benefit, and medically necessary emergency care in a foreign country as defined in Section 6(3)(a), (b), (f), and (h) of this administrative regulation, respectively.

(i) Standardized Medicare supplement benefit Plan "I" shall consist of only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B excess charges, basic prescription drug benefit, medically necessary emergency care in a foreign country, and at-home recovery benefit as defined in Section 6(3)(a), (b), (e), (f), (h), and (j) of this administrative regulation, respectively.

(j) Standardized Medicare supplement benefit Plan "J" shall consist of only the following: the core benefit as defined in Section 6(2) of this administrative regulation, plus the Medicare part A deductible, skilled nursing facility care, Medicare Part B deductible,

100 percent of the Medicare Part B excess charges, extended prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care, and at-home recovery benefit as defined in Section 6(3)(a), (b), (c), (e), (g), (h), (i), and (j) of this administrative regulation, respectively.

Section 8. Medicare Select Policies and Certificates. (1)(a) This section shall apply to Medicare select policies and certificates, as defined in this section.

(b) A ~~Ne~~ policy or certificate shall not ~~may~~ be advertised as a Medicare select policy or certificate unless it meets the requirements of this section.

(2) For the purpose of this section:

(a) "Complaint" means any dissatisfaction expressed by an individual concerning a Medicare select issuer or its network providers.

(b) "Grievance" means dissatisfaction expressed in writing by an individual insured under a Medicare select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare select issuer or its network providers.

(c) "Medicare select issuer" means an issuer offering, or seeking to offer, a Medicare select policy or certificate.

(d) "Medicare select policy" or "Medicare select certificate" means respectively a Medicare supplement policy or certificate that contains restricted network provisions.

(e) "Network provider" means a provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer to provide benefits insured under a Medicare select policy.

(f) "Restricted network provision" means any provision which conditions the payment of benefits, in whole or in part, on the use of network providers.

(g) "Service area" means the geographic area approved by the commissioner within which an issuer is authorized to offer a Medicare select policy.

(3) The commissioner may authorize an issuer to offer a Medicare select policy or certificate, pursuant to this section and Section 4358 of the Omnibus Budget Reconciliation Act (OBRA) (42 USC 1395ss) of 1990, if the commissioner finds that the issuer has satisfied all of the requirements of this administrative regulation.

(4) A Medicare select issuer shall not issue a Medicare select policy or certificate in this state until its plan of operation has been approved by the commissioner.

(5) A Medicare select issuer shall file a proposed plan of operation with the commissioner in a format prescribed by the commissioner. The plan of operation shall contain at least the following information:

(a) Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that:

1. Covered services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation, and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community.

2. The number of network providers in the service area is sufficient, with respect to current and expected policyholders, either:

a. To deliver adequately all services that are subject to a restricted network provision; or
b. To make appropriate referrals.

3. There are written agreements with network providers describing specific responsibilities.

4. Emergency care is available twenty-four (24) hours per day and seven (7) days per week.

5. In the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are

written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare select policy or certificate. This paragraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare select policy or certificate.

(b) A statement or map providing a clear description of the service area.

(c) A description of the grievance procedure to be utilized.

(d) A description of the quality assurance program, including:

1. The formal organizational structure;

2. The written criteria for selection, retention and removal of network providers; and

3. The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted.

(e) A list and description, by specialty, of the network providers.

(f) Copies of the written information proposed to be used by the issuer to comply with paragraph (9) of this subsection.

(g) Any other information requested by the commissioner.

(6)(a) A Medicare select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the commissioner prior to implementing any changes. Any changes shall be considered approved by the commissioner thirty (30) days after filing unless specifically disapproved by the commissioner.

(b) An updated list of network providers shall be filed with the commissioner at least quarterly.

(7) A Medicare select policy or certificate shall not restrict payment for covered services provided by nonnetwork providers if:

(a) The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury, or a condition; and

(b) It is not reasonable to obtain these services through a network provider.

(8) A Medicare select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers.

(9) A Medicare select issuer shall make full and fair disclosure in writing of the provisions, restrictions, and limitations of the Medicare select policy or certificate to each applicant. This disclosure shall include at least the following:

(a) An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare select policy or certificate with:

1. Other Medicare supplement policies or certificates offered by the issuer; and

2. Other Medicare select policies or certificates.

(b) A description (including address, phone number, and hours of operation) of the network providers, including primary care physicians, specialty physicians, hospitals, and other providers.

(c) A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized.

(d) A description of coverage for emergency and urgently needed care and other out-of-service area coverage.

(e) A description of limitations on referrals to restricted network providers and to other providers.

(f) A description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer.

(g) A description of the Medicare select issuer's quality assurance program and grievance procedure.

(10) Prior to the sale of a Medicare select policy or certificate, a Medicare select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to subsection (9) of this section and that the

applicant understands the restrictions of the Medicare select policy or certificate.

(11) A Medicare select issuer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. These procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures.

(a) The grievance procedure shall be described in the policy and certificates and in the outline of coverage.

(b) At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer.

(c) Grievances shall be considered in a timely manner and shall be transmitted to appropriate decision-makers who have authority to fully investigate the issue and take corrective action.

(d) If a grievance is found to be valid, corrective action shall be taken promptly.

(e) All concerned parties shall be notified about the results of a grievance.

(f) The issuer shall report no later than each March 31st to the commissioner regarding its grievance procedure. The report shall be in a format prescribed by the commissioner and shall contain the number of grievances filed in the past year and a summary of the subject, nature and resolution of such grievances.

(12) At the time of initial purchase, a Medicare select issuer shall make available to each applicant for a Medicare select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer.

(13)(a) At the request of an individual insured under a Medicare select policy or certificate, a Medicare select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make these policies or certificates available without requiring evidence of insurability after the Medicare supplement policy or certificate has been in force for six (6) months.

(b) For the purpose of this subsection, a Medicare supplement policy or certificate shall be considered to have comparable or lesser benefits unless it contains one (1) or more significant benefits not included in the Medicare select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services, or coverage for Part B excess charges.

(14) Medicare select policies and certificates shall provide for continuation of coverage in the event the Secretary of the United States Department of Health and Human Services determines that Medicare select policies and certificates issued pursuant to this section should be discontinued due to either the failure of the Medicare select program to be reauthorized under law or its substantial amendment.

(a) Each Medicare select issuer shall make available to each individual insured under a Medicare select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make such policies and certificates available without requiring evidence of insurability.

(b) For the purposes of this subsection, a Medicare supplement policy or certificate shall be considered to have comparable or lesser benefits unless it contains one (1) or more significant benefits not included in the Medicare select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services, or coverage for Part B excess charges.

(15) A Medicare select issuer shall comply with reasonable

requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare select program.

Section 9. Open Enrollment. (1) ~~An~~ ~~the~~ issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in Kentucky, nor discriminate in the pricing of a Medicare supplement policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of [where] an application for a [such] policy or certificate that is submitted prior to or during the six (6) month period beginning with the first day of the first month in which an individual [who] is sixty-five (65) years of age or older and is [first] enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an insurer shall be made available to all applicants who qualify under this subsection without regard to age.

(2) Except as provided in Section 21 [Subsection] (1) of this administrative regulation [section] shall not be construed as preventing the exclusion of benefits under a policy, during the first six (6) months, based on a preexisting condition for which the policyholder or certificate holder received treatment or was otherwise diagnosed during the six (6) months before the coverage [it] became effective.

Section 10. Standards for Claims Payment. (1) An issuer shall comply with section 1882(c)(3) of the Social Security Act (as enacted by section 4081(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987, PL No. 100-203) (42 USC 1395ss) by:

(a) Accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form otherwise required and making a payment determination on the basis of the information contained in that notice;

(b) Notifying the participating physician or supplier and the beneficiary of the payment determination;

(c) Paying the participating physician or supplier directly;

(d) Furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number, and a central mailing address to which notices from a Medicare carrier may be sent;

(e) Paying user fees for claim notices that are transmitted electronically or otherwise; and

(f) Providing to the Secretary of the United States Department of Health and Human Services, at least annually, a central mailing address to which all claims may be sent by Medicare carriers.

(2) Compliance with the requirements set forth in subsection (1) of this section shall be certified on the Medicare Supplement Insurance Experience Reporting Form.

Section 11. Loss Ratio Standards and Refund or Credit of Premium. (1) Loss ratio standards.

(a) 1. A Medicare supplement policy form or certificate form shall not be delivered or issued for delivery in Kentucky unless it can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificate holders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form:

a. [1-] At least seventy-five (75) percent of the aggregate amount of premiums earned in the case of group policies; or

b. [2-] At least sixty-five (65) percent of the aggregate amount of premiums earned in the case of individual policies;

2. Calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis, and earned premiums for such period and in accordance with accepted actuarial principles and practices.

(b) All filings of rates and rating schedules shall demonstrate that

expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

(c) For purposes of applying subsection (1)(a) of this section and Section 12(3)(c) of this administrative regulation only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

(d) For policies issued prior to October 14, 1990, expected claims in relation to premiums shall meet:

1. The originally filed anticipated loss ratio when combined with the actual experience since inception;

2. The appropriate loss ratio requirement from subsection (1)(a)1a and b of this section when combined with actual experience beginning with (insert effective date of this revision) to date; and

3. The appropriate loss ratio requirement from subsection (1)(a)1a and b of this section over the entire future period for which the rates are computed to provide coverage.

(2) Refund or credit calculation.

(a) An issuer shall collect and file with the commissioner by May 31 of each year the data contained in the applicable reporting form contained in Appendix A for each type in a standard Medicare supplement benefit plan.

(b) If on the basis of the experience as reported the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

(c) For the purposes of this section, policies or certificates issued prior to October 14, 1990, the issuer shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after this amendment to the administrative regulation is adopted and effective pursuant to KRS Chapter 13A.

(d) ~~(e)~~ A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a de minimis level. The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of the United States Department of Health and Human Services, but shall not be less than the average rate of interest for thirteen (13) week treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

(3) Annual filing of premium rates. An issuer of Medicare supplement policies and certificates issued before or after January 1, 1992, in this state shall file annually its rates, rating schedule, and supporting documentation, including ratios of incurred losses to earned premiums by policy duration for approval by the commissioner in accordance with the filing requirements and procedures prescribed by the commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. An expected third year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three (3) years.

(a) As soon as practicable prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in Kentucky shall file with the commissioner, in

accordance with applicable filing procedures:

1. Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable Medicare supplement policies or certificates. Supporting documents as necessary to justify the adjustment shall accompany the filing.

2. An issuer shall make premium adjustments as are necessary to produce an expected loss ratio under the policies and certificates as will conform to the minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for Medicare supplement policies or certificates. A ~~(No)~~ premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described in this subsection shall not ~~(should)~~ be made with respect to a policy at any time other than upon its renewal date or anniversary date.

3. If an issuer fails to make premium adjustments acceptable to the commissioner, the commissioner ~~(he)~~ may order premium adjustments, refunds, or premium credit deemed necessary to achieve the loss ratios required by this section.

(b) Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. These riders, endorsements, or policy forms shall provide a clear description of the Medicare supplement insurance benefits provided by the Medicare supplement policy or certificate.

(4) Public hearings. The commissioner may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after January 1, 1992, if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for the reporting period. Public notice of the hearing shall be furnished in accordance with KRS Chapter 304.2.

Section 12. Filing and Approval of Policies and Certificates and Premium Rates. (1) An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the commissioner in accordance with filing requirements and procedures prescribed by the commissioner.

(2) An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the commissioner in accordance with the filing requirements and procedures prescribed by the commissioner.

(3)(a) Except as provided in paragraph (b) of this subsection, an issuer shall not file for approval more than one (1) form of a policy or certificate of each type for each standard Medicare supplement benefit plan.

(b) An issuer may offer, with the approval of the commissioner, up to four (4) additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one (1) for each of the following cases:

1. The inclusion of new or innovative benefits;
2. The addition of either direct response or agent marketing methods;
3. The addition of either guaranteed issue or underwritten coverage; and
4. The offering of coverage to individuals eligible for Medicare by reason of disability.

(c) For the purposes of this section, a "type" means an individual policy, a group policy, an individual Medicare select policy, or a group Medicare select policy.

(4)(a) Except as provided in subparagraph 1 of this paragraph, an issuer shall continue to make available for purchase any policy form or certificate form issued after January 1, 1992, that has been

approved by the commissioner. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve (12) months.

1. An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the commissioner in writing its decision at least thirty (30) days prior to discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the commissioner, the issuer shall no longer offer for sale the policy form or certificate form in this state.

2. An issuer that discontinues the availability of a policy form or certificate form pursuant to subparagraph 1 of this paragraph shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five (5) years after the issuer provides notice to the commissioner of the discontinuance. The period of discontinuance may be reduced if the commissioner determines that a shorter period is appropriate.

(b) The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of this subsection.

(c) A change in the rating structure or methodology shall be considered a discontinuance under paragraph (a) of this subsection unless the issuer complies with the following requirements:

1. The issuer provides an actuarial memorandum, in a form and manner prescribed by the commissioner, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing ~~resultant~~ rates; and

2. The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The commissioner may approve a change to the differential which is in the public interest.

(5)(a) Except as provided in paragraph (b) of this subsection, the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in Section 11 of this administrative regulation.

(b) Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation.

Section 13. Permitted Compensation Arrangements. (1) An issuer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first year commission or other first year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.

(2) The commission or other compensation provided in subsequent (renewal) years ~~shall~~ ~~must~~ be the same as that provided in the second year or period and shall be provided for not less than five (5) years.

(3) ~~An~~ ~~no~~ issuer or other entity shall ~~not~~ provide compensation to its agents or other producers and ~~an~~ ~~no~~ agent or producer shall ~~not~~ receive compensation greater than the renewal compensation payable by the replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced ~~[unless benefits of the new policy or certificate are clearly and substantially greater than the benefits under the replaced policy].~~

(4) For purposes of this section, "compensation" includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, bonuses, gifts, prizes, awards, and finders' fees.

Section 14. Required Disclosure Provisions. (1) General rules.

(a) Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of

such provision ~~shall~~ ~~must~~ be consistent with the type of insurance policy issued. The provision shall be appropriately captioned and shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums and any automatic renewal premium increases on the insured's age.

(b) Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after the date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy.

(c) Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import.

(d) If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, these limitations shall appear as a separate paragraph of the policy and be labeled as "preexisting condition limitations."

(e) Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within at least thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured is not satisfied for any reason.

(f) 1. Issuers of insurance policies and certificates thereunder covering accident and sickness and hospital or medical expenses on an expense incurred or indemnity basis, other than incidentally, to persons eligible for Medicare by reason of age shall provide to these applicants a Medicare supplement buyer's guide in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration and in a type size no smaller than twelve (12) point type. Delivery of the buyer's guide shall be made whether or not the policies or certificates are advertised, solicited, or issued as Medicare supplement policies or certificates as defined in this administrative regulation. Delivery of the buyer's guide shall be made to the applicant at the time of application and acknowledgment of receipt of the buyer's guide shall be obtained by the issuer, except that direct response issuers shall deliver the buyer's guide to the applicant upon request, but not later than the time the policy is delivered.

2. For the purposes of this section, "form" means the language, format, type size, type proportional spacing, bold character, and line spacing.

(2) Notice requirements.

(a) As soon as practicable, but no later than thirty (30) days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its insureds of modifications it has made to Medicare supplement policies or certificates. The notice shall be in a format acceptable to the commissioner. The notice shall:

1. Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement insurance policy or certificate; and

2. Inform each policyholder or certificate holder as to when any premium adjustment is to be made due to changes in Medicare.

(b) The notice of benefit modifications and any premium adjust-

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ments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

(c) The notices shall not contain or be accompanied by any solicitation.

(3) Outline of coverage requirements for Medicare supplement policies.

(a) Issuers shall provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response issuers, shall obtain an acknowledgment of receipt of the outline from the applicant.

(b) If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany such policy or certificate when it is delivered and contain the following statement, in no less than twelve (12) point type immediately above the issuer's name:

"NOTICE: READ THIS OUTLINE OF COVERAGE CAREFULLY. IT IS NOT IDENTICAL TO THE OUTLINE OF COVERAGE PROVIDED UPON APPLICATION AND THE COVERAGE ORIGINALLY APPLIED FOR HAS NOT BEEN ISSUED."

(c) The outline of coverage provided to applicants pursuant to this subsection consists of four (4) parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage shall be in the language and format prescribed below in no less than twelve (12) point type. All Plans A-J shall be shown on the cover page, and the plan(s) that are offered by the issuer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

(d) The following items shall be included in the outline of coverage in the order prescribed below:

(COMPANY NAME)

Outline of Medicare Supplement Coverage - Cover Page:
Benefit Plan(s)___ (Insert letter(s) of plan(s) being offered)

Medicare supplement insurance can be sold in only ten standard plans. This chart shows the benefits included in each plan. Every company must make available Plan "A". Some plans may not be available in your state.

BASIC BENEFITS: Included in all plans.

Hospitalization: Part B coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical expenses: Part B coinsurance (20% of Medicare-approved expenses).

Blood: First three pints of blood each year.

A	B	C	D	E	F	G	H	I	J
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
		Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
		Part B Deductible			Part B Deductible				Part B Deductible
					Part B Excess (100%)	Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
			At-home Recovery			At-home Recovery		At-home Recovery	At-home Recovery
						Basic Drugs (\$1,250 Limit)	Basic Drugs (\$1,250 Limit)	Extended Drugs (\$3,000 Limit)	
									Prevent-

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1. PREMIUM INFORMATION (Boldface Type)

We (insert issuer's name) can only raise your premium if we raise the premium for all policies like yours in this state. (If the premium is based on the increasing age of the insured, include information specifying when premiums will change).

DISCLOSURES (Boldface Type)

Use this outline to compare benefits and premiums among policies.

2. READ YOUR POLICY VERY CAREFULLY (Boldface Type)

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

3. RIGHT TO RETURN POLICY (Boldface Type)

If you find that you are not satisfied with your policy, you may return it to (insert issuer's address). If you send the policy back to us within thirty (30) days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

4. POLICY REPLACEMENT (Boldface Type)

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

5. NOTICE (Boldface Type)

This policy may not fully cover all of your medical costs.

- a. (for agents)
Neither (insert insurer's name) nor its agents are connected with Medicare.
- b. (for direct response insurers:)
(insert insurer's name) is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security office or consult "The Medicare Handbook" for more details.

6. COMPLETE ANSWERS ARE VERY IMPORTANT (Boldface Type)

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. (If the policy or certificate is guaranteed issue, this paragraph need not appear.)

Review the application carefully before you sign it. Be certain that all information has been recorded properly.

(Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments, and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. More than four (4) plans shall not be shown on one (1) chart. For purposes of illustration, charts for each plan are included in this administrative regulation. An issuer may use additional benefit plan designations on these charts pursuant to Section 7(4) of this administrative regulation.)

(Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.)

PLAN A

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$628	\$0	\$628 (Part A deductible)
61st thru 90th day	All but \$157 a day	\$157 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$314 a day	\$314 a day	\$0
- Once lifetime reserve days are used:			
	- Additional 365 days	\$0	100% of Medicare\$0
		Eligible expenses	
	- Beyond the additional 365 days	\$0	\$0All costs

SKILLED NURSING FACILITY CARE*

You must meet Medicare's requirements,

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including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital

First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$78.50 a day	\$0	Up to \$78.50 a day
101st day and after	\$0	\$0	All costs

BLOOD

First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0

HOSPICE CARE

Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance
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PLAN A MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

HOME HEALTH CARE

MEDICARE APPROVED SERVICES

- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
- First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
- Remainder of Medicare-approved amounts	80%	20%	\$0

PLAN B MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

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*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$628	\$628 (Part A deductible)	\$0
61st thru 90th day	All but \$157 a day	\$157 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$314 a day	\$314 a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$78.50 a day	\$0	Up to \$78.50 a day
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out-patient drugs and in-patient respite care	\$0	Balance

PLAN B MEDICARE (PART A) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES: IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and out-patient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
Part B excess charges (above Medicare-approved amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0

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CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0\$0
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PARTS A & B

HOME HEALTH CARE

MEDICARE APPROVED SERVICES

- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
- First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
- Remainder of Medicare-approved amounts	80%	20%	\$0

PLAN C

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$628	\$628 (Part A deductible)	\$0
61st thru 90th day	All but \$157 a day	\$157 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$314 a day	\$314 a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$78.50 a day	Up to \$78.50 a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN C

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

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SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	80%	20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES- BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
- First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
- Remainder of Medicare-approved amounts	80%	20%	\$0

PLAN C OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN D MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$628	\$628 (Part A)	\$0

ADMINISTRATIVE REGISTER - 1794

61st thru 90th day	All but \$157 a day	deductible) \$157 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$314 a day	\$314 a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare- approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$78.50 a day	Up to \$78.50 a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out- patient drugs and in- patient respite care	\$0	Balance

PLAN D MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES: IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and out- patient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equip- ment,			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
Part B excess charges (above Medicare- approved amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

HOME HEALTH CARE
MEDICARE APPROVED SERVICES
- Medically necessary skilled care
services and medical supplies

100%	\$0	\$0
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ADMINISTRATIVE REGISTER - 1795

- Durable medical equipment			
- First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
- Remainder of Medicare-approved amounts	80%	20%	\$0

AT-HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE

Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan

- Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
- Number of visits covered (must be received within 8 weeks of last Medicare-approved visit)	\$0	Up to the # of Medicare-approved visits, not to exceed 7 each week	
- Calendar year maximum	\$0	\$1,600	

OTHER BENEFITS - NOT COVERED BY MEDICARE

FOREIGN TRAVEL - NOT COVERED BY MEDICARE

Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA

- First \$250 each calendar year	\$0	\$0	\$250
- Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN E

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$628	\$628 (Part A deductible)	\$0
61st thru 90th day	All but \$157 a day	\$157 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$314 a day	\$314 a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$78.50 a day	Up to \$78.50 a day	\$0
101st day and after	\$0	\$0	All costs

ADMINISTRATIVE REGISTER - 1796

BLOOD

First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0

HOSPICE CARE

Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance
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PLAN E

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

HOME HEALTH CARE

MEDICARE APPROVED SERVICES

- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
- First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
- Remainder of Medicare-approved amounts	80%	20%	\$0

PLAN E

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a life-time maximum	20% and amounts over the \$50,000

ADMINISTRATIVE REGISTER - 1797

benefit of \$50,000

lifetime maximum

PREVENTIVE MEDICAL CARE BENEFIT-NOT COVERED BY MEDICARE

Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare

First \$120 each calendar year	\$0	\$120	\$0
Additional charges	\$0	\$0	All costs

PLAN F MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$628	\$628 (Part A deductible)	\$0
61st thru 90th day	All but \$157 a day	\$157 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$314 a day	\$314 a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$78.50 a day	Up to \$78.50 a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out-patient drugs and in-patient respite care	\$0	Balance

PLAN F MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
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ADMINISTRATIVE REGISTER - 1798

MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL
AND OUTPATIENT HOSPITAL TREATMENT, such as
physician's services, inpatient and out-
patient medical and surgical services and
supplies, physical and speech therapy,
diagnostic tests, durable medical equip-
ment,

First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	80%	20%	\$0
Part B excess charges (above Medicare-approved amounts)	\$0	100%	\$0
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

HOME HEALTH CARE

MEDICARE APPROVED SERVICES

- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
- First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
- Remainder of Medicare-approved amounts	80%	20%	\$0

PLAN F

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
- First \$250 each calendar year	\$0	\$0	\$250
- Remainder of charges	\$0	80% to a life-time maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN G

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$628	\$628 (Part A)	\$0

ADMINISTRATIVE REGISTER - 1799

61st thru 90th day	All but \$157 a day	deductible) \$157 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$314 a day	\$314 a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$78.50 a day	Up to \$78.50 a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN G MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	80%	20%
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

HOME HEALTH CARE

MEDICARE APPROVED SERVICES

ADMINISTRATIVE REGISTER - 1800

- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
- First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
- Remainder of Medicare-approved amounts	80%	20%	\$0

AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE

Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan

- Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
- Number of visits covered (must be received within 8 weeks of last Medicare-approved visit)	\$0	Up to the # of Medicare-approved visits, not to exceed 7 each week	
- Calendar year maximum	\$0	\$1,600	

OTHER BENEFITS

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
- First \$250 each calendar year	\$0	\$0	\$250
- Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN H MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$628	\$628 (Part A deductible)	\$0
61st thru 90th day	All but \$157 a day	\$157 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$314 a day	\$314 a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs

SKILLED NURSING FACILITY CARE*
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital

ADMINISTRATIVE REGISTER - 1801

First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$78.50 a day	Up to \$78.50 a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN H MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	80%	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
- First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
- Remainder of Medicare-approved amounts	80%	20%	\$0

PLAN H OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
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ADMINISTRATIVE REGISTER - 1802

FOREIGN TRAVEL-NOT COVERED BY MEDICARE

Medically necessary emergency care services
beginning during the first 60 days of each
trip outside the USA

First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

BASIC OUTPATIENT PRESCRIPTION DRUGS NOT COVERED BY MEDICARE

First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50% - \$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$0	\$0	All costs

PLAN I MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$628	\$628 (Part A deductible)	\$0
61st thru 90th day	All but \$157 a day	\$157 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$314 a day	\$314 a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare- approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$78.50 a day	Up to \$78.50 a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out- patient drugs and inpatient respite care	\$0	Balance

PLAN I MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
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ADMINISTRATIVE REGISTER - 1803

MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,

First \$100 of Medicare-approved amounts*	\$0		\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	100%	\$0

BLOOD

First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0

CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES

100%	\$0	\$0
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PARTS A & B

HOME HEALTH CARE

MEDICARE APPROVED SERVICES

- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
- First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
- Remainder of Medicare-approved amounts	80%	20%	\$0

AT-HOME RECOVERY SERVICES NOT COVERED BY MEDICARE

Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan

- Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
- Number of visits covered (must be received within 8 weeks of last Medicare-approved visit)	\$0	Up to the # of Medicare-approved visits, not to exceed 7 each week	
- Calendar year maximum	\$0	\$1,600	

OTHER BENEFITS

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

ADMINISTRATIVE REGISTER - 1804

BASIC OUTPATIENT PRESCRIPTION DRUGS NOT COVERED BY MEDICARE

First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50% - \$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$0	\$0	All costs

PLAN J

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$628	\$628 (Part A deductible)	\$0
61st thru 90th day	All but \$157 a day	\$157 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but \$314 a day	\$314 a day	\$0
- Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$78.50 a day	Up to \$78.50 a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN J

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0

ADMINISTRATIVE REGISTER - 1805

Remainder of Medicare-approved amounts	80%	deductible) 20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	100%	\$0
<hr/>			
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	80%	20%	\$0
<hr/>			
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

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HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
- First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
- Remainder of Medicare-approved amounts	80%	20%	\$0
<hr/>			
AT-HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan			
- Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
- Number of visits covered (must be received within 8 weeks of last Medicare-approved visit)	\$0	Up to the # of Medicare-approved visits, not to exceed 7 each week	
- Calendar year maximum	\$0	\$1,600	

OTHER BENEFITS

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
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FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
<hr/>			
EXTENDED OUTPATIENT PRESCRIPTION DRUGS NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$0	\$0	\$250
Next \$6,000 each calendar year	\$0	50% - \$3,000 calendar year maximum benefit	50%
Over \$6,000 each calendar year	\$0	\$0	All costs

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PREVENTIVE MEDICAL CARE BENEFIT NOT COVERED BY MEDICARE

Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare

First \$120 each calendar year	\$0	\$120	\$0
Additional charges	\$0	\$0	All costs

(4) Notice regarding policies or certificates which are not Medicare supplement policies.

(a) Any accident or sickness insurance policy or certificate (other than a Medicare supplement policy), a policy issued pursuant to a contract under Section 1876 ~~or Section 1833~~ of the Federal Social Security Act (42 USC §1395 et seq.), disability income policy, ~~basic, catastrophic, or major medical expense policy, or single premium nonrenewable policy,~~ or other policy identified in Section 2(3) of this administrative regulation issued for delivery in Kentucky to persons eligible for Medicare ~~(by reason of age)~~ shall notify insureds under the ~~(such)~~ policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed on or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, printed on or attached to the first page of the policy or certificate delivered to insureds. Such notice shall be in no less than twelve (12) point type and shall contain the following language:

"THIS (POLICY OR CERTIFICATE) IS NOT A MEDICARE SUPPLEMENT POLICY. If you are eligible for Medicare, review the ~~(Medicare supplement buyer's)~~ Guide to Health Insurance for People with Medicare available from the insurance company."

(b) Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in paragraph (a) of this subsection shall disclose, using the applicable statement in Appendix C, the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate.

Section 15. Requirements for Application Forms and Replacement Coverage. (1) Comparison statement. When a Medicare supplement policy or certificate is to replace another health insurance policy or certificate, there shall be presented to the applicant, no later than at the time of taking the application, a comparison statement which shall be substantially identical to Appendix C. Direct response issuers shall present the comparison statement to the applicant not later than at the time of delivery of the policy. Agents shall obtain the signature of the applicant on the comparison statement and shall sign the comparison statement and send the comparison statement to the issuer. A copy of the comparison statement shall be attached to the replacement policy.

(2) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate in force or a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and the agent containing these questions and statements may be used:

(a) Statements.

1. You do not need more than one (1) Medicare supplement policy.

2. If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

3. ~~[If you are sixty five (65) or older.]~~ You may be eligible for

benefits under Medicaid and may not need a Medicare supplement policy.

4. ~~[3.]~~ The benefits and premiums under your Medicare supplement policy ~~can~~ will be suspended, if requested during your entitlement to benefits under Medicaid for twenty-four (24) months. You must request this suspension within ninety (90) days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy will be reinstated if requested within ninety (90) days of losing Medicaid eligibility.

5. ~~[4.]~~ Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid Program including benefits as a qualified Medicare beneficiary (QMB) and a specified low-income Medicare beneficiary (SLMB).

(b) Questions. To the best of your knowledge:

1. Do you have another Medicare supplement policy or certificate in force?

a. If so, with which company?

b. If so, do you intend to replace your current Medicare supplement policy with this policy or certificate?

2. Do you have any other health insurance coverage ~~(policies)~~ that provides benefits similar to ~~(which)~~ this Medicare supplement policy ~~(would duplicate)~~?

a. If so, with which company?

b. What kind of policy?

3. ~~[If the answer to (a) or (b) is yes, do you intend to replace these health policies with this policy (or certificate)?]~~

4. Are you covered for medical assistance through the state (by) Medicaid Program:

a. As a specified low-income Medicare beneficiary (SLMB)?

b. As a qualified Medicare beneficiary (QMB)?

c. For other Medicaid medical benefits?

(3) Agents shall list any other health insurance policies they have sold to the applicant.

(a) List policies sold which are still in force.

(b) List policies sold in the last five (5) years which are no longer in force.

(4) In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy.

(5) Upon determining that a sale will involve replacement of Medicare supplement coverage, an issuer (other than a direct response issuer), or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One (1) copy of the notice signed by the applicant and the agent, except where coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.

(6) The notice required by subsection (5) of this section for an

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issuer shall be provided in substantially the following form in no less than twelve (12) ~~ten (10)~~ point type:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

(Insurer Name and Address)
SAVE THIS NOTICE! IT MAY BE IMPORTANT
TO YOU IN THE FUTURE.

According to (your application or information you have furnished), you intend to terminate existing accident and sickness insurance and replace it with a policy to be issued by (insurer name). Your new policy provides (insert here an amount of time not less than thirty (30) days) within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all health insurance you now have. ~~Terminate your present policy only~~ If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision, you should terminate your present Medicare supplement coverage. You should evaluate the need for other health coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY ISSUER OR AGENT (OR OTHER REPRESENTATIVE):

I have reviewed your current health insurance coverage. ~~The replacement of insurance involved in this transaction does not duplicate coverage.~~ To the best of my knowledge, this Medicare supplement policy will not duplicate your existing Medicare supplement coverage because you intent to terminate your existing Medicare supplement coverage. The replacement policy is being purchased for the following reason(s) (check one):

- ☐ Additional benefits.
- ☐ No change in benefits, but lower premiums.
- ☐ Fewer benefits and lower premiums.
- ☐ Other (please specify).

(a) Health conditions which you may presently have (so-called preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy (this paragraph may be modified if preexisting conditions are, in fact, covered under the new policy).

(b) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(c) If you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the insurer to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been recorded properly. (If the policy or certificate is guaranteed issue, this paragraph need not appear).

(d) Do not cancel your present policy until you have your new policy and are sure that you want to keep it.

Signature of Agent or Other Representative

Typed Name and Address of Agent

The above "Notice to Applicant" was delivered to me on:

Date

Applicant's Signature

(6) Subsection (5)(a) and (b) of this section may be omitted from the replacement notice if the replacement policy or certificate does not involve application of a new preexisting condition limitation.

Section 16. Filing Requirements for Advertising of Medicare Supplement Policies. (1) An issuer shall provide a copy of any Medicare supplement policy advertisement intended for use in Kentucky whether through written, radio, or television, to the commissioner prior to such use. Advertisements need not be approved prior to use, but an advertisement shall not be used if it has been disapproved by the commissioner and notice of the disapproval has been given to the issuer.

(2) Issuers and agents shall not use the names and addresses of persons purchased as "leads" unless the solicitation material used to obtain the names and addresses of the "leads" are filed as advertisements as required by this section. Issuers and agents shall not use such "leads" if the solicitation materials have been disapproved by the commissioner.

Section 17. Policy Delivery. If a Medicare supplement policy is not delivered by mail, the agent or issuer shall obtain a signed and dated delivery receipt from the insured. If the delivery receipt is obtained by an agent, the agent shall forward the delivery receipt to the issuer.

Section 18. Standards for Marketing. (1) An issuer, directly or through its agents or other representatives, shall:

(a) Establish marketing procedures to assure that any comparison of policies by its agents or other representatives will be fair and accurate.

(b) Establish marketing procedures to assure excessive insurance is not sold or issued.

(c) Display prominently by type, stamp, or other appropriate means, on the first page of the policy the following disclosure: "Notice to buyer: This policy may not cover all of your medical expenses."

(d) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance.

(e) Establish auditable procedures for verifying compliance with this subsection.

(2) In addition to the practices prohibited in KRS Chapter 304.12 and 806 KAR Chapter 12, the following acts and practices are prohibited:

(a) Twisting. Making any unfair or deceptive representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

(b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(c) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(3) The terms "Medicare supplement", "Medigap", "Medicare Wrap-Around", and words of similar import shall not be used unless the policy is issued in compliance with this administrative regulation.

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Section 19. Appropriateness of Recommended Purchase and Excessive Insurance. (1) In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of recommended purchase or replacement.

(2) Any sale of medicare supplement coverage that will provide an individual more than one (1) Medicare supplement policy or certificate is prohibited.

Section 20. Reporting of Multiple Policies. (1) On or before March 1 of each year, an issuer shall report the following information for every individual resident of this state for which the issuer has in force more than one (1) Medicare supplement insurance policy or certificate:

- (a) Policy and certificate number; and
- (b) Date of issuance.

(2) The items set forth above shall be grouped by individual policyholder.

Section 21. Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods, and Probationary Periods in Replacement Policies or Certificates. (1) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods in the new Medicare supplement policy for similar benefits to the extent such time was spent under the original policy.

(2) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at least six (6) months, the replacing policy shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods.

APPENDIX A

MEDICARE SUPPLEMENT REFUND CALCULATION FORM FOR CALENDAR YEAR _____

TYPE 1 SMSBP ~~(W)~~
For the State of _____
Company Name _____
NAIC Group Code _____ NAIC Company Code _____
Person Completing This Exhibit _____
Title _____ Telephone Number _____

Line	(a) Earned Premium <u>3</u> (*)	(b) Incurred Claims <u>4</u> (*)
1. Current year's experience		
a. Total (all policy years)		
b. Current year's issues <u>5</u> (2)		
c. Net (for reporting purposes = 1a - 1b)	-----	-----
2. Past year's experience (all policy years)	-----	-----
3. Total experience (net current year + past years' experience)	-----	-----
4. Refunds last year (excluding interest)		
5. Previous since inception (excluding interest)		
6. Refunds since inception (excluding interest)		
7. Benchmark ratio since inception (SEE WORK-SHEET FOR RATIO 1)		
8. Experienced ratio since inception		

Total actual incurred claims (line 3, col b) = Ratio 2

Tot. earned prem. (line 3, col a) - refunds since inception (line 6)

9. Life years exposed since inception _____

If the experienced ratio is less than the benchmark ratio, and there are more than 500 life years exposure, then proceed to calculation of refund.

10. Tolerance permitted (obtained from credibility table) _____

11. Adjustment to incurred claims for credibility

ratio 3 = ratio 2 + tolerance

If ratio 3 is more than benchmark ratio (ratio 1), a refund or credit to premium is not required.

If ratio 3 is less than the benchmark ratio, then proceed.

12. Adjusted incurred claims =
(tot. earned premiums (line 3, col a) - refunds since inception (line 6)) x ratio 3 (lines 11)

13. Refund = total earned premium (line 3, col a) - refunds since inception (line 6) -
Adjusted incurred claims (line 12)

benchmark ratio (ratio 1)

If the amount on line 13 is less than .005 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on line 13 is to be refunded or credited, and a description of the refund and/or credit against premiums to be used must be attached to this form.

Medicare Supplement Credibility Table

Life Years Exposed Since Inception	Tolerance
10,000 +	0.0%
5,000 - 9,999	5.0%
2,500 - 4,999	7.5%
1,000 - 2,499	10.0%
500 - 999	15.0%
If less than 500, no credibility.	

1. Individual, group, individual Medicare select, or group Medicare select only.

2. ~~(w)~~ "SMSBP" = Standardized Medicare Supplement Benefit Plan - use "p" for prestandardized plans.

3. ~~(*)~~ Includes model loadings and fees charged.

4. ~~(y)~~ Excludes active life reserves.

5. ~~(z)~~ This is to be used as "Issue Year Earned Premium" for Year 1 of next year's "Worksheet for Calculation of Benchmark Ratios".

I certify that the above information and calculations are true and accurate to the best of my knowledge and belief.

Signature

Name - Please Type

Title

Date

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REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR INDIVIDUAL POLICIES FOR CALENDAR YEAR _____

TYPE 1 _____ SMSBP 2[(P)] _____
FOR THE STATE OF _____
Company Name _____
NAIC Group Code _____ NAIC Company Code _____
Address _____
Person Completing this Exhibit _____
Title _____ Telephone Number _____

(a)3 Year	(b)4 Earned Premium	(c) Factor	(d) (b)x(c)	(e) Cumulative Loss Ratio	(f) (d)x(e)	(g) Factor	(h) (b)x(g)	(i) Cumulative Loss Ratio	(j) (h)x(i)	(o)5 Policy Year Loss Ratio
1		2.770		0.442		0.000		0.000		0.4
2		4.175		0.493		0.000		0.000		0.55
3		4.175		0.493		1.194		0.659		0.65
4		4.175		0.493		2.245		0.669		0.67
5		4.175		0.493		3.170		0.678		0.69
6		4.175		0.493		3.998		0.686		0.71
7		4.175		0.493		4.754		0.695		0.73
8		4.175		0.493		5.445		0.702		0.75
9		4.175		0.493		6.075		0.708		0.76
10		4.175		0.493		6.650		0.713		0.76
11		4.175		0.493		7.176		0.717		0.76
12		4.175		0.493		7.655		0.720		0.77
13		4.175		0.493		8.093		0.723		0.77
14		4.175		0.493		8.493		0.725		0.77
15		4.175		0.493		8.684		0.725		0.77
TOTAL:			(k):	(l):		(m):		(n):		

Benchmark ratio since inception: $(l + n) / (k + m)$:

1.: Individual, group, individual Medicare select, or group Medicare select only.

2.: "SMSBP" = standardized Medicare supplement benefit plan - use "p" for prestandardized plans.

3. [(a)]: Year 1 is the current calendar year - 1
Year 2 is the current calendar year - 2
(etc.)
(Example: If the current year is 1991, then:
year 1 is 1990; year 2 is 1989; etc.)

4. [(b)]: For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

5. [(e)]: Those loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

[(p)]: ~~"SMSBP" = Standardized Medicare Supplement Benefit Plan.~~

REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR GROUP POLICIES FOR CALENDAR YEAR _____

TYPE 1 _____ SMSBP 2[(P)] _____
FOR THE STATE OF _____
Company Name _____
NAIC Group Code _____ NAIC Company Code _____
Address _____
Person Completing this Exhibit _____
Title _____ Telephone Number _____

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(a)3 Year	(b)4 Earned Premium	(c) Factor	(d) (b)x(c)	(e) Cumulative Loss Ratio	(f) (d)x(e)	(g) Factor	(h) (b)x(g)	(i) Cumulative Loss Ratio	(j) (h)x(i)	(o)5 Policy Year Loss Ratio
1		2.770		0.507		0.000		0.000		0.46
2		4.175		0.567		0.000		0.000		0.63
3		4.175		0.567		1.194		0.759		0.75
4		4.175		0.567		2.245		0.771		0.77
5		4.175		0.567		3.170		0.782		0.8
6		4.175		0.567		3.998		0.792		0.82
7		4.175		0.567		4.754		0.802		0.84
8		4.175		0.567		5.445		0.811		0.87
9		4.175		0.567		6.075		0.818		0.88
10		4.175		0.567		6.650		0.824		0.88
11		4.175		0.567		7.176		0.828		0.88
12		4.175		0.567		7.655		0.831		0.88
13		4.175		0.567		8.093		0.834		0.89
14		4.175		0.567		8.493		0.837		0.89
15		4.175		0.567		8.684		0.838		0.89
TOTAL:		(k):	----	(l):	----	(m):	----	(n):	----	

Benchmark ratio since inception: $(l + n) / (k + m)$:

1.: Individual group, individual Medicare select, or group Medicare select only.

2.: "SMSBP" = standardized Medicare supplement benefit plan - use "p" for prestandardized plans.

3. ~~(a)~~: Year 1 is the current calendar year - 1
Year 2 is the current calendar year - 2
(etc.)
(Example: If the current year is 1991, then:
year 1 is 1990; year 2 is 1989; etc.)

4. ~~(b)~~: For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

5. ~~(e)~~: Those loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

~~[(p): "SMSBP" = Standardized Medicare Supplement Benefit Plan.]~~

APPENDIX B FORM FOR REPORTING MEDICARE SUPPLEMENT POLICIES

Company Name: _____
Address: _____
Phone Number: _____
Due March 1, annually

The purpose of this form is to report the following information on each resident of this state who has in force more than one Medicare supplement policy or certificate. The information is to be grouped by individual policyholder.

Policy and Certificate # _____ Date of Issuance _____

Signature _____
Name and Title (Please Type) _____
Date _____

KENTUCKY MEDICARE SUPPLEMENT COMPARISON STATEMENT

Current Insurance _____ Annual Premium _____
(Insurer Name)

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Proposed Insurance _____ Annual Premium _____

(Insurer Name)

MEDICARE (PART A): HOSPITAL INSURANCE - COVERED SERVICES PER BENEFIT PERIOD (1)				PRIVATE INSURANCE CHECKLIST	
Services	Benefit	Medicare Pays*	You Pay*	Current Insurance Pays (Plan)**	Proposed Insurance Pays (Plan)
HOSPITALIZATION	First 60 days	All but \$	\$	(Plan)**	(Plan)
Semiprivate room and board, general nursing and miscellaneous hospital services and supplies.	61st to 90th day	All but \$ a day	\$ a day		
	91st to 150th day***	All but \$ a day	\$ a day		
	Beyond 150 days	Nothing	All costs		
POSTHOSPITAL SKILLED NURSING FACILITY CARE	First 20 days	100% of approved amount	Nothing		
In a facility approved by Medicare. You must have been in a hospital for at least 3 days and enter the facility within 30 days after hospital discharge (2).	Additional 80 days	All but \$ a day	\$ a day		
	Beyond 100 days	Nothing	All costs		
HOME HEALTH CARE	Visits limited to medically necessary skilled care.	Full cost of services; 80% of approved amount for durable medical equipment	Nothing for services; 20% of approved amount for durable medical equipment		
HOSPICE CARE	Up to days if doctor certifies need.	All but limited costs for outpatient drugs and inpatient respite care.	Limited cost sharing for outpatient drugs and inpatient respite care.		
BLOOD	Blood.	All but first 3 pints	For first 3 pints.****		
FOREIGN TRAVEL	Medically necessary emergency care in a foreign country.	Emergency hospital services in qualified Mexican or Canadian hospitals.*****	All costs not covered by Medicare		

- * These figures are for 19__ and are subject to change each year.
- ** If the policy being replaced is not a standardized policy, insert "N/A" after "Plan" and complete this column.
- *** 60 reserve days may be used only once; days used are not renewable.
- **** To the extent the blood deductible is met under one part of Medicare during the calendar year, it does not have to be met under the other part.
- ***** Please refer to your Medicare Handbook for more information.
- (1) A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital or skilled nursing facility for 60 days in a row.
- (2) Medicare and private Medicare supplement insurance will not pay for most nursing home care. You pay for custodial care and most care in a nursing home.

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(November, 1991)

APPENDIX C KENTUCKY MEDICARE SUPPLEMENT COMPARISON STATEMENT

MEDICARE (PART B): HOSPITAL INSURANCE - COVERED SERVICES PER CALENDAR PERIOD				PRIVATE INSURANCE CHECKLIST	
Service	Benefit	Medicare Pays	You Pay	Current Insurance Pays (Plan)*	Proposed Insurance Pays (Plan)
MEDICAL EXPENSE	Medicare pays for medical services in or out of the	80% of approved amount (after \$ deductible)	\$ Deductible** plus 20% of balance of		
Physician's services, inpatient and outpatient					

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medical services and supplies, physical and speech therapy, ambulance etc.	hospital.		approved amount (plus any charge above approved amount)***
HOME HEALTH CARE	Visits limited to medically necessary skilled care	Full cost of services; 80% of approved amount for durable medical equipment (after \$ deductible).	Nothing for services; 20% of approved amount for durable medical equipment (after \$ deductible).
AT-HOME RECOVERY BENEFIT	Short-term at-home assistance with activities of daily living.****	Nothing	All costs
OUTPATIENT HOSPITAL TREATMENT	Unlimited if medically necessary.	80% of approved amount (after \$ deductible).	Subject to deductible plus 20% of approved amount.
BLOOD	Blood	80% of approved amount (after \$ deductible and starting with 4th pint).	First 3 pints plus 20% of approved amount (after \$ deductible)*****
PREVENTIVE CARE-PATIENT EDUCATION	Annual physical exam, preventive testing, influenza vaccines	Screening pap smears once every 3 years; screening mammograms every second year.	All costs not covered by Medicare
OUTPATIENT PRESCRIPTION DRUGS	Outpatient prescription drugs	Nothing	All costs
FOREIGN TRAVEL	Medically necessary emergency care in foreign country.	Nothing	All costs not covered by Medicare
OTHER*****			

- * If the policy being replaced is not a standardized policy, insert "N/A".
- ** Once you have had \$ of expense for covered services in 19 , the Part B deductible does not apply to any further covered services you receive for the rest of the year.
- *** YOU PAY FOR charges higher than the amount approved by Medicare unless the doctor or supplier agrees to accept Medicare's approved amount as the total charge for services rendered.
- **** At home recovery benefits must be received in conjunction with Medicare approved home health care benefits.
- ***** To the extent the blood deductible is met under one part of Medicare during the calendar year, it does not have to be met under the other part.
- ***** Use this area to compare prestandardization and/or innovative benefits.

NOTICE TO APPLICANT:

Do not sign this form unless it has been explained to you.

Applicant	Date	Agent	Date
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NOTICE TO AGENT/INSURER:

This form is to be retained by the replacing insurer and attached to the replacement policy.

Form LHM-2 Page 2 of 2
(November, 1991)

THEODORE RICH, Commissioner
LAURA M. DOUGLAS, Secretary
CONTACT PERSON: Carla H. Montgomery, Counsel, Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, Telephone Number (502) 564-6032 Ext. 239.
APPROVED BY AGENCY: February 22, 1996
FILED WITH LRC: February 29, 1996 at noon

REGULATORY IMPACT ANALYSIS

Contact Person: Carla H. Montgomery
(1) Type and number of entities affected: There are currently 80 insurers approved to sell Medicare supplement insurance policies.
(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: Public comments have not been received at this point. However, the department does not anticipate an effect on the cost of living or employment.

(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: Public comments have not been received at this point. The department does not anticipate an effect on the 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: There are some changes in the Medicare supplement policies issued by insurers. The department anticipates a minor effect on insurers' paperwork.

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: No effect on costs or savings.

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: The department does not anticipate any effect on state or local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The normal budget used by the Department of Insurance.

(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: There are no public comments. However, the department sees no economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The amendments are made pursuant to federal mandates. If the regulation is not amended; all Medicare supplement policies have to be certified by the Federal Secretary of Health and Human Services.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environment welfare of the geographical area in which implemented and on Kentucky: Kentucky may continue to sell Medicare supplement insurance policies without having the Federal Secretary of Health and Human Services to certify the policies. Those persons who need to purchase a Medicare supplement policy may do so without interruption.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The department is without sufficient knowledge to say that the effect on public health would be detrimental.

(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:

(11) TIERING: Is tiering applied? Tiering is not applied, because the amendments apply equally to all insurers selling Medicare supplement policies.

ADMINISTRATIVE REGISTER - 1814

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

COMPILER'S NOTE: The following administrative regulations were amended by the promulgating agency and the Administrative Regulation Review Subcommittee on March 4, 1996.

KENTUCKY LEGISLATIVE ETHICS COMMISSION (As Amended)

2 KAR 2:040. Updated registration short forms for employers and legislative agents.

RELATES TO: KRS 6.666(6) to (13), 6.807, 6.821, 6.827

STATUTORY AUTHORITY: KRS 6.666(5), (6)

NECESSITY AND FUNCTION: KRS 6.807(3) [Chapter 807] requires that all employers and legislative agents registered with the Legislative Ethics Commission file periodic updated registration forms. There are reporting periods in which there are no expenditures or expenses to be reported. This administrative regulation establishes the short forms to be used by employers and legislative agents if certain prerequisites are met.

Section 1. The Employer Short Form and Legislative Agent Short Form[e] shall be mailed to the Legislative Ethics Commission at 22 Mill Creek Park, Frankfort, Kentucky 40601.

Section 2. (1) The Employer Short Form and Legislative Agent Short Form (1996) [e] are incorporated by reference.

(2) These documents may be inspected, copied, or obtained at the Kentucky Legislative Ethics Commission, 22 Mill Creek Park, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday.

JUDGE GEORGE BARKER, Chair
EARL S. MACKEY, Executive Director

APPROVED BY AGENCY: January 12, 1996

FILED WITH LRC: January 12, 1996 at 9 a.m.

PERSONNEL CABINET (As Amended)

101 KAR 2:100. Leave administrative regulations.

RELATES TO: KRS 18A.030, 18A.110, 18A.195, 61.394, 344.030, PL 103-3

STATUTORY AUTHORITY: KRS 18A.030, 18A.110, 18A.155, 344.030, PL 103-3

NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with KRS Chapter 18A, which govern annual leave, sick leave, special leaves of absence, and for other conditions of leave. This administrative regulation establishes policies governing these subject matters. [is necessary to comply with these statutory requirements.]

Section 1. Annual Leave. (1)(a) Each full-time employee in the state service, except a seasonal, temporary, per diem, and emergency employee[e], and a [each] part-time employee who works at least 100 hours a month shall accumulate annual leave with pay at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180 months and over	1 3/4 leave days per month; 21 per year

(b) A full-time employee shall ~~[must]~~ have worked more than half of the workdays in a month to qualify for annual leave. ~~An [Each]~~ employee shall be credited with additional leave upon the first day of the month following the month in which the leave is earned.

(c) In computing months of total service for the purpose of earning annual leave, only ~~the [these]~~ months:

1. For which a full-time ~~[an]~~ employee earned annual leave shall be counted; or

2. ~~[in the case of a part-time employee, only these months]~~ In which a part-time ~~[the]~~ employee worked at least 100 hours shall be counted.

(d) ~~If [in these cases where]~~ an employee is changed from part time to full time, ~~the [these]~~ months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing years of total service.

(e) Former employees who have been rehired and who have been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, unless the [except where such] dismissal resulted from a violation of KRS 18A.140, 18A.145, or 18A.990.

(f) ~~If [in these cases where]~~ an employee is changed from full time to part time, ~~the [these]~~ months for which the employee earned annual leave as a full-time employee shall be counted in computing months of total service.

(g) ~~A part-time employee [Employees serving on a part-time basis] who works less than 100 hours a month shall not be entitled to annual leave.~~

(2)(a) Annual leave may be accumulated and carried forward from one (1) calendar year to the next as provided in this paragraph ~~[not to exceed the following maximum amounts]:~~

Months of Service	Maximum Amount
0-59 months	Thirty (30) workdays
60-119 months	Thirty-seven (37) workdays
120-179 months	Forty-five (45) workdays
180-239 months	Fifty-two (52) workdays
240 months and over	Sixty (60) workdays

(b) ~~[However,]~~ Leave in excess of the ~~[above maximum]~~ amounts specified in paragraph (a) of this subsection shall be converted to sick leave at the end of the calendar year[-] or upon retirement. ~~[Months of service for the purpose of determining the maximum amount of annual leave which may be accumulated and the amount to be converted to sick leave shall be computed as provided in subsection (1) of this section. Annual leave shall not be granted in excess of that earned prior to the starting date of leave.]~~

(c) The amount of annual leave that may be accumulated, and the amount of annual leave that may be converted to sick leave, shall be determined by computing months of service as provided by subsection (1)(a) of this section.

(3) Absence due to sickness, injury, or disability in excess of the amount [that hereinafter] authorized for such purposes may, at the request of the employee ~~[and within the discretion of the appointing authority,]~~ be charged against annual leave.

(4)(a) Accumulated annual leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with an employee's request. ~~(the request of employees.)~~

(b) An employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time he earned that year.

(5) An employee shall be ~~[Employees are]~~ charged with annual leave for absence only on days ~~[upon which he (they)]~~ would otherwise work and receive pay.

(6)(a) Annual leave shall accrue ~~if [only when]~~ an employee is working or on authorized leave with pay.

(b) Annual leave shall not accrue ~~if [when]~~ an employee is on educational leave with pay.

(7) An employee who is transferred or otherwise moved ~~[changed]~~ from the jurisdiction of one agency to another shall retain his accumulated annual leave in the receiving agency.

(8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he shall ~~[must]~~ have used or have been paid for any accumulated annual leave unless he has requested to retain up to ten (10) days of accumulated annual leave.

(9) An employee who is ~~[Employees]~~ eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave during the previous month subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) When an employee is unable to work, and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.

(c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(d) An ~~[Any]~~ employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month, shall remain eligible for state contribution for life insurance and health benefits in the following month.

(10) ~~[Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts as set forth in paragraph (2) of this section, when separated by proper resignation or retirement. In the case of layoff, the employee shall be paid in a lump sum for all accumulated leave. An employee in the unclassified service who reverts to the classified service or an employee who resigns one day and is employed the next day shall retain his accumulated leave in the receiving agency. The effective date of the separation shall be the last workday. An employee who resigns or is laid off from his position with an agency based on an approved plan of privatization of the services he performed may request, in writing, that accumulated annual leave not be paid upon resignation and that all, or any part of his accumulated annual leave, up to the maximum provided for in Section 1 of this administrative regulation be waived rather than paid, contingent upon an agreement with the successor employer to credit him with an equal amount of annual leave.]~~

(a) If an employee is separated by proper resignation or retirement, he shall be paid in a lump sum for accumulated annual leave. The accumulated annual leave for which he is paid shall not exceed the amounts established by subsection (2) of this section.

(b) If an employee is laid off, he shall be paid in a lump sum for all accumulated leave.

(c) An employee in the unclassified service who reverts to the classified service, or resigns one (1) day and is employed the next day, shall retain his accumulated leave in the receiving agency.

(d) The effective date of a separation shall be the last work day.

(e) An employee may request in writing that his accumulated annual leave not be paid upon resignation, and that all or part of the amount of his accumulated annual leave that does not exceed the amount established by this section be waived, if:

1. He resigns, or is laid off from his position, because of an approved plan of privatization of the services he performed; and

2. The successor employer has agreed to credit him with an equal amount of annual leave.

(11) An employee who has been dismissed for cause or who has failed to give proper notice of resignation ~~shall [may, at the discretion of the appointing authority,]~~ be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts set forth in Section 2(2) of this administrative regulation.

(12) Upon the death of an employee, his estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(13) Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or increments of one-quarter (1/4) hours.

Section 2. Sick Leave. (1)(a) An ~~[Each]~~ employee in the state service, except an emergency, per diem and part-time employee[s] who works less than 100 hours a month, shall accumulate sick leave with pay at the rate of one (1) working day for each month of service.

(b) An employee shall [must] have worked more than half of the workdays in a month to qualify for sick leave with pay.

(c) An ~~[Each]~~ employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(d) [Employees serving on] A part-time employee ~~[basis]~~ who works at least 100 hours a month shall accumulate sick leave with pay at the rate of one (1) working day for each month of service.

(e) An ~~[Each]~~ employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave was ~~[he]~~ earned.

(2)(a) A full-time employee who completes [employees completing] 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.

(b) In computing months of total service for the purpose of crediting ten (10) additional days of sick leave, only the [these] months for which an employee earned sick leave shall be used.

(c) If [In these cases where] an employee is changed from part time to full time, the [these] months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing months of total service.

(d) A part-time employee[s] who works at least 100 hours a month completing 120 months of total service with the state shall be credited with ten (10) additional sick leave days upon the first day of the month following the completion of 120 months of service.

(e) In computing months of total service for a part-time employee[s] who works at least 100 hours a month for the purpose of crediting ten (10) additional sick leave days, only the [these] months in which the employee worked at least 100 hours shall be used.

(f) If [In these cases where] an employee is changed from full time to part time, the [these] months for which the employee earned sick leave as a full-time employee shall be counted in computing years of total service.

(g) The total service shall [must] be verified before the leave is credited to the employee's record. ~~[Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from the violation of KRS 18A.140,~~

~~18A.145, or 18A.990.]~~

(h) A former employee who is rehired after having been dismissed for cause from state service shall receive credit for service prior to the dismissal, if the dismissal was not due to a violation of KRS 18A.140, 18A.145, or 18A.990.

(3) Unused sick leave may be accumulated with no maximum on accumulation.

(4)(a) Sick leave shall accrue if [only when] an employee is working or on authorized leave with pay.

(b) Sick leave shall not accrue if [when] an employee is on educational leave with pay.

(5) An appointing authority shall grant or require the use of accrued sick leave with pay if [when] an employee:

(a) Receives medical, dental or optical examination or treatment;

(b) Is disabled by sickness, injury or pregnancy. The appointing authority may require a doctor's statement attesting to the inability to perform his[her] duties;

(c) Is required to care for a sick or injured member of his immediate family for a reasonable period of time. The appointing authority may require a doctor's statement supporting the need for care by the employee;

(d) Would jeopardize the health of others at his duty post, because of exposure to a contagious disease;

(e) Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any persons related by blood or affinity with a similarly close association. Leave under this paragraph shall be [is] limited to three (3) days, and may be extended for good cause [or a reasonable extension] at the discretion of the appointing authority.

(6) At the termination of sick leave with pay not exceeding six (6) months, the appointing authority shall return the employee to his former position. At the termination of sick leave with pay exceeding six (6) months, the appointing authority shall return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit.

(7)(a) An appointing authority shall grant sick leave without pay for the duration of [as long as] an employee's impairment [is disabled] by sickness, or illness, or pregnancy, if [and] the total continuous leave does not exceed one (1) year.

(b) The appointing authority may require periodic doctor's statements during the year attesting to the employee's continued inability to perform the essential functions of his duties with or without reasonable accommodation.

(c) If an [When the] employee has given notice of his ability to resume his duties, the appointing authority shall return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit. [The employee shall inform the employer that reasonable accommodation is necessary and shall provide upon request supporting documentation from a certified professional. An employee who is unable to return to work at the end of one (1) year of sick leave without pay, after being requested to return to work at least ten (10) days prior to the expiration of such sick leave, shall be dismissed by the appointing authority only if the appointing authority has been unable to place the employee in a vacant, budgeted position, with the same agency, for which the employee qualifies. The employee shall be given priority consideration for such vacant position, if he is capable of performing its essential functions with or without reasonable accommodation. An employee granted sick leave without pay may, upon request, retain up to ten (10) days of accumulated sick leave.]

(d) If the reasonable accommodation is necessary, the employee shall:

1. Inform the employer; and

2. Upon request, provide supportive documentation from a certified professional.

(e) An employee shall be considered to have resigned if he:

1. Has been on one (1) year continuous sick leave without pay; and

2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of sick leave; and

3. Is unable to return to work; or

4. Has been given priority consideration by the appointing authority for a vacant, budgeted position with the same agency, for which he qualifies and is capable of performing its essential functions with or without reasonable accommodation; and

5. The appointing authority has been unable to place him in such a vacant position.

(f) An employee who has been resigned under this subsection shall retain reinstatement privileges that were accrued during his service in the classified system.

(8) An employee[s] eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave during the previous month subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee [is] within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) An employee shall utilize his paid leave days consecutively if he:

1. Is unable to work; and

2. Has elected to use paid leave to qualify for state contribution for life insurance and health benefits. [When an employee is unable to work, and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.]

(c) An employee who has exhausted paid leave shall ~~not~~ qualify for state contribution for life insurance and health benefits if [unless] he works for more than half of the workdays in a month.

(d) If an [the] employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(e) An [(d) Any] employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.

(9) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or increments of one-quarter (1/4) hours.

(10) An employee who is transferred or otherwise moved [changed] from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.

(11)(a) An employee[s] shall be credited for accumulated sick leave if he is:

1. [when] Separated by proper resignation, layoff, retirement; or

2. [when] Granted leave without pay.

(b) A former employee[s] who is [are] reinstated or reemployed shall be credited with the [have] unused sick leave balance credited to him upon separation. [balances revived upon appointment and placed to their credit.]

(12)(a) If an [in cases of] absence is due to illness or injury for which Workers' Compensation benefits are received, accumulated sick leave may be used [in order] to maintain regular full salary.

(b) If paid sick leave is used, Workers' Compensation pay benefits shall be assigned [back] to the state for the [whatever] period of time the [an] employee received paid sick leave.

(c) The employee's sick leave shall be immediately reinstated to the extent that Workers Compensation Benefits were assigned.

(13) Application for sick leave.

(a) An employee shall file a written application for sick leave with or without pay within a reasonable time.

(b) Except for an ~~[in cases of]~~ emergency illness, an employee shall request advance approval for sick leave for medical, dental or optical examination, and for sick leave without pay.

(c) If he is ill, ~~[In all cases of illness,]~~ an employee shall ~~[is obligated to]~~ notify his immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall ~~[may]~~ be cause for denial of sick leave for the period of absence.

(14) Supporting evidence.

(a) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment. An appointing authority shall grant sick leave when the application is supported by acceptable evidence.

(b) An appointing authority may place on sick leave an employee whose health might be jeopardized by job duties, whose health might jeopardize others, or whose health prevents performance of duties and responsibilities, and who, on request, fails to produce a satisfactory medical certificate.

Section 3. Family Leave. (1) ~~[Effective August 5, 1993, every employee in state service who has completed twelve (12) months of service and has worked or been on paid leave at least 1,250 hours during the preceding twelve (12) months shall qualify for twelve (12) weeks of family leave without pay. On the first day of January of each year thereafter]~~ Every employee in state service who has completed twelve (12) months of service and has worked at least 1,250 hours during the preceding [calendar] year shall qualify for twelve (12) weeks of family leave [without pay].

(a) An employee in state service shall qualify for twelve (12) weeks of family leave if he has:

1. Completed twelve (12) months of service; and
2. Worked at least 1,250 hours in the preceding year.

(b) Unused family leave shall not be carried over from year to year. This section shall be construed in a manner consistent with the Family and Medical Leave Act of 1993, 20 USC 2601, et seq. and 29 CFR Part 825.

(2)(a) A week of family leave shall be ~~[is]~~ the amount of time an employee normally works each week.

(b) If an employee's schedule varies from week to week, a weekly average of the hours worked over the twelve (12) weeks prior to the beginning of the family leave shall be used for calculating the employee's normal work week.

(c) If there has been a permanent or long-term change in the employee's schedule (for reasons other than family leave), the hours worked under the new schedule shall be used for calculating the employee's normal work week.

(3) An employee who has requested family leave [under the conditions for which family leave is authorized] shall be notified of the family leave designation, in writing, within two (2) business days of the date on which the request was [is] made. [An appointing authority shall grant family leave, upon the receipt of a completed application from an employee.]

(b) An employee shall request family leave as far in advance as reasonable.

(c) [An employee who requests family leave may reserve ten (10) days of paid sick leave.]

(d) The appointing authority shall require the employee to utilize accumulated sick and [] annual [and compensatory] leave prior to granting unpaid family leave, provided that the employee may request to reserve ten (10) days of paid sick leave and annual. The amount of available family leave shall be reduced by the amount of paid leave used. [A completed application means the request form and the medical certification required by subsection (4) of this section.] [The employee shall make the request [application] as far in advance of

the start of the leave as reasonable. Family leave shall be granted:

(a) ~~For the birth of a child of the employee, adoption by the employee of a child, or placement with the employee of a foster child under an agreement with an agency of the Commonwealth or other state government. An appointing authority may require a couple in the employ of an agency to limit the total amount of family leave to twelve (12) weeks where leave is sought in connection with the birth, adoption or placement of a child;~~

(b) ~~Within one (1) year of the birth of a child of the employee, adoption by the employee or placement with the employee of a foster child, for the care of such newborn, adopted, or foster child;~~

(c) ~~To an employee to care for the employee's spouse, parent, child (including biological, adopted, step, or foster), or other family member of similarly close blood or legal relationship (who has resided with the employee for not less than thirty (30) days prior to the request [application]), if the spouse, child, parent or family member has a serious health condition. A child includes one who is over eighteen (18) years of age and who is incapable of self care because of a mental or physical disability. A serious health condition is a condition which requires inpatient care or continuing treatment by a health provider which renders the employee incapable of performing the duties of the employee's position.] [Where inpatient care is not involved, the expected absence from work, or from school, or incapacity in performing other daily activities of a family member shall be for a period of more than three (3) days.]~~

(d) [(e)] [(d)] An appointing authority shall grant family leave because of:

1. A serious health condition, of the employee, that makes the employee temporarily unable to perform the essential functions of his position;

2. The birth of a child of an employee, adoption of a child by an employee, or the placement of a foster child under an agreement with an agency of the Commonwealth or other state government;

3. The care of a newborn child of the employee, adoption of a child by the employee, or placement of a foster child with the employee, within one (1) year of the birth, adoption or placement;

4. The care of an employee's spouse, parent, child, or other family member who has:

a. Resided with the employee for not less than thirty (30) days prior to the request; and

b. A serious medical condition.

[(f) Leave for a couple employed by the same agency for the birth, adoption, or placement of a child shall be limited to twelve (12) weeks.]

(e) [(4)] A medical condition shall be deemed a serious medical condition if it:

1. [(a)] Requires the employee to receive [provide] inpatient care or continuing treatment by a health provider; and

2. [(b)] Renders the employee incapable of performing the duties of his position.

(f) [(2)] A child shall include a person who is:

1. [(a)] Under eighteen (18) years old; or [and]

2. [(b)] Is incapable of self-care because of a mental or physical disability.

[(4)(a) The appointing authority shall require an employee granted family leave for a serious health condition to supply a certification, on a form prescribed by the commissioner, from a health care provider that includes a statement that the employee is in need of care or needed to care for a family member, or, that the employee's presence would be beneficial to the family member. An employee requesting intermittent leave or leave on a reduced leave schedule due to serious health condition of the employee or family member shall be required to supply a certification from a licensed health care provider that such leave is medically necessary and the expected duration and schedule of such leave. A "health care provider" includes: doctor of medicine, doctor of osteopathy, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, nurse practitioner, and nurse midwife,

~~or certified Christian Science practitioner.]~~

(4)(a) An employee who requests family leave for a serious medical condition shall supply a certification on "Family And Medical Leave Request Form" from a health care provider that states that the:

1. Employee is in need of care; or
2. Employee is needed to care for a family member; or
3. Presence of the employee would be beneficial to the family member in need of care.

(b) If an employee requests intermittent leave, or leave on a reduced leave schedule due to a serious medical condition of the employee or family member, he shall supply a certification from a licensed health care provider that states:

1. That leave is medically necessary; and
2. Specifies the expected duration and schedule of the leave.

(c) A licensed health care provider shall be a:

1. Doctor of medicine;
2. Doctor of osteopathy;
3. Podiatrist;
4. Dentist;
5. Clinical psychologist;
6. Optometrist;
7. Chiropractor;
8. Nurse practitioner;
9. Nurse midwife; or
10. Certified Christian Science practitioner.

(d) [(b)] If an employee submits a complete certification signed by the health care provider, the appointing authority shall not request additional information from the employee's health care provider. If the appointing authority has reason to doubt the validity of a medical certification the appointing authority may require the employee to obtain a second opinion at the agency's expense. The appointing authority shall designate the health care provider to furnish the second opinion. The designated health care provider shall not be employed on a regular basis by the agency.

(e) [(e)] If the opinions of the employee's health provider and the designated health care provider differ, the appointing authority may request the employee to obtain certification from a third health care provider who is approved by the employee. This third opinion shall be final and binding. If the appointing authority does not act in good faith to attempt to reach an agreement on the third health care provider, the appointing authority shall be bound by the original certification. If the employee does not act in good faith to attempt to reach an agreement on the third health care provider, the employee shall be bound by the opinion of the second health care provider. An appointing authority may require recertification of the need for family leave every thirty (30) working days.

(f) [(d)] All documents relating to family leave shall be maintained separate from the personnel file and shall be confidential.

~~[(5) If an employee requests intermittent leave or a reduced work schedule to care for a seriously ill family member or for the employee's own serious health condition, and the need for leave is reasonably based on planned medical treatment, the appointing authority may temporarily reassign the employee to an available alternative position with equivalent pay and benefits if the employee is qualified for the position and it better accommodates recurring periods of leave than the employee's regular job.]~~

(5) An appointing authority may temporarily reassign an employee to an available alternative position with equivalent pay and benefits, if the:

(a) Employee requests intermittent leave, or a reduced work schedule to care for a seriously ill family member or because of his own serious medical condition;

(b) Need for the leave is reasonably based on planned medical treatment;

(c) Employee is qualified for the position; and

(d) Temporary assignment better accommodates recurring periods of leave than the employee's regular job.

(6) An employee[s] eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave or shall have been on family leave during the previous month subject to the following conditions:

(a) Any combination of work days, ~~and~~ paid leave and family leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month;

(b) An employee shall utilize his paid leave days consecutively if he:

1. Is unable to work; and
2. Elects to use paid leave to qualify for state contributions for life insurance and health benefits. ~~[When an employee is unable to work, and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.]~~

(c) An employee shall utilize his family leave days consecutively if he:

1. Is unable to work; and
2. Elects to use family leave as the sole qualification for state contributions for life insurance and health benefits. ~~[When an employee is unable to work, and elects to use family leave as the sole qualification for the state contributions for life insurance and health benefits, he shall utilize his family leave days consecutively.]~~

(d) An employee who has exhausted paid leave and family leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the work days in a month. If the employee is unable to work for more than half of the work days in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contribution and the employee contributions for such benefits.

(e) Except as provided by paragraph (f) of this subsection, an employee shall reimburse the Commonwealth for state contributions paid on his behalf if he:

1. Uses family leave as the sole qualification for state contributions for life insurance and health benefits; and
2. Fails to return to work for thirty (30) calendar days after his family leave is exhausted. ~~[An employee who uses family leave as the sole qualification for the state contribution for life insurance and health benefits who fails to return to work for thirty (30) calendar days after the family leave is exhausted, shall reimburse the Commonwealth for state contributions paid on behalf of the employee.]~~

(f) The employee shall not be required to reimburse the Commonwealth if the reason the employee does not return is ~~due to~~:

1. ~~Due to~~ the continuation, recurrence or onset of a serious health condition which would entitle the employee to family leave under this administrative regulation; or
2. Other circumstances beyond the employee's control, such as: ~~Examples of other circumstances beyond the employee's control are where]~~

a. A relative or individual other than an immediate family member has a serious health condition and the employee is needed to provide care; or

b. The employee is laid off while on leave.

(g) ~~[Examples of other]~~ Circumstances ~~[which]~~ are not beyond the employee's control if:

1. ~~[are where]~~ An employee desires to remain with a parent in a distant city even though the parent no longer requires the employee's care; or
2. A parent decides ~~[parent's decision]~~ not to return to work to stay with a newborn child.

(h) [(f)] An employee[s] on family leave[s] shall ~~[continue to]~~ be responsible for the employee's share of contributions for life insurance and health benefits. The contributions shall be due at the same time the contributions would be made ~~if~~ by payroll deduction. An employee shall be granted a thirty (30) calendar day grace period to

make an [any] employee contribution[e] for life insurance and health benefits and shall be notified by the agency, in writing, fifteen (15) calendar days before benefits expire.

(i) If the employee does not make the contribution within the thirty (30) day grace period, the employee's life insurance and health benefits shall cease on the date the grace period ends. Life insurance and health benefits shall be restored thirty (30) calendar days after his return to work. Effective the first day of the employee's return, benefits shall be restored to the same level of coverage that existed when leave commenced. [If the life insurance and health benefits cease as a result of nonpayment of premiums by the employee after the grace period, upon the employee's return to work for thirty (30) calendar days, the life insurance and health benefits shall be restored to the same level of coverages as were provided when the leave commenced, effective with the employee's return to work.]

(7) At the conclusion of the family leave, an employee shall be restored to the same job that the employee held before going on leave. The employee shall be returned to the same shift or equivalent schedule. If special qualifications are required for a position and said qualifications have lapsed during the employee's leave, the employee may be reassigned to different duties and given a reasonable opportunity to fulfill the requirements after returning to work.

Section 4. Court Leave. (1) An employee shall be entitled to leave of absence from duties during his scheduled working hours[-] without loss of time or pay for the [that] amount of time necessary to:

(a) Comply with subpoenas by a [any] court, or administrative agency or body of the federal or state government or any political subdivision thereof;

(b) [to] Serve as a juror or a witness, unless [except in cases where] the employee [himself] or a member of his family is a party to the [court or administrative] proceeding.

(2) Court [This] leave shall include necessary travel time.

(3) If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work. [Court leave shall not be required to be reported by an employee for attendance at a hearing or trial when attendance is a part of assigned duties.]

(4) An employee shall not be required to report as court leave attendance at a proceeding that is part of his assigned duties.

Section 5. Compensatory Leave and Overtime. (1)(a) [It shall be the responsibility of the] Appointing authorities shall comply with [to administer] the overtime and compensatory leave provisions of the Fair Labor Standards Act (FLSA).

(b) An employee who is authorized to work in excess of the prescribed hours of duty shall be granted compensatory leave or paid overtime subject to the provisions of the Fair Labor Standards Act, the Kentucky Revised Statutes and this administrative regulation.

(c) Compensatory leave may be accumulated or taken off in one-quarter (1/4) hour increments.

(d) The maximum amount of compensatory leave that may be carried forward from one (1) pay period to another shall be 240 [200] hours.

(2) An employee who is transferred or otherwise moved [changed] from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

(3) Upon separation from state service, an employee shall [e-will] be paid for all unused compensatory leave at the greater of his:

(a) [their] Regular hourly rate of pay; or

(b) [at the] Average regular rate of pay for the final three (3) years of employment.

(4) An appointing authority shall permit an employee who has accrued compensatory leave to take compensatory leave if it will not unduly disrupt the operations of the agency. [An employee who has accrued compensatory leave shall be permitted by the appointing authority or his designee to take such time off if the use of such time does not unduly disrupt the operations of the agency.]

(5) [An appointing authority or his designee may direct an employee to take accumulated compensatory time off from work to maintain a manageable level of accumulated compensatory time and for the specific purpose of reducing an employee's compensatory leave. Notice must be in writing specifying the number of hours to be taken and the pay period in which the hours must be used.]

(6) An employee deemed to be "nonexempt" by the provisions of [in relation to] the FLSA shall be compensated for [all] hours worked in excess of forty (40) per week as provided by paragraphs (a) to (c) of this subsection. [in accordance with the following provisions:]

(a) An employee who has not accumulated the maximum amount of compensatory leave shall have [has] the option to accumulate compensatory leave at the rate of [en] an hour and one-half (1 1/2) [basis] for each hour worked in excess of forty (40) per week in lieu of paid overtime.

(b) The election to receive compensatory leave in lieu of paid overtime shall [must] be in writing and shall [each election will] remain in force for a minimum of six (6) months. The election shall [can only] be changed by the submission of [submitting] a new form. The effective date of a [any] change shall [will] be the first day of the next workweek following receipt of the election.

(c) An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) times his regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.

(6) [(7)] An employee deemed to be "exempt" under the provisions of [in relation to] the FLSA shall accumulate compensatory time on an hour-for-hour basis for [all] hours worked in excess of his regular [normal] work schedule.

(7)(a) [(9)] An employee except one who is in a policy making position[-] may, after accumulating 151 hours of compensatory leave, request that he be paid for fifty (50) hours at his regular rate of pay.

(b) If the appointing authority or his designee approves the payment, [then] an employee's leave balance shall be reduced accordingly.

(8)(a) An employee who is not [(9)] [All employees, except those who are] in a policy making positions, shall be paid for fifty (50) hours at his [their] regular hourly rate of pay upon accumulating at the end of the pay period, 240 [200] hours [or more] of compensatory leave.

(b) The employee's leave balance shall be reduced accordingly.

(9) [(10)] If an employee's prescribed hours of duty are normally less than forty (40) hours per week, he shall receive compensatory leave for the number of hours worked that:

(a) Exceed the number of normally prescribed hours of duty; and

(b) Do not exceed:

1. The maximum amount of compensatory time that is permitted; and

2. Forty (40) hours. [All employees whose prescribed hours of duty are normally less than forty (40) per week and who have not exceeded the maximum amount of compensatory time shall receive compensatory leave on an hour for hour basis until the total hours worked in that week reaches forty (40).]

(10) [(11)] Compensatory leave used during the [same] workweek in which it is earned shall [does] not constitute [2] hours worked[2] for computing paid overtime or time and one-half (1 1/2) compensatory time.

[(12) This administrative regulation shall become effective on August 1, 1994.]

Section 6. Military Leave. (1) Upon request, an [Any] employee, who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from his civil duties [upon request therefor], to serve under orders on training duty without loss of his regular compensation for a period not to exceed ten (10)

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working days in a ~~[any one (1)]~~ federal fiscal year.

~~(2) The [and any such] absence shall not be charged to leave.~~

~~(3) Absence that exceeds ten (10) working days in a federal fiscal year shall [in excess of this amount will] be charged to [an] annual leave, compensatory leave or leave without pay.~~

~~(4) The appointing authority may require a copy of the orders requiring the attendance of the [an] employee before granting military leave.~~

~~(5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of such duty not to exceed six (6) years. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall [may] be paid in a lump sum, if requested by [at the request of] the employee, upon receiving this leave.~~

Section 7. Voting Leave. (1) An employee [All employees] who is [are] eligible and registered to vote shall be allowed, upon prior request, four (4) hours, for the purpose of voting.

(2) The [Such] absence shall not be charged against leave.

(3) An employee [Employees] who is [are] not scheduled to work during voting hours shall not receive voting leave and shall not be entitled to compensatory leave in lieu of time off to vote. Employees who are permitted to work in lieu of voting leave shall be granted compensatory leave on an hour-for-hour basis for the hours worked on election day.

Section 8. Special Leave of Absence. (1) [In addition to leaves as above provided:] An appointing authority may grant special leave for education or training, [without pay for a period or periods not to exceed thirty (30) working days in any calendar year.]

(2)(a) If approved by the commissioner, an appointing authority may grant a leave of absence for continuing education or training.

(b) Leave may be granted for a period not to exceed twenty-four (24) months.

(c) Leave may be granted with or without pay.

(d) Leave shall be restricted to attendance at a college, university, vocational or business school for training in subjects that:

1. Relate to the employee's work; and

2. Will benefit the state. [An appointing authority, with approval of the commissioner, may grant leave of absence when requested by an employee for a period not to exceed twenty-four (24) months, with or without pay for assignment to and attendance at college, university, vocational or business school for the purpose of training in subjects related to the work of the employee and which will benefit the state service.]

(3) An appointing authority, with approval of the commissioner, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this administrative regulation that are of tangible benefit to [deemed in the best interest of] the state.

(4) [An appointing authority, with approval of the commissioner, may place an employee on leave without pay for a period not to exceed thirty (30) working days pending an investigation into allegations of employee misconduct. The employee shall be notified in writing by the appointing authority that he is being placed on leave without pay and of the reasons therefor. An employee placed on special leave for investigative purposes may elect to use accumulated leave during the period of the investigation. If such investigation reveals no misconduct on behalf of the employee, he shall be made whole for the period of such leave and all records relating to the investigation will be purged from agency and Department of Personnel files. The appointing authority shall notify the employee in writing of the completion of the investigation and the action taken, including those cases where the employee voluntarily resigns in the interim.]

(a) If approved by the commissioner, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of allegations of employee

misconduct.

(b) Leave shall not exceed thirty (30) working days.

(c) The employee shall be notified in writing by the appointing authority that he is being placed on special leave for investigative purposes, and the reasons for being placed on leave.

(d) If the investigation reveals no misconduct by the employee:

1. He shall be made whole for the period of the leave; and

2. Records relating to the investigation shall be purged from agency and department files.

(e) The appointing authority shall notify the employee, in writing, of the completion of the investigation and the action taken. Notification shall be made to the employee, whether he has remained in state service, or has voluntarily resigned during the interim between being placed on special leave for investigative purposes and the completion of the investigation.

(5) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave during the previous month subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) An employee shall utilize his paid leave days consecutively if he:

1. Is unable to work; and

2. Has elected to use paid leave to qualify for state contribution for life insurance and health benefits. [When an employee is unable to work, and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.]

(c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(d) Any employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.

Section 9. Absence Without Leave. (1) An employee who is absent from duty without approval shall report the reason for his absence [therefor] to his supervisor immediately.

(2) Unauthorized and[or] unreported absence shall be considered absence:

(a) Without leave; and [and deduction of pay may be made for each period of such absence][Such]

(b) Absence may constitute grounds for disciplinary action.

(3) An employee who has been absent without leave or notice to the supervisor for a period of ten (10) working days shall be considered to have resigned his employment.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Certification of Health Care Provider (1996)";

(b) "Letter for Designation of FMLA (1996)"; and

(c) "Application for Family Leave (1996)".

(2) This material may be inspected, copied, or obtained at the Personnel Cabinet, 200 Fair Oaks Lane, Suite 516, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

ROBERT S. PETERS, Secretary
PAUL E. PATTON, Governor

ADMINISTRATIVE REGISTER - 1821

APPROVED BY AGENCY: February 5, 1996
FILED WITH LRC: February 5, 1996 at 11 a.m.

PERSONNEL CABINET (As Amended)

101 KAR 3:010. Leave administrative regulations for unclassified service.

RELATES TO: KRS 18A.155, 61.394, PL 103-3

STATUTORY AUTHORITY: KRS 18A.155, 18A.195, PL 103-3

NECESSITY AND FUNCTION: KRS 18A.155 requires the Commissioner of Personnel to submit to the Governor proposed administrative regulations for the unclassified service persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (u) and (v). KRS 18A.155 further provides that these administrative regulations shall be approved by the Governor. This administrative regulation adopts and applies 101 KAR 2:100 governing leave policies to the unclassified service. [In practice, the leave administrative regulations (101 KAR 2:100) which apply to merit system employees in the following specific areas have also been applied to the aforementioned categories of employees in the unclassified service.]

Section 1. Annual leave. (1)(a) Each full-time employee in the state service, except a seasonal, temporary, per diem, and emergency employee(e), or a ~~each~~ part-time employee who works at least 100 hours a month shall accumulate annual leave with pay at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180 months and over	1 3/4 leave days per month; 21 per year

(b) A full-time employee shall ~~must~~ have worked more than half of the workdays in a month to qualify for annual leave. ~~An [Each]~~ employee shall be credited with additional leave upon the first day of the month following the month in which the leave is earned.

(c) In computing months of total service for the purpose of earning annual leave, only ~~the [these]~~ months:

1. For which a full-time ~~an~~ employee earned annual leave shall be counted; or

2. ~~[in the case of a part-time employee, only these months]~~ In which a part-time ~~the~~ employee worked at least 100 hours shall be counted.

(d) ~~If [in these cases where]~~ an employee is changed from part time to full time, ~~the [these]~~ months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing years of total service.

(e) Former employees who have been rehired and who have been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, ~~unless the [except where such]~~ dismissal resulted from a violation of KRS 18A.140, 18A.145, or 18A.990.

(f) ~~If [in these cases where]~~ an employee is changed from full time to part time, ~~the [these]~~ months for which the employee earned annual leave as a full-time employee shall be counted in computing months of total service.

(g) A part-time employee ~~[Employees serving on a part time basis]~~ who works less than 100 hours a month shall not be entitled to annual leave.

(2)(a) Annual leave may be accumulated and carried forward from one (1) calendar year to the next ~~as provided in this paragraph. [not~~

~~to exceed the following maximum amounts:]~~

Months of Service	Maximum Amount
0-59 months	Thirty (30) workdays
60-119 months	Thirty-seven (37) workdays
120-179 months	Forty-five (45) workdays
180-239 months	Fifty-two (52) workdays
240 months and over	Sixty (60) workdays

(b) ~~[However,]~~ Leave in excess of the ~~[above maximum]~~ amounts specified in paragraph (a) of this subsection shall be converted to sick leave at the end of the calendar year~~;~~ or upon retirement. ~~[Months of service for the purpose of determining the maximum amount of annual leave which may be accumulated and the amount to be converted to sick leave shall be computed as provided in subsection (1) of this section. Annual leave shall not be granted in excess of that earned prior to the starting date of leave.]~~

(c) The amount of annual leave that may be accumulated, and the amount of annual leave that may be converted to sick leave, shall be determined by computing months of service as provided by subsection (1)(a) of this section.

(3) Absence due to sickness, injury, or disability in excess of the amount ~~[that]~~ authorized for such purposes may, at the request of the employee ~~[and within the discretion of the appointing authority,]~~ be charged against annual leave.

(4)(a) Accumulated annual leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with an employee's request ~~[the request of employee]~~.

(b) An employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time he earned that year.

(5) ~~An employee shall be [Employees are]~~ charged with annual leave for absence only on days ~~[up]~~ on which ~~he [they]~~ would otherwise work and receive pay.

(6)(a) Annual leave shall accrue ~~if [only when]~~ an employee is working or on authorized leave with pay.

(b) Annual leave shall not accrue ~~if [when]~~ an employee is on educational leave with pay.

(7) An employee who is transferred or otherwise moved ~~[changed]~~ from the jurisdiction of one (1) agency to another shall retain his accumulated annual leave in the receiving agency.

(8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he ~~shall [must]~~ have used or have been paid for any accumulated annual leave unless he has requested to retain up to ten (10) days of accumulated annual leave.

(9) ~~An employee who is [Employees]~~ eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave for more than half of the workdays in a month, subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) When an employee is unable to work and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.

(c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

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(d) ~~An [Any]~~ employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month, shall remain eligible for state contribution for life insurance and health benefits in the following month.

~~(10) [Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts as set forth in Section 1(2) of this administrative regulation, when separated by proper resignation or retirement. In the case of layoff, the employee shall be paid in a lump sum for all accumulated annual leave. An employee in the unclassified service who reverts to the classified service or an employee who resigns one day and is employed the next day shall retain his accumulated leave in the receiving agency. The effective date of the separation shall be the last workday. An employee who resigns his position with an agency based on an approved plan of privatization of the services he performed may request, in writing, that accumulated annual leave not be paid upon resignation and that all, or any part of his accumulated annual leave, up to the maximum provided for in Section 1 of this administrative regulation be waived rather than paid, contingent upon an agreement with the successor employer to credit him with an equal amount of annual leave.]~~

(a) If an employee is separated by proper resignation or retirement, he shall be paid in a lump sum for accumulated annual leave. The accumulated annual leave for which he is paid shall not exceed the amounts established by subsection (2) of this section.

(b) If an employee is laid off, he shall be paid in a lump sum for all accumulated leave.

(c) An employee in the unclassified service who reverts to the classified service, or resigns one (1) day and is employed the next day, shall retain his accumulated leave in the receiving agency.

(d) The effective date of a separation shall be the last work day.

(e) An employee may request in writing that his accumulated annual leave not be paid upon resignation, and that all or part of the amount of his accumulated annual leave that does not exceed the amount established by this section be waived, if:

1. He resigns, or is laid off from his position, because of an approved plan of privatization of the services he performed; and

2. The successor employer has agreed to credit him with an equal amount of annual leave.

(11) An employee who has been dismissed for cause or who has failed to give proper notice of resignation shall ~~may, at the discretion of the appointing authority,~~ be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts set forth in Section 1(2) of this administrative regulation.

(12) Upon the death of an employee, his estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(13) Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or increments of one-quarter (1/4) hours.

Section 2. Sick Leave. (1)(a) ~~An [Each]~~ employee in the state service, except an emergency, per diem and part-time employee[s] who works less than 100 hours a month, shall accumulate sick leave with pay at the rate of one (1) working day for each month of service.

(b) An employee shall ~~must~~ have worked more than half of the workdays in a month to qualify for sick leave with pay.

(c) An [Each] employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(d) ~~[Employees serving on]~~ A part-time employee ~~[basis]~~ who works at least 100 hours a month shall accumulate sick leave with pay at the rate of one (1) working day for each month of service.

(e) An [Each] employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave ~~was~~ ~~[is]~~ earned.

(2)(a) A full-time employee who completes ~~[employees completing]~~ 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service.

(b) In computing months of total service for the purpose of crediting ten (10) additional days of sick leave, only ~~the [these]~~ months for which an employee earned sick leave shall be used.

(c) If ~~[in these cases where]~~ an employee is changed from part time to full time, ~~the [these]~~ months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing months of total service.

(d) A part-time employee[s] who works at least 100 hours a month completing 120 months of total service with the state shall be credited with ten (10) additional sick leave days upon the first day of the month following the completion of 120 months of service.

(e) In computing months of total service for a part-time employee[s] who works at least 100 hours a month for the purpose of crediting ten (10) additional sick leave days, only ~~the [these]~~ months in which the employee worked at least 100 hours shall be used.

(f) If ~~[in these cases where]~~ an employee is changed from full time to part time, ~~the [these]~~ months for which the employee earned sick leave as a full-time employee shall be counted in computing years of total service.

(g) The total service shall ~~[must]~~ be verified before the leave is credited to the employee's record. ~~[Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from the violation of KRS 18A.140, 18A.145, or 18A.990.]~~

(h) A former employee who is rehired after having been dismissed for cause from state service shall receive credit for service prior to the dismissal, if the dismissal was not due to a violation of KRS 18A.140, 18A.145, or 18A.990.

(3) Unused sick leave may be accumulated with no maximum on accumulation.

(4)(a) Sick leave shall accrue if ~~[only when]~~ an employee is working or on authorized leave with pay.

(b) Sick leave shall not accrue if ~~[when]~~ an employee is on educational leave with pay.

(5) An appointing authority shall grant accrued sick leave with pay if ~~[when]~~ the employee:

(a) Receives medical, dental or optical examination or treatment;

(b) Is disabled by sickness, injury or pregnancy. The appointing authority may require a doctor's statement attesting to the inability to perform his~~[her]~~ duties;

(c) Is required to care for a sick or injured member of his immediate family for a reasonable period of time. The appointing authority may require a doctor's statement supporting the need for care;

(d) Would jeopardize the health of others at his duty post, because of exposure to a contagious disease;

(e) Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any persons related by blood or affinity with a similarly close association. Leave under this paragraph shall be ~~[is]~~ limited to three (3) days, and may be extended for good cause ~~[or a reasonable extension]~~ at the discretion of the appointing authority.

(6) At the termination of sick leave with pay not exceeding six (6) months, the appointing authority may return the employee to his former position. At the termination of sick leave with pay exceeding six (6) months, the appointing authority may return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit.

(7)(a) An appointing authority shall grant sick leave without pay for the duration of ~~[as long as]~~ an employee's impairment ~~[is disabled]~~ by sickness, or illness, or pregnancy, if ~~[and]~~ the total continuous leave does not exceed one (1) year.

(b) The appointing authority may require periodic doctor's

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statements during the year attesting to the employee's continued inability to perform the essential functions of his[~~her~~] duties with or without reasonable accommodation.

(c) If an ~~[When the]~~ employee has given notice of his ability to resume his duties, the appointing authority ~~shall [may]~~ return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit. ~~[An employee who is unable to return to work at the end of one (1) year of sick leave without pay, after being requested to return to work at least ten (10) days prior to the expiration of such sick leave, shall be dismissed by the appointing authority. An employee granted sick leave without pay may, upon request, retain up to ten (10) days of accumulated sick leave.]~~

(d) If the reasonable accommodation is necessary, the employee shall:

1. Inform the employer; and
2. Upon request, provide supportive documentation from a certified professional.

(e) An employee shall be considered to have resigned if he:

1. Has been on one (1) year continuous sick leave without pay; and
2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of sick leave; and
3. Is unable to return to work; or
4. Has been given priority consideration by the appointing authority for a vacant, budgeted position with the same agency, for which he qualifies and is capable of performing its essential functions with or without reasonable accommodation; and
5. The appointing authority has been unable to place him in such a vacant position.

(f) An employee who has been resigned under this subsection shall retain reinstatement privileges that were accrued during his service in the classified system.

(8) An employee[e] eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave for more than half of the workdays in a month, subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) An employee shall utilize his paid leave days consecutively if he:

1. Is unable to work; and
2. Has elected to use paid leave to qualify for state contribution for life insurance and health benefits. ~~[When an employee is unable to work and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.]~~

(c) An employee who has exhausted paid leave shall ~~[not]~~ qualify for state contribution for life insurance and health benefits if [unless] he works for more than half of the workdays in a month.

(d) If an [the] employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(e) An [d-Any] employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.

(9) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or increments of one-quarter (1/4) hours.

(10) An employee who is transferred or otherwise moved

~~[changed]~~ from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.

(11)(a) An employee[e] shall be credited for accumulated sick leave if he is:

1. ~~[when]~~ Separated by proper resignation, layoff, retirement; or
2. ~~[when]~~ Granted leave without pay in excess of thirty (30) working days.

(b) A former employee[e] who is [are] reinstated or reemployed shall be credited with the [have] unused sick leave balance credited to him upon separation. ~~[balances revived upon appointment and placed to their credit.]~~

(12)(a) If an ~~[in cases of]~~ absence is due to illness or injury for which Workers' Compensation benefits are received, accumulated sick leave may be used ~~[in order]~~ to maintain regular full salary.

(b) If paid sick leave is used, Workers' Compensation pay benefits shall be assigned ~~[back]~~ to the state for the [whatever] period of time the [an] employee received paid sick leave.

(c) The employee's sick leave shall be immediately reinstated to the extent that Workers' Compensation Benefits were assigned.

(13) Application for sick leave.

(a) An employee shall file a written application for sick leave with or without pay within a reasonable time.

(b) Except for an ~~[in cases of]~~ emergency illness, an employee shall request advance approval for sick leave for medical, dental or optical examination, and for sick leave without pay.

(c) If he is ill, ~~[in all cases of illness,]~~ an employee shall [is obligated to] notify his immediate supervisor or other designated person. Failure, without good cause, to do so in a reasonable period of time shall [may] be cause for denial of sick leave for the period of absence.

(14) Supporting evidence.

(a) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment. An appointing authority shall grant sick leave when the application is supported by acceptable evidence.

(b) An appointing authority may place on sick leave an employee whose health might be jeopardized by job duties, whose health might jeopardize others, or whose health prevents performance of duties and responsibilities, and who, on request, fails to produce a satisfactory medical certificate.

Section 3. Family Leave. It shall be the responsibility of the appointing authority to administer family leave in compliance with the Federal Family and Medical Leave Act of 1993 and regulations promulgated thereunder found in 29 CFR Part 825. Each employee in a nonexempt, nonpolicy making position shall be entitled to family leave as set out in 101 KAR 2:100, Section 3.

Section 4. Court Leave. (1) An employee shall be entitled to leave of absence from duties during his scheduled working hours[;] without loss of time or pay for the [that] amount of time necessary to:

(a) Comply with subpoenas by a [any] court, or administrative agency or body of the federal or state government or any political subdivision thereof;

(b) ~~[to]~~ Serve as a juror or a witness, unless [except in cases where] the employee ~~[himself]~~ or a member of his family is a party to the ~~[court or administrative]~~ proceeding.

(2) Court ~~[This]~~ leave shall include necessary travel time.

(3) If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.

(4) An employee shall not be required to report as court leave attendance at a proceeding that is part of his assigned duties.

Section 5. Compensatory Leave and Overtime. (1)(a) ~~[It shall be]~~

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~~the responsibility of the~~ Appointing authorities shall comply with ~~to administer~~ the overtime and compensatory leave provisions of this section and the Fair Labor Standards Act (FLSA).

(b) An employee who is authorized to work in excess of the prescribed hours of duty shall be granted compensatory leave or paid overtime subject to the provisions of the Fair Labor Standards Act, the Kentucky Revised Statutes and this administrative regulation.

(c) Compensatory leave may be accumulated or taken off in one-quarter (1/4) hour increments.

(d) The maximum amount of compensatory leave that may be carried forward from one (1) pay period to another shall be 240 ~~[200]~~ hours.

(2) An employee who is transferred or otherwise ~~moved~~ ~~[changed]~~ from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

(3) Upon separation from state service, an employee shall ~~[e-will]~~ be paid for all unused compensatory leave at the greater of his:

(a) ~~[their]~~ Regular hourly rate of pay; or

(b) ~~[at the]~~ Average regular rate of pay for the final three (3) years employment.

(4) An appointing authority shall permit an employee who has accrued compensatory leave to take compensatory leave if it will not unduly disrupt the operations of the agency. ~~[An employee who has accrued compensatory leave shall be permitted by the appointing authority or his designee to take such time off if the use of such time does not unduly disrupt the operations of the agency.]~~

(5) ~~[An appointing authority or his designee may direct an employee to take accumulated compensatory time off from work to maintain a manageable level of accumulated compensatory time and for the specific purpose of reducing an employee's compensatory leave. Notice must be in writing specifying the number of hours to be taken and the pay period in which the hours must be used.]~~

(6) ~~[An employee deemed to be "nonexempt" by the provisions of [in relation to] the FLSA shall be compensated for all hours worked in excess of forty (40) per week as provided by paragraphs (a) to (c) of this subsection. [in accordance with the following provisions:]~~

(a) An employee who has not accumulated the maximum amount of compensatory leave shall have ~~[has]~~ the option to accumulate compensatory leave at the rate of ~~[or]~~ an hour and one-half (1 1/2) ~~[basis]~~ for each hour worked in excess of forty (40) per week in lieu of paid overtime.

(b) The election to receive compensatory leave in lieu of paid overtime shall ~~[must]~~ be in writing and shall ~~[such election will]~~ remain in force for a minimum of six (6) months. The election shall ~~[can only]~~ be changed by the submission of ~~[submitting]~~ a new form. The effective date of a ~~[any]~~ change shall ~~[will]~~ be the first day of the next workweek following receipt of the election.

(c) An employee who does not elect compensatory leave in lieu of paid overtime shall be paid one and one-half (1 1/2) times his regular hourly rate of pay for all hours worked in excess of forty (40) hours per week.

(6) ~~[(7)]~~ An employee deemed to be "exempt" under the provisions of ~~[in relation to]~~ the FLSA shall accumulate compensatory time on an hour-for-hour basis for ~~[all]~~ hours worked in excess of his regular ~~[normal]~~ work schedule.

(7) ~~[(8)]~~ An employee except one who is in a policy making position~~[-]~~ may, after accumulating 151 hours of compensatory leave, request that he be paid for fifty (50) hours at his regular rate of pay.

(b) If the appointing authority or his designee approves the payment, ~~[then]~~ an employee's leave balance shall be reduced accordingly.

(8) ~~[(9)]~~ (a) An employee who is not ~~[All employees, except those who are]~~ in a policy making positions, shall be paid for fifty (50) hours at his ~~[their]~~ regular hourly rate of pay upon accumulating, at the end of the pay period, 240 ~~[200]~~ hours ~~[or more]~~ of compensatory leave.

(b) The employee's leave balance shall be reduced accordingly.

(c) ~~[(b)]~~ An employee in a policy making position shall be paid for

all accrued compensatory leave, not to exceed 240 ~~[200]~~ hours, only upon termination from the unclassified service. An employee who reverts to a position in the classified service or an employee who resigns one day and is employed the next day shall retain his accrued compensatory leave in the receiving agency.

(9) ~~[(10)]~~ If an employee's prescribed hours of duty are normally less than forty (40) hours per week, he shall receive compensatory leave for the number of hours worked that:

(a) Exceed the number of normally prescribed hours of duty; and

(b) Do not exceed:

1. The maximum amount of compensatory time that is permitted; and

2. Forty (40) hours. ~~[All employees whose prescribed hours of duty are normally less than forty (40) per week and who have not exceeded the maximum amount of compensatory time shall receive compensatory leave on an hour-for-hour basis until the total hours worked in that week reaches forty (40).]~~

(10) ~~[(11)]~~ Compensatory leave used during the ~~[same]~~ work week in which it is earned shall ~~[does]~~ not constitute ~~["]~~hours worked~~["]~~ for computing paid overtime or time and one-half (1 1/2) compensatory time.

~~[(12)] This administrative regulation shall become effective on August 1, 1994.~~

Section 6. Military Leave. (1) Upon request, an ~~[Any]~~ employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from his civil duties ~~[upon request therefor]~~, to serve under orders on training duty without loss of his regular compensation for a period not to exceed ten (10) working days in a ~~[any one (1)]~~ federal fiscal year.

(2) The ~~[and any such]~~ absence shall not be charged to leave.

(3) Absence that exceeds ten (10) working days in a federal fiscal year shall ~~[in excess of this amount will]~~ be charged to as annual leave, compensatory leave or leave without pay.

(4) The appointing authority may require a copy of the orders requiring the attendance of the ~~[an]~~ employee before granting military leave.

(5) An appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of such duty not to exceed six (6) years. Upon receiving military duty leave of absence, all accumulated annual and compensatory leave shall ~~[may]~~ be paid in a lump sum, if requested by ~~[at the request of]~~ the employee, upon receiving this leave.

Section 7. Voting Leave. (1) An employee ~~[All employees]~~ who is ~~[are]~~ eligible and registered to vote shall be allowed, upon prior request, four (4) hours, for the purpose of voting.

(2) The ~~[Such]~~ absence shall not be charged against leave.

(3) An employee ~~[Employees]~~ who is ~~[are]~~ not scheduled to work during voting hours shall not receive voting leave and shall not be entitled to compensatory leave in lieu of time off to vote. Employees who are permitted to work in lieu of voting leave shall be granted compensatory leave on an hour-for-hour basis for the hours worked on election day.

Section 8. Special Leave of Absence. (1) ~~[In addition to leaves as above provided]~~ An appointing authority may grant special leave for education or training. ~~[without pay for a period or periods not to exceed thirty (30) working days in any calendar year.]~~

(2)(a) If approved by the commissioner, an appointing authority may grant a leave of absence for continuing education or training.

(b) Leave may be granted for a period not to exceed twenty-four (24) months.

(c) Leave may be granted with or without pay.

(d) Leave shall be restricted to attendance at a college, university, vocational or business school for training in subjects that:

1. Relate to the employee's work; and

2. Will benefit the state. [An appointing authority, with approval of the commissioner, may grant leave of absence when requested by an employee for a period not to exceed twenty-four (24) months, with or without pay for assignment to and attendance at college, university, vocational or business school for the purpose of training in subjects related to the work of the employee and which will benefit the state service, or for other purposes that are deemed to be in the best interests of the state service.]

(3) An appointing authority, with approval of the commissioner, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this administrative regulation that are of tangible benefit to [deemed in the best interest of] the state.

(4)(a) If approved by the commissioner, an appointing authority may place an employee on special leave with pay for investigative purposes pending an investigation of allegations of employee misconduct.

(b) Leave shall not exceed thirty (30) working days.

(c) The employee shall be notified in writing by the appointing authority that he is being placed on special leave for investigative purposes, and the reasons for being placed on leave.

(d) If the investigation reveals no misconduct by the employee:

1. He shall be made whole for the period of the leave; and

2. Records relating to the investigation shall be purged from agency and department files.

(e) The appointing authority shall notify the employee, in writing, of the completion of the investigation and the action taken. Notification shall be made to the employee, whether he has remained in state service, or has voluntarily resigned during the interim between being placed on special leave for investigative purposes and the completion of the investigation. [An appointing authority, with approval of the commissioner, may place an employee on leave without pay for a period not to exceed thirty (30) working days pending an investigation into allegations of employee misconduct. The employee shall be notified in writing by the appointing authority that he is being placed on leave without pay and of the reasons therefor. If such investigation reveals no misconduct on behalf of the employee, he shall be made whole for the period of such leave and all records relating to the investigation will be purged from agency and Department of Personnel files. The appointing authority shall notify the employee in writing of the completion of the investigation and the action taken.]

(5) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave for more than half of the workdays in a month, subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) An employee shall utilize his paid leave days consecutively if he:

1. Is unable to work; and

2. Has elected to use paid leave to qualify for state contribution for life insurance and health benefits. [When an employee is unable to work and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.]

(c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(d) Any employee who leaves state government on or prior to the 15th day of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.

Section 9. Absence Without Leave. (1) An employee who is absent from duty without approval shall report the reason for his absence [therefor] to his supervisor immediately.

(2) Unauthorized and [for] unreported absence shall be considered absence:

(a) Without leave; and

(b) Absence may constitute grounds for disciplinary action, [and deduction of pay may be made for each period of such absence. Such absence may constitute grounds for disciplinary action].

(3) An employee who has been absent without leave or notice to the supervisor for a period of ten (10) working days shall be considered to have resigned his employment.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Certification of Health Care Provider (1996)";

(b) "Letter for Designation of FMLA (1996)"; and

(c) "Application for Family Leave (1996)".

(2) This material may be inspected, copied, or obtained at the Personnel Cabinet, 200 Fair Oaks Lane, Suite 516, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

ROBERT S. PETERS, Secretary

PAUL E. PATTON, Governor

APPROVED BY AGENCY: February 5, 1996

FILED WITH LRC: February 5, 1996 at 11 a.m.

KENTUCKY LOTTERY CORPORATION (As Amended)

202 KAR 3:040. Internal audit procedures.

RELATES TO: KRS 154A.050(2)(b), 154A.060(2)(a),(c) [Chapter 154A]

STATUTORY AUTHORITY: KRS 154A.050(1)(d), 154A.060(2)(c)

NECESSITY AND FUNCTION: KRS 154A.020(1) provides that the Kentucky Lottery Corporation shall be accountable to the Governor, the General Assembly and the people of the Commonwealth through a system of audits, reports and thorough financial disclosure. As a part of that system of accountability, the corporation is required, pursuant to KRS 154A.060(2)(c), to promulgate [adopt] by administrative regulation a system of continuous internal audits. This administrative regulation establishes the system of continuous internal audits for the Kentucky Lottery Corporation.

Section 1. Definitions. (1) ["Audit committee" means the audit committee of the board, as shall be constituted from time to time by the board.

(2) "Board" means the Board of Directors of the corporation [as] established by KRS 154A.030.

(2) [(3)] "Internal audit department" means the department head of internal audit, together with other employees of the corporation who are [as may be] designated [from time to time] by the president of the corporation and approved by the audit committee.

Section 2. Audit Committee. (1) The audit committee shall [be organized in the following manner:

(a) The audit committee shall consist of:

(a) No less than two (2), nor more than three (3), members of the board; and

(b) [~~in addition to~~] The chairman of the board who shall serve as an ex-officio member.

(c) [~~(b)~~] Members of the audit committee shall be appointed by the chairman of the board and serve until the earliest of:

1. Their resignation or removal from the board;
2. The expiration of their terms as members of the board; or
3. Their resignation or removal from the audit committee by majority vote of the board [at a duly constituted meeting thereof].

(d) [~~(c)~~] In appointing members to the audit committee, the chairman of the board shall give preference to [~~the appointment of these~~] members of the board who:

1. Are certified public accountants, or certified internal auditors; or
2. [who] Otherwise possess expert knowledge in auditing, accounting, business, or commerce.

(e) [~~(d)~~] The members of the audit committee shall select a chairman from its members.

(2)(a) Except as provided by paragraph (b) of this subsection, the chairman of the audit committee shall determine the date, time, and place of a meeting of the audit committee.

(b) No more than two (2) regular meetings of the board shall have occurred between meetings of the audit committee.

(c) At least one (1) member of the Internal Audit Department shall be present at a meeting of the audit committee.

(d) If requested by the audit committee, a member of the corporation management shall be present at all or a part of the meeting of the audit committee.

Section 3. Duties and Authority of the Audit Committee. (1) The audit committee shall oversee the operations and financial reporting procedures of the corporation and shall report and make recommendations to the board. It shall:

(a) Review the adequacy of the corporation's system of internal control;

(b) Review the organizational structure of the Internal Audit Department of the corporation and the activities and qualifications of its staff;

(c) Review the findings made by the Internal Audit Department;

(d) Assist the president and members of the Internal Audit Department in the hiring, evaluation, and promotion of Internal Audit Department personnel;

(e) Conduct a review of the corporation management's monitoring of compliance with:

1. The corporation's code of conduct;
2. Applicable statutes, and administrative regulations; and
3. Opinions governing the ethical behavior of the corporation and its employees;

(f) Review the policies and procedures in effect for the review of expenses, perquisites, and benefits of corporation officers;

(g) Review legal matters that could have a significant impact on the corporation's financial statements with the corporation's:

1. Legal counsel; and
2. If deemed appropriate, outside counsel;

(h) Review the findings of an examination of the corporation or its operations by a regulatory agency;

(i) Review audits conducted by the Auditor of Public Accounts or an independent auditor selected by the Auditor of Public Accounts;

(j) Make recommendations relating to the hiring, evaluation, and promotion of personnel in the Internal Audit Department; and

(k) Perform other oversight functions at the request of the board.

(2)(a) A member of the audit committee may meet with:

1. Corporation employees;
2. The Auditor of Public Accounts, and designees; and

3. Independent auditors.

(b) An employee of the corporation may request to meet with the chairman of the audit committee.

(c) The audit committee may hold a closed meeting pursuant to KRS 154A.050(7).

(3) The audit committee shall:

(a) Inform the board of its meetings and actions; and

(b) Forward its reviews, reports, and recommendations to the board.

(4)(a) The audit committee may institute a special investigation.

(b) In the conduct of a special investigation, the audit committee may:

1. Hire special outside counsel or experts; or

2. Utilize the services of corporation employees, officers or directors.

(c) The audit committee shall submit a report of its findings and recommendations to the board for its action.

[(2) Meetings of the audit committee shall be as follows:

(a) Meetings shall be held at such times and places as the chairman of the audit committee deems appropriate; however, no more than two (2) regular meetings of the board shall occur between meetings of the audit committee.

(b) One (1) or more members of the internal audit department, and, if requested by the audit committee, one (1) or more members of the corporation's management shall be present at meetings of the audit committee. At the end of each meeting, if open, the audit committee shall reconvene in closed session, if required and if statutorily permitted, at which members of the internal audit department may be present, but from which members of the corporation's management shall be excused.

(c) One (1) or more members of the audit committee shall have the authority to meet with employees of the corporation, independent auditors, the auditor of public accounts or any of their designees. In their sole discretion, the members of the audit committee may include or exclude the corporation's management from, or may request that the corporation's management leave, any meeting.

(d) Any employee of the internal audit department may request a private meeting with the chairman of the audit committee.

(3) The audit committee shall provide general oversight of the operations and financial reporting processes of the corporation. In particular, the audit committee shall perform, on an ongoing basis, the following duties:

(a) Review the adequacy of the corporation's system of internal control;

(b) Review the activities, organizational structure and qualifications of the individual members of the internal audit department;

(c) Review the findings made from time to time by the internal audit department;

(d) Assist the president and, as appropriate, members of the internal audit department in the hiring, evaluation and promotion of the personnel in the internal audit department;

(e) Assist the Auditor of Public Accounts in the selection of independent auditors to perform external audits of the corporation, review the proposed audit scope and approach of the independent auditors, and conduct a post audit review of the financial statements and audit findings of the independent auditors, including, without limitation, any comments or recommendations provided to management by the Auditor of Public Accounts or the independent auditors;

(f) Review the monitoring of compliance by the management of the corporation with the corporation's code of conduct and all applicable statutes, administrative regulations and opinions governing the ethical behavior of the corporation or its employees, including KRS 154A.080 and the Legislative Branch Ethics Code;

(g) Review the policies and procedures in effect for the review of expenses and perquisites of the officers of the corporation;

(h) Review with the corporation's general counsel and, if deemed

appropriate, with the corporation's outside counsel, any legal matters which could have a significant impact on the corporation's financial statements;

(i) Review the findings of any examinations of the corporation or its operations by regulatory agencies;

(j) Institute special investigations, if deemed appropriate by the members of the audit committee, hiring such special outside counsel or experts and utilizing the services of any employees, officers or directors of the corporation as the audit committee may require to conduct the special investigations; and

(k) Perform other oversight functions as may be requested from time to time by the board.

(4) The audit committee shall report to the board.]

Section 4. ~~[3-]~~ Internal Audit Department. (1) In order to assist the president, the audit committee and the management of the corporation, the internal audit department shall furnish objective analyses, appraisals, recommendations and information concerning the operations of the corporation as follows [~~More specifically, the internal audit department shall perform the following duties:~~]

(a) Manage the operations of the corporation to assure compliance with the systems, and policies and procedures established to ensure conformity with the applicable statutes [~~laws~~] and administrative regulations of the Commonwealth and other applicable governmental entities;

(b) Review the operations of the corporation to assure compliance with the systems, and policies and procedures established by the corporation;

(c) Review the reliability and integrity of financial and operating information;

(d) Review and evaluate the means of safeguarding the assets of the corporation and, as appropriate, verify the existence and ownership of the assets by the corporation;

(e) Appraise the economy and efficiency of the corporation in the use of resources;

(f) Advise the management of the corporation and the board on the accounting, financial and operational policies, procedures and systems;

(g) Coordinate, supplement and evaluate examinations of the corporation's activities by outside auditors, accountants and other review teams; and

(h) Perform other oversight functions as [~~may be~~] requested [~~from time to time~~] by the audit committee or by the board.

(2) The internal audit department shall report to the president for administrative purposes but shall report the results of its work directly to the audit committee and to the board.

Section 5. ~~[(3)]~~ The internal audit department shall perform audits in the following manner:

(1) ~~[(a)]~~ Prior to the end of each fiscal year, the department head of internal audit shall submit a proposed detailed internal audit plan for:

(a) The next fiscal year for approval by the president;

(b) Review by ~~and~~ the audit committee; and

(c) Approval by the board.

(2) The audit committee shall forward its recommendations to the board.

(3) The department head shall initiate audits pursuant to the approved plan, as may be revised [~~from time to time~~] with the approval of the president or the board, after its review of the recommendations of the audit committee.

(4) ~~[(b)]~~ Internal audit work shall be performed in accordance with standards established by the Institute of internal auditors [~~as may be revised from time to time;~~] and shall include:

(a) ~~[(1-)]~~ Planning the audit;

(b) ~~[(2-)]~~ Examining and evaluating the information;

(c) ~~[(3-)]~~ Communicating results; and

(d) ~~[(4-)]~~ Follow-up.

Section 6. Procedure on Loss of Assets. (1) ~~[(4)]~~ The internal audit department shall be notified [~~in all cases~~] if assets of the corporation have been, or are thought to have been, lost through defalcation or other security breaches in the financial or operating systems.

(2) Immediately upon receipt of a [~~any~~] notification, the department head of internal audit shall:

(a) Request that the department head of security notify the proper authorities of the potential loss; and

(b) ~~[shall]~~ Proceed with an investigation.

(3) If the investigation reveals a loss, the internal audit department shall:

(a) ~~[will]~~ Identify the weakness in financial or operating procedures which enabled the loss to occur; and

(b) ~~[shall]~~ Recommend to the president, and the audit committee, and the board improvements to the procedures to correct the weakness.

Section 7. Internal Audit Department Authority and Limitations. (1) ~~[(5)]~~ The internal audit department shall have unrestricted access to all activities, records, properties, and personnel applicable to any area of the corporation under review.

(2) The department head of internal audit shall develop a policy to assure the confidentiality of all matters reviewed, unless disclosure is required by law or [~~these~~] internal audit procedures established by this administrative regulation.

(3)(a) ~~[(6)]~~ The internal audit department and its members shall not have [~~no~~] direct authority over, or [~~and no~~] responsibility for, any of the activities reviewed by it.

(b) ~~[In addition,]~~ The internal audit department and its members shall not develop or install procedures, prepare records, or engage in any other activity which could be reasonably construed to compromise its independence.

(c) If [~~an event or a situation occurs in which~~] the internal audit department participates in an activity that [~~which~~] might be construed as compromising its independence, the activity shall be reviewed by an independent external auditor, if deemed necessary by the board, or recommended by the audit committee and approved by the board.

(4) ~~[(7)]~~ The internal audit department shall coordinate its efforts with those of the Auditor of Public Accounts and other external auditors who [~~which~~] may be employed to achieve comprehensive, cost-effective audit coverage.

(5) Each auditor in the internal audit department shall obtain continuing education credits annually in areas relating to accounting issues and auditing techniques, as determined by the head of the internal audit department. Compliance with this requirement shall be monitored by the head of the internal audit department.]

Section 8. Continuing Education. (1) An auditor in the internal audit department shall annually obtain the same continuing education credits required by the Institute Of Internal Auditors for certified internal auditors.

(2) The head of the Internal Audit Department shall monitor compliance with the continuing education requirements established by this section.

ARTHUR L. GLEASON, JR., President and CEO

APPROVED BY AGENCY: December 14, 1995

FILED WITH LRC: December 14, 1995 at 4 p.m.

ADMINISTRATIVE REGISTER - 1828

TOURISM CABINET
Department of Travel Development
Division of Marketing and Advertising Services
(As Amended)

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(3)

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) authorizes [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 establishes uniform and consistent administration of [is to assure uniformity and consistency in administering] the application, participation, and reimbursement requirements of the Regional Marketing and Matching Funds Program.

Section 1. **Definitions.** (1) "Allowable local promotional project" and "allowable regional promotional project" mean a promotional project that is not a state agency, federal agency, or state-wide project that:

(a) Meets eligibility requirements established by this administrative regulation; and

(b) Is or will be completed and documented in a matching funds program cycle.

(2) "Local promotional project" means a project that promotes a specific local tourism event, attraction, or geographic area to markets outside the local area.

(3) "Matching funds program cycle" means the period of time between May 1 of a calendar year and April 30 of the succeeding calendar year.

(4) "Regional promotional project" means a project that promotes tourism opportunities throughout a tourism region to markets outside the tourism region.

Section 2. Subject to the availability of funds, the regional marketing and matching funds program shall provide financial and marketing assistance to promotional projects of tourism regions and local nonprofit organizations.

Section 3. **Tourism Regions.** (1) There is established nine (9) tourism regions, as follows:

(a) Tourism Region 1, Western Lakes and Rivers, shall consist of the following counties:

1. Ballard;
2. Caldwell;
3. Calloway;
4. Carlisle;
5. Christian;
6. Crittenden;
7. Fulton;
8. Graves;
9. Hickman;
10. Livingston;
11. Lyon;
12. Marshall;
13. McCracken;
14. Todd; and
15. Trigg.

(b) Tourism Region 2, Green River, shall consist of the following counties:

1. Daviess;

2. Hancock;
3. Henderson;
4. Hopkins;
5. McLean;
6. Muhlenberg;
7. Ohio;
8. Union; and
9. Webster.

(c) Tourism Region 3, Cave, shall consist of the following counties:

1. Allen;
2. Barren;
3. Butler;
4. Edmonson;
5. Hart;
6. Logan;
7. Metcalfe;
8. Monroe;
9. Simpson; and
10. Warren.

(d) Tourism Region 4, Louisville-Lincoln, shall consist of the following counties:

1. Breckinridge;
2. Bullitt;
3. Grayson;
4. Hardin;
5. Henry;
6. Jefferson;
7. Larue;
8. Marion;
9. Meade;
10. Nelson;
11. Oldham;
12. Shelby;
13. Spencer;
14. Trimble; and
15. Washington.

(e) Tourism Region 5, Southern Kentucky Lakes and Rivers, shall consist of the following counties:

1. Adair;
2. Casey;
3. Clinton;
4. Cumberland;
5. Green;
6. McCreary;
7. Pulaski;
8. Russell;
9. Taylor; and
10. Wayne.

(f) Tourism Region 6, Northern Kentucky, shall consist of the following counties:

1. Boone;
2. Bracken;
3. Campbell;
4. Carroll;
5. Fleming;
6. Gallatin;
7. Grant;
8. Kenton;
9. Lewis;
10. Mason;
11. Owen;
12. Pendleton; and
13. Robertson.

(g) Tourism Region 7, Bluegrass, shall consist of the following counties:

1. Anderson;

2. Bourbon;
3. Boyle;
4. Clark;
5. Fayette;
6. Franklin;
7. Garrard;
8. Harrison;
9. Jessamine;
10. Lincoln;
11. Madison;
12. Mercer;
13. Nicholas;
14. Scott; and
15. Woodford.

(h) Tourism Region 8, Eastern Highlands-North, shall consist of the following counties:

1. Bath;
2. Boyd;
3. Carter;
4. Elliott;
5. Floyd;
6. Greenup;
7. Johnson;
8. Lawrence;
9. Magoffin;
10. Martin;
11. Menifee;
12. Montgomery;
13. Morgan;
14. Pike; and
15. Rowan.

(i) Tourism Region 9, Eastern Highlands-South, shall consist of the following counties:

1. Bell;
2. Breathitt;
3. Clay;
4. Estill;
5. Harlan;
6. Jackson;
7. Knott;
8. Knox;
9. Laurel;
10. Lee;
11. Leslie;
12. Letcher;
13. Owsley;
14. Perry;
15. Powell;
16. Rockcastle;
17. Whitley; and
18. Wolfe.

Section 4. Tourism Region Committees. (1) To qualify for state tourism matching funds, a tourism region shall establish a tourism region committee.

(2)(a) Each tourist and convention commission established pursuant to KRS 91A.350 in a tourism region shall appoint a person to serve on the tourism region committee established for its tourism region.

(b) If a tourism and convention commission has not been established pursuant to KRS 91A.350 by the local governing bodies of a county, or cities within a county, in a tourism region, the county judge/executive of each county shall appoint a person to serve on the tourism region committee established for the county's tourism region.

(3) A member of the tourism region committee:

(a) Shall serve a two (2) year term; and

(b) May be reappointed for successive two (2) year terms.

(4) A tourism region committee shall be:

(a) Incorporated as a nonprofit, nonstock corporation, pursuant to KRS Chapter 273; and

(b) Established as a tax-exempt entity, pursuant to Section 501(c)(6) of the Internal Revenue Code of 1976, as amended.

(5) A tourism region committee shall:

(a) Elect a chairperson, vice chairperson, secretary, and treasurer;

(b) Establish bylaws that shall include:

1. Purpose, mission, and limitations of committee;

2. Composition and duties of the board of directors and officers;

3. Procedures for election, removal of directors and officers, and filling of vacancies;

4. When meetings shall be held;

5. Quorum and voting requirements;

6. Financial and contractual procedures;

7. Preparation of annual budget and financial report; and

8. Procedure for amendment of bylaws.

Section 5. Types of Promotional Projects. (1) The types of local or tourism region promotional projects eligible for funding shall be:

(a) Tourism publications and videos;

(b) Media advertisements and press kits;

(c) Billboards and signage;

(d) Brochure distribution services;

(e) Postage and freight expenses;

(f) Consumer travel show expenses; or

(g) Group tour marketplace expenses.

(2)(a) Promotional projects shall meet the requirements of, or be the type specified by Section 6 of this administrative regulation.

(b) Brochures, videos, tourism region media advertisements and press kits shall not be eligible for reimbursement unless they have been reviewed and approved by the state matching funds program manager prior to submission of a "Reimbursement Request" form for expenditures relating to these items.

Section 6. Requirements For and Types of Promotional Projects; Allowable Costs and Bid Requirements. (1) Tourism publications and videos.

(a) Travel related brochures and videos that highlight the attractions, facilities, and special events of the tourism region or local area and would encourage travelers to stop and visit:

1. Tourism region and local area visitor's guides;

2. General festival brochures;

3. Group tour publications; and

4. Brochures and videos promoting tourist attractions that are open to the public for regular hours.

(b) Except as provided by paragraph (k) of this subsection, brochures, other publications, and videos shall not be eligible for state matching funds if they contain advertising sales.

(c) Brochures, other publications, and videos shall include the following information, as applicable:

1. A description of points of interest, recreational opportunities and listing of services, including food, lodging, and camping facilities;

2. Landmarks that relate to the history or tradition of the area, or of architectural interest, such as buildings listed on the state or national register;

3. Attractions open to the public, such as theaters and museums, including the time and date when they are open to the public, the admission fee if any, location, mailing address and telephone number for additional information if available;

4. Information relating to recreational activities and attrac-

tions, such as fishing, water sports, and hiking, and required fees;

5. A list of tourism region or local area events that are tourism-related;

6. The telephone number of the state travel information office; and

7. Current maps of the tourism region, with major highways and access routes into the area clearly marked, and a chart listing mileage from major cities outside the immediate local area or tourism region;

(d) If possible, the title of a brochure shall be placed at the top of the publication for placement in a brochure rack.

(e) The text of a brochure shall be informative, interesting, free of typographical or other errors.

(f) A brochure shall be professionally typeset.

(g) If feasible, to save costs, brochures shall:

1. Consist of the lightest possible paper weight and cover stock, and the least number of pages possible;

2. Be manufactured from recycled paper; and

3. Be designed as self-mailers.

(h) The front or back cover of a brochure shall include the Kentucky state official tourism advertising theme, which may be obtained from the state matching funds program manager.

(i) A tag line stating "Printed in cooperation with the Kentucky Department of Travel Development" shall be included in a brochure.

(j) In addition to the requirements established by this subsection, a tourism region brochure shall also comply with the requirements established by this paragraph:

1. A brochure cover shall be four (4) color;

2. The telephone number and address of the state travel information office shall be included;

3. A brochure shall include a map of the tourism region that shall be:

a. Prominently placed in the brochure;

b. Of sufficient size to be easily read;

c. In sufficient detail to show major traffic arteries, primary cities and towns, lakes and other natural attractions, and keyed to the major attractions addressed in the brochure; and

4. The emphasis of the brochure shall be on the tourism region as a whole, and shall not favor a particular area of the region.

(k) An advertisement may be sold to a business and included in a tourism region brochure to supplement the cost of a tourism region brochure if the:

1. Ratio of advertising to editorial space does not exceed 2:3;

2. Advertiser provides a tourism-oriented service directly to travelers; or

3. Theme and content of advertisements promote tourism in the region.

(l) Distribution plan and services. A distribution plan for the distribution of brochures to potential tourists shall be developed with the following distribution sources:

1. Tourist commissions;

2. State and local welcome centers;

3. State travel department;

4. Consumer travel shows; and

5. Other similar distribution sources.

(m) A distribution plan shall include a method for responding to inquiries resulting from state, tourism region, and local area tourism advertising campaigns.

(n) If the total printing cost of a publication, excluding layout and design expenses, exceeds \$1,000, three (3) written bids shall be obtained. Bids shall not be required for reprints made with only minor changes.

(o) A publication or video shall be submitted to the state matching funds program manager for his review and approval,

prior to completion.

(p) The state matching funds program manager shall review submissions within five (5) business days after receipt.

(2) Media advertisements and tourism region press kits.

(a) A media tourism advertisement may be placed in a newspaper, magazine or other periodical, on radio, television, video tape travelogue, and electronic media such as the Internet.

(b) A media tourism advertisement shall include:

1. An address or telephone number to be contacted for more information;

2. If possible, use the official state advertising theme; and

3. Contain general information about the tourism region in addition to specific information relating to an event, attraction, or geographic area that is promoted in the advertisement.

(c) Media costs.

1. Costs for tourism media advertisements, including media time, production costs, and media placement, shall be eligible for reimbursement.

2. Except as provided by this subsection, advertising placed with media located within a forty (40) mile radius shall not be eligible for reimbursement.

3. All media advertisement costs placed in a tourist oriented publication shall be eligible for reimbursement.

4. Fifty (50) percent of media costs for advertising placed with media located within a forty (40) mile radius shall be eligible for reimbursement if the:

a. Organization is located within a forty (40) mile radius of a major media market listed in paragraph (d) of this subsection; and

b. Media cost is not a type listed as excluded in paragraph (e) of this subsection.

(d) Major media markets shall be:

1. Cincinnati, Ohio: Cincinnati Post Enquirer, WLW-AM, WEBN-FM, WCPO-TV, WLWT-TV, WKRC-TV, WXIX-TV;

2. Evansville, Indiana: Evansville Courier, WSTO, WBKR (Owensboro), WTVW-TV, WEHT-TV, WFIE-TV;

3. Huntington, West Virginia: Huntington Herald Dispatch, WTCR-FM (Ashland), WSAZ-TV, WOWK-TV, WCHS-TV;

4. Louisville, Kentucky: Louisville Courier Journal, WHAS-AM, WAMZ-FM, WAVE-TV, WHAS-TV, WLKY-TV, WDRB-TV;

5. Lexington, Kentucky: Lexington Herald Leader, WVLC-AM and FM, WLAP-AM and FM, WKYT-TV, WLEX-TV, WTVW-TV, WDKY-TV, WYMT-TV (Hazard); and

6. Paducah, Kentucky: WKYZ-FM, WDDJ-FM, WPSD-TV.

(e) Media advertisement costs shall not be eligible for reimbursement if they are incurred for advertisements that are:

1. Placed in meeting planners and convention trade publications;

2. Sponsored or advertised by tourism organizations in tourism region brochures that have been allocated state tourism matching funds; or

3. Funded through other cooperative advertising programs of the Kentucky Department of Travel Development.

(f) Costs associated with media press kits and media relations programs shall be reimbursable only for tourism region committees.

(3) Brochure distribution services. Rental of rack space for the distribution of eligible promotional materials shall be eligible for reimbursement.

(4) Postage and freight costs. Postage and freight costs shall be eligible for reimbursement if they are incurred in:

(a) Response to general tourist requests, or media or group tour operator inquiries; or

(b) Shipping tourism promotional literature and displays for use at consumer travel shows and group tour marketplaces.

(5) Billboard and signage costs. Rental of a billboard, tourist oriented directional signage (TODS), fifth legends or attraction

logos, including related artwork, design and production costs shall be eligible for reimbursement if it:

(a) Promotes specific attractions, events, availability of food, lodging, camping or other services;

(b) Is placed on interstates or other major access highways; or

(c) Does not consist solely of language welcoming visitor to a community or region.

(6) Consumer travel show and group tour marketplace costs.

(a) Expenses related to attendance at consumer travel shows and group tour marketplaces shall be eligible for reimbursement if they:

1. Promote an attraction, event, or geographic area;

2. Are not county fairs, festivals, or other local events;

3. Are not expended for booth space costs at industrial solicitation events, or convention trade and meeting planners functions;

4. Are expended for consumer travel shows and group tour marketplaces that are located more than forty (40) miles from the event, attraction, or geographical area that is promoted;

5. Are expended for the purchase and maintenance of exhibits such as display assembly, artwork, transparencies, photographs, brochure racks, consumer travel show or group tour marketplace booth space or furniture rental;

6. Registration fees imposed for the interview of prospective group tour operators;

7. Shipping costs of displays and promotional material; or

8. Rental fees for audio-visual equipment and material.

(b) A tourism region group shall be eligible for reimbursement of membership dues for major tourism associations, if:

1. Membership is required to participate in advertising or promotional ventures; and

2. The state matching funds program manager has approved the expense.

(c) A tourism region group shall be eligible for a seventy (70) dollars per diem for a maximum of two (2) persons who serve as staff for tourism region travel booths at a consumer travel show or group tour marketplace if:

1. Booths are manned consistently; and

2. The header, transparencies, photos, and region or local tourism brochures are representative of the tourism region or local areas within the tourism region.

(d) The per diem shall be paid to the tourism region committee, and the tourism region committee shall not be required to match the per diem.

(e) Transportation costs related to a tourism region's attendance at a consumer travel show or group tour marketplace shall not be eligible for reimbursement.

(7) The following items shall not be eligible for reimbursement:

(a) Meeting planner guides;

(b) Industrial incentive brochures;

(c) General community relocation and development brochures;

(d) City or county, or city-county maps or directories that list businesses and services;

(e) Items related to theatrical productions, such as programs, playbills, posters;

(f) Table tents;

(g) Material related to membership and subscription solicitation;

(h) Registration and entry forms;

(i) Event and contest category or regulation material;

(j) Entertainment expenses;

(k) Excluding group tour marketplaces, registration expenses for conferences and meetings;

(l) Research projects such as marketing or feasibility studies;

(m) Except for those approved for tourism region organizations, bumper stickers, posters, banners, flags, postcards, lapel pins, bags, or other types of specialty advertising;

(n) Prizes, trophies, plaques, decorations, paint supplies, and poster board;

(o) Items for resale;

(p) Amounts paid for Kentucky sales tax;

(q) Except for tourism region organizations, stationery, letterhead, envelopes, and other such general office supplies and material;

(r) Salaries or other compensation for the staff or personnel of a tourism region committee;

(s) General operating and administrative costs;

(t) Finance charges or late payment fees;

(u) Sponsorship or seed money used to bring special events or performers to an area;

(v) Other quick-print material such as flyers, handbills, or circulars; and

(w) Expenditures in violation of law.

Section 7. Tourism Region Strategic Master Plan; Coordination of Efforts. (1) A tourism region committee shall:

(a) Adopt a strategic master plan for its tourism region for each matching funds program cycle;

(b) Update the strategic master plan every two (2) years;

(c) Transmit a copy of the master plan:

1. To the state matching funds program manager;

2. No later than October 1 of the matching funds program cycle to which the plan relates; and

(d) During the matching funds program cycle, utilize the master plan in reaching its decisions concerning the feasibility and desirability of marketing strategies.

(2) Organizations planning tourism promotions shall:

(a) Work with the tourism region committee and tourist commission to prevent duplication of projects and to consolidate tourism promotions;

(b) Inform the county representative of the tourism region of local plans.

(3)(a) Organizations shall comply with the Americans with Disabilities Act.

(b) Information on the Americans with Disabilities Act may be obtained from:

1. Office on the Americans with Disabilities Act, Civil Rights Division, U.S. Department of Justice, P.O. Box 66118, Washington, D.C. 20035-6118; and

2. Governor's ADA Initiative, ADA Special Advisor to the Governor, Capitol, Room 126-A, 700 Capital Avenue, Frankfort KY 40601, 502-564-2611.

Section 8. Matching Funds Distribution and State Match. (1) A tourism region shall be eligible to receive matching funds for specified allowable promotional projects.

(2) The department shall determine the amount of matching funds that will be allocated to regional and local projects.

(3) Subject to the availability of funds, the department shall set aside an amount of the program's matching funds sufficient to provide a state match of up to:

(a) Eighty (80) percent of the costs of an allowable regional promotional project; and

(b) Fifty (50) percent of the costs of an allowable local promotional project.

Section 9. Application for Tourism Regional Marketing and Matching Funds. (1) An application may be submitted by a tourism region committee or a local organization that is a nonprofit entity for eligible:

(a) Projects that have been or will be completed during the

matching funds program cycle; and

(b) Expenses totaling at least \$1,000 for a project, or a number of projects.

(2) Applications shall be submitted to the state matching funds program manager on or before October 1.

(3)(a) An application shall be submitted on a "Tourism Regional Marketing & Matching Funds" application and signed.

(b) An application shall include a detailed list of eligible tourism projects that will be completed during the current program cycle, and the following information for each project:

1. Its direct relation to the promotion of tourism;

2. Its ability to attract visitors from outside the immediate area;

3. Its potential to enhance local, tourism region, or state economies;

4. A list of funds, other than state matching funds, that the applicant can obtain;

5. The cost estimates; and

6. The completion date.

(4) An applicant shall submit proof of its nonprofit status with its application as follows:

(a) A tourism region committee shall submit a copy of its:

1. Federal determination of tax exempt status;

2. Articles of incorporation as a nonprofit, nonstock corporation pursuant to KRS Chapter 273; and

3. Bylaws.

(b) A local tourism commission shall submit a copy of the ordinance establishing it.

(c) Other local organizations shall submit a copy of its:

1. Federal or state determination of tax exempt status; or

2. Articles of incorporation as a nonprofit, nonstock corporation pursuant to KRS Chapter 273.

Section 10. Approval of Applications. (1) Between October 1 and October 15, the state matching funds program manager shall:

(a) Review each timely filed application and determine its eligibility; and

(b) Transmit copies of eligible applications to the members of appropriate tourism region committees.

(2)(a) Between October 15 and November 30, the state matching funds program manager or assistant state matching funds program manager shall hold allocation meetings in each of the nine (9) tourism regions with the tourism region committee for the region.

(b) Allocation meetings shall be held to:

1. Discuss the regional marketing and matching funds program;

2. Review and establish priorities for local organization applications;

3. Screen local applications for eligibility;

4. Discuss each project's:

a. Direct relationship to tourism promotion;

b. Ability to attract visitors into the tourism region;

c. Impact on local, tourism region, and state economies; and

d. Compatibility with the marketing goals of the tourism region;

5. Establish priorities for funding projects by determining which projects have the greatest potential to increase tourism and stimulate the tourism region and state economies;

6. Recommend the distribution of local funds; and

7. Review and discuss the tourism region application.

(3) On or before November 30, a tourism region committee shall submit its recommendation for each applicant within its tourism region to the state matching funds program manager.

(4) Between December 1 and December 31, the state matching funds program manager shall:

(a) Review tourism region committee recommendations; and
(b) Determine the allocation of matching funds that will be granted to tourism region applicants and local applicants.

(5) The state matching funds program manager shall base his allocation determination on:

(a) The items specified in subsection (2)(b) of this administrative regulation;

(b) If applicable, an applicant's successful completion of similar projects; and

(c) The availability of funds.

(6) On or before January 31, the state matching funds program manager shall mail to each applicant and the chairperson of each tourism region committee a:

(a) "Project Agreement" form to each approved applicant stating the amount of the state matching funds allocation for the matching funds program cycle; or

(b) Letter stating why an applicant's projects have been denied funding; and

(c) Copy of the "Application For Regional Marketing And Matching Funds" submitted by each applicant, indicating the approved and disapproved projects.

(7) On or before February 15, an applicant shall sign and return the "Project Agreement" form to the state matching funds program manager.

Section 11. Reimbursement. (1)(a) A local project shall be eligible for reimbursement for fifty (50) percent of its total expenditures that do not exceed the amount allocated by the state matching funds program.

(b) A tourism region project shall be eligible for reimbursement for eighty (80) percent of its total expenditures that do not exceed the amount allocated by the state matching funds program.

(2) Requests for reimbursement shall not be made until at least \$1,000 has been expended.

(3) Reimbursement shall be limited to projects that;

(a) Were included on an application;

(b) Were approved by the state matching funds program manager; and

(c) Have been completed.

(4) In-kind contributions shall not be reimbursed, and shall not be included as part of an applicant's match.

(5) Requests for reimbursement shall be made on the "Reimbursement Request - Phase I" form. The "Reimbursement Request - Phase I" form shall:

(a) Be filed with the department on or before May 1;

(b) Be signed; and

(c) State the federal identification number of the organization.

(6) Checks submitted as documentation shall:

(a) Not be dated prior to May 1 of the current program cycle;

(b) Have been issued by the organization that applied for matching funds, unless otherwise approved by the state matching funds program manager.

(7) The following information shall be attached to the "Reimbursement Request - Phase I" form:

(a) Two (2) copies of each vendor's invoice;

(b) Two (2) copies of the front and back of each canceled check;

(c) For local projects, proof of payment of all expenditures;

(d) For tourism region projects, proof of payment of twenty (20) percent of expenditures;

(e) Four (4) completed brochures;

(f) For publications or videos, two (2) copies of invoices, with a breakdown of layout and design costs, the number of copies printed, and other related expenses;

(g) If printing costs exceed \$1,000, a copy of three (3) written bids;

- (h) One (1) duplicate of a completed video;
- (i) One (1) original tear sheet of advertisements as they appeared in the print media including date of issue, and for regional projects a cover of the publication;
- (j) One (1) typed transcript or a tape of a radio, television, or video-tape travelogue advertisement;
- (k) For a tourism region, two (2) copies of tourism region press kit;
- (l) Documentation of the distance of media from the event, attraction, or area promoted;
- (m) One (1) photograph of a completed billboard and signage advertisement;
- (n) Documentation of the location and dates of service for billboard and signage rentals;
- (o) Documentation of the location, distribution routes, and dates for distribution services;
- (p) Documentation of postage expenses, including postage invoices or paid receipts, list of names, addresses, and material mailed;
- (q) Verification of attendance at consumer travel shows or group tour marketplaces, including signed agreements or contracts;
- (r) Verification of regional travel show or group tour marketplace per diem, including a completed and signed "Per Diem Reimbursement Form"; and
- (8) For tourism region projects, proof of payment of the remaining eighty (80) percent of expenditures shall be submitted after receipt of state matching funds; and
- (9) The state matching funds program manager may request additional documentation, if the submitted documentation is incomplete or unclear.

Section 12. Forfeited Funds. (1) Funds allocated to an approved project shall be forfeited if:

- (a) Documentation required by the provisions of this administrative regulation is not submitted before May 1;
- (b) A project approved by a tourism region committee is not eligible for tourism matching funds;
- (c) An approved project does not materialize;
- (d) A completed project did not remain in compliance with program requirements; or
- (e) Funding is denied because the expenses of an approved project are improperly documented.

(2) Forfeited funds shall be redistributed by the state matching funds program manager to other approved projects pursuant to the provisions of Section 13 of this administrative regulation.

Section 13. Reimbursement: Phase II. (1) On or before May 1, applicants may request reimbursement for the costs of a project that was approved for the current matching funds program cycle that are in excess of the allocation designated on the "Project Agreement" form for the project.

(2) Requests for reimbursement for projects or costs specified in subsection (1) of this section shall be submitted on a "Reimbursement Request-Phase II" form.

(3)(a) Documentation for reimbursement shall not be dated prior to May 1 of the current matching funds program cycle for which reimbursement is sought.

(b) Documentation shall be made pursuant to the provisions of Section 11 of this administrative regulation.

Section 14. Audits. The department may request the State Auditor to audit a tourism project governed by this administrative regulation.

Section 15. Incorporation by Reference. (1) The following

forms are incorporated by reference:

- (a) "Application, Tourism Regional Marketing & Matching Funds, (Form Rev '96)";
- (b) "Reimbursement Request - Phase I - Initial Allocation, Tourism Regional Marketing & Matching Funds, (Form Rev '96)";
- (c) "Reimbursement Request - Phase II, Tourism Regional Marketing & Matching Funds, (Form Rev '96)";
- (d) "Project Agreement, Tourism Regional Marketing and Matching Funds, (Form Rev '96)";
- (e) "Reimbursement Checklist, Tourism Regional Marketing and Matching Funds, (Form Rev '96)";
- (f) "Tourism Region Per Diem Reimbursement Form, Tourism Regional Marketing and Matching Funds, (Form Rev '96)";
- (g) "Summary of Program Cycle, Tourism Regional Marketing and Matching Funds, (Rev '96)";
- (h) Tourism Regions map, Tourism Regional Marketing and Matching Funds, (Rev '96)"; and
- (i) Samples of Forms (Rev '96), which includes completed examples of the forms incorporated by reference in paragraphs (a), (b), and (c) of this subsection.

(2) These documents may be inspected, copied, or obtained from the Department of Travel Development, Division of Marketing and Advertising, Capital Plaza Tower, 500 Mero Street, Room 2200, Frankfort Kentucky 40601, (telephone (502) 564-4930, fax (502) 564-5695), Monday through Friday, 8 a.m. to 4:30 p.m.

[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 encompasses 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 More 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 More 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 More 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

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~~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 More 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.

TRANSPORTATION CABINET Office of Minority Affairs (As Amended)

600 KAR 4:010. Certification of disadvantaged, minority and women business enterprises.

RELATES TO: KRS Chapters 96A, 174, 176, 177, 183, 13 CFR 121[~~1-121.3~~], 49 CFR 23, 15 USC 637

STATUTORY AUTHORITY: KRS [~~13A-120~~] 174.080, 49 CFR 23

NECESSITY AND FUNCTION: Title 49 of the Code of Federal Regulations Part 23 requires that most recipients of funds from the United States Department of Transportation (USDOT) implement a program to support the fullest possible participation of firms or business enterprises owned and controlled by minorities, women and socially and economically disadvantaged individuals in USDOT programs. The Kentucky Transportation Cabinet as a recipient of USDOT funds is required by the federal regulation to have a program of certification of disadvantaged, minority and women business enterprises. This administrative regulation establishes the procedures and criteria for the Transportation Cabinet's certification program. It also sets forth the requirement that certified and prequalified DBE firms attend an orientation program and management development course to increase the probability of the firm remaining certified.

Section 1. Definitions. (1) "Applicant" or "firm" means any corporation, partnership, sole proprietorship, or joint venture applying with the Transportation Cabinet for certification as a disadvantaged, minority or women business enterprise.

(2) "Approval" means that the applicant meets disadvantaged, minority or women business enterprise or joint venture eligibility criteria as outlined in 49 CFR Part 23 and as required by this administrative regulation.

(3) "Certification" means the process whereby the Transportation Cabinet determines if an applicant meets disadvantaged, minority or women business enterprise or joint venture criteria.

(4) "Challenge" means an action of a third party which takes issue with the socially and economically disadvantaged status of certified disadvantaged business enterprise program participants or applicants for DBE certification.

(5) "Decertified" means that a firm or business enterprise which has been certified by the Transportation Cabinet which certification has not expired, as a disadvantaged, minority or women business enterprise or joint venture has been determined to be ineligible and is, therefore, no longer entitled to the rights and privileges accorded

to those who are certified by the Transportation Cabinet as a disadvantaged, minority or women business enterprise or joint venture.

(6) "Denial" means that the applicant does not meet disadvantaged, minority or women business enterprise or joint venture eligibility criteria as outlined in 49 CFR Part 23 and as required by this administrative regulation.

(7) "Disadvantaged business enterprise" or "DBE" means a small business concern as defined pursuant to Section 3 of the Small Business Act and implementing regulations:

(a) Which is at least fifty-one (51) percent owned by one (1) or more socially and economically disadvantaged persons; or, in the case of any publicly owned business, at least fifty-one (51) percent of the stock of which is owned by one (1) or more socially and economically disadvantaged individuals; and

(b) Whose management and daily business operations are controlled by one (1) or more of the socially and economically disadvantaged individuals who own it.

(8) "Joint venture" means an association of two (2) or more businesses to perform a specified business contract for profit for which purpose the businesses combined their property, capital, efforts, skills and knowledge.

(9) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

(a) Black (a person having origins in any of the black racial groups of Africa);

(b) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);

(c) Portuguese (a person of Portuguese, Brazilian, or other Portuguese culture or origin, regardless of race);

(d) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands);

(e) American Indian and Alaskan native (a person having origins in any of the original peoples of North America); or

(f) Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 USC 637(a)).

(10) "Minority business enterprise" or "MBE" means a small business concern, as defined pursuant to Section 3 of the Small Business Act and implementing regulations (15 USC 637(a)), which is owned and controlled by one (1) or more minorities or women. This definition applies only to financial assistance programs. For the purposes of this part, owned and controlled means a business:

(a) Which is at least fifty-one (51) percent owned by one (1) or more minorities or women or, in the case of a publicly owned business, at least fifty-one (51) percent of the stock of which is owned by one (1) or more minorities or women; and

(b) Whose management and daily business operations are controlled by one (1) or more such individuals.

(11) "Notice" means written notice from the Transportation Cabinet or Office of Minority Affairs delivered certified mail to the business address listed on the application form.

(12) "On-site inspection" means conducting an interview with principals of the firm at its primary place of business, reviewing business-related documents, and inspecting business facilities or equipment.

(13) "Prequalified" means that the Transportation Cabinet has approved the firm or business enterprise to perform certain functions on behalf of the cabinet in accordance with KRS Chapter 45A, 600 KAR Chapter 6 [~~4-104~~], or 603 KAR 2:015.

(14) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are black Americans, Hispanic Americans, native Americans, Asian-Pacific Americans,

Asian-Indian Americans, or women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act, United States Code Title 15 Section 637. The Transportation Cabinet shall have a rebuttable presumption that individuals listed in paragraphs (a) through (f) of this subsection are socially and economically disadvantaged.

(a) "Black Americans," which includes persons having origins in any of the black racial groups of Africa;

(b) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(c) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or native Hawaiians;

(d) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;

(e) "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh; and

(f) "Women."

(15) "Women business enterprise" or "WBE" means a disadvantaged or minority business enterprise which is owned and controlled by one (1) or more women.

Section 2. Adoption of Governing Federal Material. (1) 49 CFR 23, effective June 1, 1992, is adopted without change. This federal regulation governs the federal Department of Transportation's and the Kentucky Transportation Cabinet's relationship with and responsibility to each other in the DBE/MBE/WBE Program. It further sets forth the basic requirements which the Transportation Cabinet shall impose on firms desiring certification.

(2) "The Disadvantaged Business Enterprise Program Administration Participants Manual", Chapters I - VI, US Department of Transportation's Publication No. FHWA FHWA-CR-90-003 dated April, 1990 is incorporated by reference in Section 16 [as a part] of this administrative regulation. This manual shall be used by the Transportation Cabinet for guidance and direction in administering the DBE program.

~~[(3) The manual incorporated by reference in this section can be viewed or copied at the Transportation Cabinet, Office of Minority Affairs, 501 High Street, Frankfort, Kentucky 40622. The telephone number is (502) 564-3601. The office hours are 8 a.m. through 4:30 p.m., local prevailing time, on weekdays.]~~

Section 3. Application Process. (1)(a) Application for certification or recertification as set forth in Section 6 of this administrative regulation as a DBE, MBE, or WBE shall be made to the Transportation Cabinet's Office of Minority Affairs on form TC 10-3.

(b) Each application form shall be completed in full.

(c) All documentation required by the application shall be attached to the completed application.

(d) The person signing the application shall be one (1) of the persons on whom the DBE, MBE, or WBE status is based and shall identify his position with the firm or business enterprise applying for certification.

(e) The completed application shall be submitted to the Transportation Cabinet, Office of Minority Affairs.

(2) If the application is not complete, the Office of Minority Affairs shall return the application to the applicant firm requesting that the omitted information be included. An incomplete application shall not be considered by the Transportation Cabinet, Office of Minority Affairs.

(3)(a) The Transportation Cabinet shall perform an on-site inspection of each new applicant which is located within the boundary of Kentucky or, if in another jurisdiction, within seventy-five (75) miles (120.7 kilometers) of the boundary of Kentucky.

(b) The Transportation Cabinet may perform an on-site inspection of any firm previously certified which is applying for recertification pursuant to Section 6 of this administrative regulation.

(c) Failure of the applicant firm to participate in the on-site inspection shall be sufficient cause for the Transportation Cabinet to deny the application.

(4) An out-of-state applicant as a prerequisite to consideration of certification by the Transportation Cabinet shall be certified as a DBE, MBE, or WBE by the state transportation agency responsible for certifying firms under 49 CFR Part 23 in the state in which the firm has residence.

(5) The Transportation Cabinet may request additional information in order to determine if an applicant firm should be certified. Failure of the applicant firm to provide the requested information shall be cause for the Transportation Cabinet to deny the application.

(6) During the period prior to the formal submittal of the application, the Transportation Cabinet or its supportive services contractor shall:

(a) When requested by the applicant, provide technical advice needed by the applicant in completing the application form and the supporting documentation;

(b) When requested by the applicant, advise the applicant firm of any apparent existing structural, organizational, or financial impediments to the firm's certification; or

(c) Allow the applicant to make any structural, organizational, or financial changes to its organization necessary to bring the applicant into compliance with the requirements of this administrative regulation.

~~[(7) The form TC 10-3, Application for Certification Schedule A, last revised in January, 1992 is hereby incorporated by reference as a part of this administrative regulation.] [Copies may be obtained, viewed or copied at the Transportation Cabinet, Office of Minority Affairs, 501 High Street, Frankfort, Kentucky 40622. The business hours of the Office of Minority Affairs are 8 a.m. to 4:30 p.m., eastern time, Monday through Friday, except state holidays. The telephone number is (502) 564-3601.]~~

Section 4. Evaluation of Application. (1)(a) The Transportation Cabinet shall use the eligibility standards set forth in 49 CFR Part 23.53 to determine the eligibility of a firm to be certified or recertified as a MBE.

(b) The Transportation Cabinet shall use the eligibility standards set forth in 49 CFR Part 23.53; 49 CFR Part 23.62; 49 CFR Part 23, Subpart D, Appendix A, Appendix B and Appendix C to determine the eligibility of a firm to be certified or recertified as a DBE or WBE.

(c) To be certified a firm shall:

1. Be operated with the intention of making a profit; and

2. Submit evidence of the firm's operational status prior to the date of the application which includes, but is not limited to the following:

a. A copy of a bid or quotation on a publicly or privately funded project;

b. A copy of an invoice, purchase order, or bill of lading;

c. Proof of gross receipts or receivables due; or

d. A copy of the current certificate of existence or authorization issued by the Kentucky Secretary of State pursuant to KRS 271B.1-280.

(2) There is a DBE Certification Committee established in the Transportation Cabinet to review and evaluate the applications submitted pursuant to:

(a) Section 3 of this administrative regulation; and

(b) Section 6 of this administrative regulation, except notices of "No Change".

(3) The DBE Certification Committee shall be composed of the following members:

(a) Executive Director, Office of Minority Affairs, Chair;

(b) State Highway Engineer or his designee;

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(c) Deputy Secretary of the Transportation Cabinet or his designee;

(d) Director, Division of Construction or his designee;

(e) ~~(d)~~ Director, Division of Highway Design or his designee;

(f) ~~(e)~~ Audit Manager, Internal Audit Branch or his designee;

(g) ~~(f)~~ Executive Director, Office of General Counsel or his designee; and

(h) ~~(g)~~ Kentucky Administrator of the Federal Highway Administration or his designee, ex officio, nonvoting member.

(4) The Chairman of the Certification Committee shall schedule meetings as needed.

(5) Four (4) of the voting members of the Certification Committee shall constitute a quorum.

(6)(a) A simple majority of the voting members present at a meeting with a quorum shall be required to approve an application.

(b) A summary record of each meeting shall be maintained by the Office of Minority Affairs and presented for review and approval at the next meeting of the committee which has a quorum present.

(7) At least two (2) weeks prior to the meeting of the committee when an application is to be considered, the Office of Minority Affairs shall provide a complete copy of the application and staff summary and recommendation to each member of the committee.

(8) The DBE Liaison Officer shall be present at the committee meeting to answer questions and provide technical information.

(9) The Transportation Cabinet shall issue a written determination of eligibility for certification within ninety (90) days of receipt of a completed original application provided that a challenge as set forth in Section 9 of this administrative regulation has not been received.

(10) ~~(9)~~ The Transportation Cabinet also may determine, on a case-by-case basis, that individuals who are not a member of one (1) of the groups listed in Section 1(11) of this administrative regulation are socially and economically disadvantaged.

Section 5. Certification of Applicant Firm. (1) If an application for certification as a DBE, MBE, or WBE is approved by the Transportation Cabinet and a challenge to the status of a firm from a third party as set forth in Section 9 of this administrative regulation is not received during the time the Transportation Cabinet is evaluating the application, the written notification required by Section 4(2) of this administrative regulation shall be the notice to the applicant firm of certification as a DBE, MBE, or WBE.

(2) Certification as a DBE, MBE, or WBE is valid for one (1) year from the date of notice of certification.

(3) Records of a certified firm shall be retained for a period of not less than five (5) years from the date of notice of certification.

(4) Certification of a firm or business enterprise shall expire immediately upon any change in ownership or control of the firm or business enterprise. The firm or business enterprise may submit a new application to the Office of Minority Affairs to be considered for certification under the new ownership or control. If, within seven (7) days of the change in ownership or control, the firm notifies the Office of Minority Affairs of the change, the office may extend the expired certification for a brief period of time and with reasonable conditions placed on the firm.

Section 6. Recertification. (1) At least thirty (30) days prior to its certification expiration, a certified DBE, MBE, or WBE, that intends to continue its certification shall submit an application to the Transportation Cabinet, Office of Minority Affairs.

(a) Every other year the application shall be in the same form and require the same information as in Section 3 of this administrative regulation.

(b) In the alternate year, if there have been no changes since the last application was filed and the application form and attachments would be identical to the last one filed, the applicant may submit a [written, sworn] statement of "no change" to the Transportation Cabinet on form TC 10-16 adopted in June 1995. That form is

incorporated by reference in Section 16 ~~(as a part)~~ of this administrative regulation.

(c) Beginning with the application for recertification for the third year of certification, certified firms prequalified to engage in highway construction, design, or right-of-way activities, shall also submit evidence of participation in at least one (1) management development course as set forth in Section 14 of this administrative regulation.

(2) Certification of a DBE, MBE, or WBE which has requested recertification at least thirty (30) days prior to the date of certification expiration shall not expire unless the Transportation Cabinet denies the request for recertification as set forth in this section. Until notified otherwise by the Transportation Cabinet, a certification for which a recertification application has been timely filed shall continue in force as though the recertification had been approved.

(3) If a firm is notified that its request for recertification is denied and the reasons therefore, the firm may request a predetermination meeting within ten (10) days of the date of the notice. If the firm fails to request a predetermination meeting within the ten (10) days, its request for recertification shall be denied effective thirty (30) days from the date of notification.

(4) The predetermination meeting, if requested, shall be held in accordance with the procedures specified in Section 10 of this administrative regulation.

(5) If the Transportation Cabinet's decision after the predetermination meeting is that the request for recertification shall be denied, the denial shall be effective on the latter of the following dates:

(a) Immediately upon the issuance of written notice by the Transportation Cabinet to the firm; or

(b) Thirty (30) days from the date of notification set forth in subsection (3) of this section.

(6) The firm may appeal that decision in accordance with Section 11 of this administrative regulation.

Section 7. Denial of Certification. (1) If an application for certification as a DBE, MBE, or WBE is denied by the Transportation Cabinet, the notification required by Section 4(2) of this administrative regulation shall set forth the reasons for denial.

(2) A denial may be appealed to the Transportation Cabinet within thirty (30) days of the notice. The appeal shall be filed in accordance with Section 11 of this administrative regulation.

(3) An applicant firm shall not reapply for certification for one (1) year from the effective date of denial.

(4) The effective date of denial shall be one (1) of the following dates:

(a) If the denial is not appealed, the date the notice is received or delivery is attempted;

(b) If the denial is appealed and the denial is upheld, the date of the notice of final action on behalf of the Transportation Cabinet; or

(c) If the denial is appealed and the appellant withdraws, cancels, or otherwise suspends the appeal, the date of the withdrawal, cancellation, or suspension of the appeal.

Section 8. Decertification. (1) The Transportation Cabinet may perform periodic reviews or on-site inspections of a certified DBE, MBE, or WBE during its certification period to verify continued eligibility of the firm. If the Transportation Cabinet finds noncompliance with the eligibility criteria or the certified firm fails to provide reasonable information requested by the Transportation Cabinet as a part of the periodic review, the cabinet may initiate a decertification proceeding.

(2) The Transportation Cabinet shall notify the certified firm of the pending decertification. The notice shall specify the reasons for the pending decertification. The firm may request a predetermination meeting within ten (10) days of the date the notice is received or delivery is attempted. If the firm fails to request a predetermination meeting within the ten (10) days, it shall be decertified.

(3) The predetermination meeting, if requested, shall be held in accordance with the procedures specified in Section 10 of this administrative regulation.

(4) If the Transportation Cabinet's decision after the predetermination meeting is that the firm shall be decertified, the firm may appeal that decision in accordance with Section 11 of this administrative regulation.

(5) The effective date of the decertification shall be thirty (30) days after the date the notice of decertification is mailed to the firm providing the firm does not appeal the decertification to the Transportation Cabinet. If a firm appeals the decertification, the effective date of the decertification shall be the date of the final ruling of the Secretary of the Transportation Cabinet as set forth in Section 11 of this administrative regulation. Decertification shall be for a specific period of time but not less than one (1) year.

Section 9. Challenge of DBE Certification. (1) Any third party may challenge the socially and economically disadvantaged status of any individual, except an individual who has a current certification from the Small Business Administration issued pursuant to United States Code Title 15 Section 637, rebuttably presumed to be socially and economically disadvantaged if that individual is an owner of a firm certified by or seeking certification from the Transportation Cabinet, Office of Minority Affairs as a DBE. The challenge shall be made in writing to the Office of Minority Affairs.

(2) With its letter, the challenging third party shall include all information available to it relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged.

(3) The Transportation Cabinet shall determine, on the basis of the information provided by the challenging party, if there is reason to believe that the challenged party is in fact not socially and economically disadvantaged.

(4) If the Transportation Cabinet determines that there is not reason to believe that the challenged party is not socially and economically disadvantaged, the office shall so inform the challenging party in writing. This shall terminate the proceeding.

(5) If the Transportation Cabinet determines that there is reason to believe that the challenged party is not socially and economically disadvantaged, the office shall notify the challenged party that his status as a socially and economically and disadvantaged individual has been challenged. The notice shall identify the challenging party and summarize the grounds for the challenge. The notice shall also require the challenged party to provide to the Office of Minority Affairs, within a specified reasonable time, information sufficient to evaluate his status as a socially and economically disadvantaged individual. Failure to provide the requested information within the time limit shall be cause for the DBE to be decertified or to be denied certification.

(6) If the social and economic disadvantaged status of a new applicant is challenged, the challenge proceedings shall be completed prior to completion of the certification.

(7) The Transportation Cabinet shall evaluate the information available and make a proposed determination of the social and economic disadvantage of the challenged party. The office shall notify both parties of this proposed determination, setting forth the reasons for its proposal.

(8) Either party may request a predetermination meeting within ten (10) days of the date of the notice. If neither party requests a predetermination meeting within the ten (10) days, the proposed determination of the Transportation Cabinet shall become the final determination, i.e., the challenged party shall either be decertified or continue to be certified.

(9) The predetermination meeting, if requested, shall be held in accordance with Section 10 of this administrative regulation. However, both parties shall be allowed to attend the meeting or respond in writing to the proposed determination.

(10) In making the determinations called for in subsections (3)

and (7) of this section and Section 10 of this administrative regulation as it relates to challenge, the Transportation Cabinet shall use the standards set forth in 49 CFR Part 23, Subpart D, Appendix C.

(11) During the pendency of a challenge under this section, the presumption that the challenged party is a socially and economically disadvantaged individual shall remain in effect.

(12) The decision of the Transportation Cabinet in subsection (4) of this section or after an appeal and hearing before the Secretary of the Transportation Cabinet as set forth in Section 11 of this administrative regulation may be appealed to the United States Department of Transportation, by the adversely affected party to the proceeding under the procedures of 49 CFR Part 23.55.

Section 10. Predetermination Meeting. (1) A predetermination meeting with the Transportation Cabinet may be requested by any party as set forth in Sections 6, 8, and 9 of this administrative regulation. The request shall be made in writing, signed and dated.

(2) The Transportation Cabinet, Office of Minority Affairs shall schedule the date for the predetermination meeting to be between five (5) and ten (10) days after receipt of the request for the predetermination meeting. Upon agreement between the Office of Minority Affairs and all affected parties the meeting may be scheduled later than the ten (10) days.

(3) The Transportation Cabinet shall notify all affected parties in writing of the date, time and location of the predetermination meeting.

(4) The predetermination meeting shall be an informal proceeding. The predetermination meeting shall provide the opportunity for the affected parties to present evidence or arguments, either written or oral, on the matter being considered by the Transportation Cabinet. The affected parties may be represented by legal counsel.

(5) The Transportation Cabinet shall render a written decision within seven (7) days of completion of the predetermination meeting. In making this decision, the Transportation Cabinet shall use the standards set forth in Section 4 of this administrative regulation. The affected parties shall be notified of the decision of the Transportation Cabinet.

Section 11. Appeal and Hearing. (1) Any party in Sections 6(2), 8(4) and 9(10) of this regulation adversely affected by a decision of the Transportation Cabinet may appeal that decision within thirty (30) days of the notice of determination. The appeal shall be filed in writing with the Transportation Cabinet.

(2)(a) The Transportation Cabinet shall schedule the date for the hearing on the appeal to be between fifteen (15) and thirty (30) days after the appeal is received unless otherwise agreed to by all parties.

(b) If an appeal hearing is rescheduled beyond the thirty (30) days from the date of the notification to deny certification at the request of the applicant firm and the firm is not currently certified, the firm's annual certification has expired, or the firm's request for recertification has been denied, the Office of Minority Affairs shall not approve as part of an established DBE goal any of the work contracted by the applicant.

(3) The Transportation Cabinet shall conduct the administrative hearing pursuant to the provisions of KRS Chapter 13B. [provide written notice to the appellant of the date, time, and location of the hearing.]

~~(4) At the hearing, the hearing officer appointed by the Transportation Cabinet shall provide an opportunity for the appellant to call witnesses and present evidence and arguments, both written and oral as to why the decision of the Transportation Cabinet should be overturned.~~

~~(5) The Transportation Cabinet shall present evidence at the hearing on the reasons their decision was made. However, the burden of proof is on the appellant.~~

~~(6) The hearing officer appointed by the Transportation Cabinet has the authority to issue subpoenas to compel the appearance of witness or the production of other evidence.~~

~~(7) The Transportation Cabinet shall provide a stenographer to record all oral testimony at the hearing.~~

~~(8)(a) The hearing officer shall prepare a written report setting forth findings of fact, conclusions of law and a recommendation of final action within sixty (60) days of the hearing unless otherwise agreed to by all parties.~~

~~(4) [(b)] The hearing officer's findings of fact shall be based on conditions existing at the time the on-site inspection or owner interview was conducted by the Transportation Cabinet. Changes made in an applicant's firm since the on-site inspection or owner interview shall not be considered by the Transportation Cabinet or a hearing examiner in determining the eligibility of the firm.~~

~~[(c) The report shall be submitted to the Secretary of the Transportation Cabinet or his appointed designee.~~

~~(9) The Secretary shall render the final decision of the Transportation Cabinet within ten (10) days of receipt of the hearing officer's report. A copy of the decision shall be sent by certified mail to the appellant and the Office of Minority Affairs.]~~

~~(5) [(40)] An appeal from the Transportation Cabinet's final decision may be made to the United States Department of Transportation in accordance with the provisions of 49 CFR 23.55 and 49 CFR 23 Subpart D, Appendix A, Decertification Procedures.~~

Section 12. Joint Ventures. (1) Any joint venture which includes a certified DBE, MBE, or WBE may apply to be certified as a joint venture eligible to participate in the DBE, MBE, or WBE program. Application for certification shall be on Transportation Cabinet Form TC 10-5 ~~[which is incorporated by reference as a part of this administrative regulation]~~. The application procedure, eligibility standards, and certification procedure followed shall be as set forth in this administrative regulation.

(2) Application from a joint venture which includes a disadvantaged, minority or women business enterprise which has not been certified shall not be considered by the Transportation Cabinet as a joint venture eligible to participate in the DBE, MBE, or WBE program.

(3) If all firms involved in the joint venture are certified DBEs, MBEs, or WBEs, there shall not be a need for the joint venture to request certification as a joint venture eligible to participate in the DBE, MBE, or WBE program.

(4) The form TC 10-5, DBE/WBE Joint Venture Eligibility Application, Schedule B, last revised in February, 1992 is ~~[hereby]~~ incorporated by reference in Section 16 ~~[as a part]~~ of this administrative regulation. ~~[Copies may be obtained, viewed or copied at the Transportation Cabinet, Office of Minority Affairs, 501 High Street, Frankfort, Kentucky 40622. The business hours of the Office of Minority Affairs are 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, except state holidays. The telephone number is (502) 564-3601.]~~

Section 13. Additional Program Guidelines. 13 CFR 121~~[(1-121-3)]~~ as effective on March 1, 1996 ~~[June 7, 1995]~~ ~~[April 22, 1994]~~, is adopted without change. The federal regulation sets standards for the size of small businesses as established by the Small Business Administration. These size standards, when less than \$16.6 ~~[(15.37)]~~ million, are required by 49 CFR Part 23 Subpart D, Appendix A to be used to determine when a firm has graduated from the certification program, i.e., it is no longer considered to be a small business.

Section 14. Management Development Course. (1) Each owner of a Kentucky-based certified firm which is also prequalified by the Transportation Cabinet under the provisions of KRS 45A.825, 600 KAR Chapter 6 ~~[(4-104)]~~, or 603 KAR 2:015 to engage in highway construction, design or right-of-way activities shall attend at least one (1), one (1) week management development course prior to being recertified for its third year as a DBE.

(2) DBE certified firms not based in Kentucky, but which are within a seventy-five (75) mile (120.7 kilometer) proximity, may be

required by the Office of Minority Affairs to attend at least one (1) management development course. This attendance requirement shall be based on an assessment of the firm's managerial and operational capability in relationship to the regulatory requirements determined during the conduct of the on-site inspection, personnel interviews, and evaluation of the firm's prequalification status.

(3) DBE certified firms which have previously attended a management development course and which have been cited for a violation of this administrative regulation or 600 KAR 4:020 may be required to attend an additional management development course.

(4) The management development course shall be offered free of charge by the Entrepreneurial Development Institute.

(5) All owners of firms required to attend a management development course shall attend the course.

(6) The owners of certified firms which are not required to attend the management development course may apply to attend. The Transportation Cabinet shall accommodate them on a space-available basis.

Section 15. Disadvantaged Business Enterprise Orientation Program. (1) The Transportation Cabinet shall offer a one (1) day orientation program for any certified DBE firm. The orientation program shall acquaint owners of DBE firms with the following:

(a) The organization, structure and expectations of the Transportation Cabinet;

(b) The requirements of the DBE program and with the provisions of the "Standard Specifications for Road and Bridge Construction" and "Standard Drawings"; and

(c) The supportive services and technical assistance available to the DBE.

(2) Each owner of a certified DBE firm which is also prequalified under KRS 45A.825, 600 KAR Chapter 6 ~~[(4-104)]~~, or 603 KAR 2:015 to engage in highway construction, design or right-of-way activities shall attend an orientation program prior to competing for a U.S. Department of Transportation assisted project.

(3) If the certified DBE firm is based out of Kentucky, the orientation program may be completed by telephone and mail.

(4) The owners of certified firms which are not required to attend the orientation program may apply to attend. The Transportation Cabinet shall accommodate them on a space-available basis.

Section 16. Material Incorporated by Reference. (1) The following material is incorporated by reference unless designated as being adopted without change:

(a) 49 CFR 23, effective June 1, 1992, is adopted without change;

(b) "The Disadvantaged Business Enterprise Program Administration Participants Manual", Chapters I-VI, U.S. Department of Transportation's Publication No. FHWA FHWA-CR-90-003 dated April 1990;

(c) Form TC 10-3, "Application for Certification Schedule A", January 1992 edition;

(d) Form TC 10-16, June 1995 edition;

(e) Form TC 10-5, "DBE/WBE Joint Venture Application, Schedule B", February 1992 edition; and

(f) 13 CFR 121, effective March 1, 1996, adopted without change.

(2) Copies of all of the material incorporated by reference may be obtained, viewed or copied at the Transportation Cabinet, Office of Minority Affairs, 501 High Street, Frankfort, Kentucky 40622. The business hours of the Office of Minority Affairs are 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, except state holidays. The telephone number is (502) 564-3601.

MAURICE SWEENEY, Executive Director
J.M. YOWELL, P.E., State Highway Engineer
JAMES C. CODELL, III, Deputy Secretary

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FRED N. MUDGE, Secretary

APPROVED BY AGENCY: February 12, 1996

FILED WITH LRC: February 13, 1996 at noon

TRANSPORTATION CABINET (As Amended)

600 KAR 6:020. Transportation Cabinet employee ~~[ethics and]~~ responsibilities in the implementation of KRS 45A.800 to 45A.835.

RELATES TO: KRS Chapter 11A, KRS 45A.800 through 45A.835

STATUTORY AUTHORITY: KRS Chapter 11A, KRS 45A.800 through 45A.835

NECESSITY AND FUNCTION: This administrative regulation sets forth the ~~[ethics]~~ responsibility ~~of [to be followed by]~~ the Transportation Cabinet employees when establishing the need for, negotiation of, or contracting for professional engineering or related services or implementing the provisions of KRS 45A.800 to 45A.835.

Section 1. Transportation Cabinet Employee ~~[Ethics and]~~ Responsibilities. All cabinet personnel engaged in the procurement of engineering or related services or the implementation of the provisions of KRS 45A.800 to 45A.835 shall comply with the following:

(1) Consider the interests of the Commonwealth of Kentucky and the cabinet first when contracting for professional services;

(2) Request and accept assistance from other cabinet and state personnel as required without allowing it to impair the dignity and responsibility of the employee's position;

(3) Seek to obtain the maximum value for each dollar spent for professional services;

(4) Strive for honesty and truth in contracting;

(5) Denounce all forms of bribery or favors;

(6) Invite all firms to submit their qualifications for consideration by the cabinet;

(7) Assist other cabinet personnel in the contracting for professional services as necessary; and

(8) Comply with both the letter and the spirit of ~~[KRS Chapter 11A,]~~ KRS 45A.340~~[-]~~ and to the Cabinet's Official Order Number 94902 regarding conflict of interest. This official order is incorporated by reference in 600 KAR 6:060.

J.M. YOWELL, P.E., State Highway Engineer

DON C. KELLY, P.E., Secretary

APPROVED BY AGENCY: December 28, 1995

FILED WITH LRC: December 14, 1995 at 11 a.m.

TRANSPORTATION CABINET (As Amended)

600 KAR 6:030. Federal requirements.

RELATES TO: KRS 45A.800 through 45A.835, 23 CFR 172, 49 CFR 18, 23 USC

STATUTORY AUTHORITY: KRS 45A.800 through 45A.835, 23 CFR 172, 49 CFR 18, 23 USC

NECESSITY AND FUNCTION: This administrative regulation sets forth the federal requirements to be followed by the Transportation Cabinet when contracting for professional engineering or related services.

Section 1. Federal Regulatory Requirements. (1) If a highway project is funded in part by federal-aid funds, the cabinet shall be regulated by Title 23 of the United States Code and by the Code of Federal Regulations 23 CFR 172 and 49 CFR 18 in regard to the selection of a consultant.

(2) The cabinet shall submit justification and receive approval from the FHWA before using the noncompetitive negotiated method of contracting when federal-aid highway funds are used in the contract. A contract in which federal-aid highway funds may be awarded by noncompetitive negotiation shall be limited to the following:

(a) The service is available only from a single source;

(b) There is an emergency which will not permit the time necessary to conduct competitive negotiations; or

(c) After solicitation of a number of sources, competition is determined to be inadequate.

(3) The following material is adopted without change:

(a) 23 CFR 172, with an effective date of January 17, 1995; and

(b) 49 CFR 18, with an effective date of May 19, 1995.

(4) The material adopted in this administrative regulation may be viewed, copied, or obtained from the Staff Assistant, Office of the Secretary, Room 1003, State Office Building, Frankfort, Kentucky 40622 between the hours of 8 a.m. and 4:30 p.m. on weekdays.

J.M. YOWELL, P.E., State Highway Engineer

DON C. KELLY, P.E., Secretary

APPROVED BY AGENCY: December 28, 1995

FILED WITH LRC: December 14, 1995 at 11 a.m.

TRANSPORTATION CABINET (As Amended)

600 KAR 6:040. Prequalification of firms for professional engineering or related services.

RELATES TO: KRS 45A.800 through 45A.835, 23 CFR 172, 49 CFR 18, 23 USC

STATUTORY AUTHORITY: KRS 13A.100(1), 45A.800 through 45A.835, 23 CFR 172, 49 CFR 18, 23 USC

NECESSITY AND FUNCTION: This administrative regulation sets forth the procedure and standards for the prequalification of firms for professional engineering or related services while implementing the provisions of KRS 45A.800 to 45A.835.

Section 1. Application for Prequalification for Professional Engineering or Related Services. (1) A firm desiring consideration for prequalification shall complete each qualification questionnaire pertaining to the categories for which prequalification is desired. The prequalification questionnaire forms [These forms include the following which] are incorporated by reference in Section 8 [as a part] of this administrative regulation. [-]

(a) Consulting Engineer and Related Services Prequalification Application, TC 40-1, effective July 1994;

(b) Prequalification Requirements for Geotechnical Drilling Services, TC 64-540, effective May 1992;

(c) Prequalification Requirements for Geotechnical Engineering Services, TC 64-541, effective May 1992; and

(d) Prequalification Requirements for Geotechnical Laboratory Services, TC 64-542, effective May 1992.]

(2) The completed prequalification form shall be submitted to the Division of Professional Services, 6th Floor, State Office Building, 501 High Street, Frankfort, Kentucky 40622.

Section 2. Evaluation of Applications for Prequalification. (1) Each firm's qualifications for a requested prequalification category shall be reviewed by the offices or divisions within the cabinet with expertise in that requested prequalification category.

(2) The criteria for prequalification to be used by the user divisions and offices are listed in the Appendix to the Consulting

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Engineer and Related Services Prequalification Application as adopted July 1994 which is incorporated by reference in Section 8 [as a part] of this administrative regulation.

(3) The head of the user division or office shall notify the Division of Professional Services of its evaluation results.

(4)(a) The Division of Professional Services shall notify each firm of all evaluation results involving that firm.

(b) If a firm is disapproved for any requested prequalification category or service, the firm shall also be notified of the appeals procedure set forth in Section 6 of this administrative regulation.

Section 3. Annual Requalification. (1) A prequalified firm shall annually submit qualification and performance data on or prior to its anniversary dates of prequalification.

(2) The annual application shall include eleven (11) completed sets of the appropriate qualification forms and eleven (11) copies of the firm's current marketing brochure, if one exists, unless different instructions are communicated to the firm either verbally or in writing.

(3) Failure to submit the completed forms in a timely manner shall cause the removal of the firm's prequalification status.

(4) The annual renewal application shall be evaluated in accordance with the provisions of Section 2 of this administrative regulation.

Section 4. Changes in Firm. (1) A prequalified firm shall notify the Division of Professional Services of any major changes either increasing or decreasing the firm's professional or financial qualifications, capabilities, personnel, address, name change, or other of the major qualification criteria.

(2) The user division or office shall review the updated information received from the firm and shall reclassify the firm as appropriate with respect to types of work and capacity of the firm.

(3)(a) If a prequalified firm fails to notify the Division of Professional Services of a change of the address, it may be removed from the list of prequalified firms until it notifies the division of its new address.

(b) If the change of address notification is submitted to the Division of Professional Services during what would have been the firm's prequalification year and no other changes have occurred in the firm, the firm shall be restored to the list of prequalified firms.

(c) Removal from the list of prequalified firms pursuant to this subsection, shall not be a basis for appeal under the provisions of Section 6 of this administrative regulation.

Section 5. Removal from List of Prequalified Firms. (1) A firm may be removed from the list of prequalified firms by the Consultant Prequalification Committee for any of the following reasons:

(a) Failure to submit an annual application on the firm's anniversary date;

(b) Falsification of the firm's prequalification application as to its qualifications;

(c) Falsification of the firm's response to announcement of any project;

(d) Violation of the Executive Branch Ethics Law contained in KRS Chapter 11A;

(e) Falsification of the information provided to the Transportation Cabinet for audit purposes;

(f) Failure to have a current license from the Kentucky Professional Board of Registration;

(g) Failure to notify the Transportation Cabinet of the loss of personnel which has an impact on the firm's prequalification or project management within thirty (30) days; or

(h) Violation of the firm's certification that the firm's owner, principals or partners, or any family member having an interest of ten (10) percent or more in any business entity involved in the performance of the contract have not contributed more than the amount specified in KRS 121.056(2) to the gubernatorial campaign of the

current governor.

(2) The Chairman of the Prequalification Committee shall notify the firm in writing of its proposed removal from the list of prequalified firm and the reason for the proposed removal.

Section 6. Appeal Procedure for Firms Not Prequalified or Removed from Prequalified List. (1) The cabinet shall establish a permanent Consultant Prequalification Committee to evaluate the statements of qualifications of firms which appeal a disapproval rating or removal from the list of prequalified firms.

(2) The members of the Consultant Prequalification Committee shall be the following:

(a) Director, Division of Professional Services, Chairperson;

(b) Director, Division of Aeronautics;

(c) Director, Division of Traffic;

(d) Director, Division of Highway Design;

(e) Director, Division of Bridge Design;

(f) Director, Division of Materials;

(g) Director, Division of Transportation Planning;

(h) Director, Division of Environmental Analysis;

(i) Director, Division of Operations;

(j) Director, Division of Construction; and

(k) Director, Division of Multimodal Programs.

(3) A firm may appeal any disapproval relating to its request for approval of a prequalification category pursuant to Section 2 of this administrative regulation.

(4) A firm may appeal its removal from the list of prequalified firms pursuant to Section 5 of this administrative regulation.

(5) An appeal pursuant to this section of this administrative regulation shall be made in writing to the Chairman of the Consultant Prequalification Committee within thirty (30) days of notification of the action of the Transportation Cabinet.

(6) The basis of the appeal and the relief sought shall be stated in the written communication to the chairman.

(7)(a) Within sixty (60) days from receipt of an appeal, the committee members or their designees shall review the appeal and shall make a decision regarding the appeal.

(b) If the firm agrees, the committee may delay its decision for an additional sixty (60) days while the committee meets with the firm to discuss the appeal.

(8) The committee shall notify the State Highway Engineer and the firm of its decision.

(9) If the firm's appeal is denied by the committee, the firm may appeal the decision within thirty (30) days of written notice:

(a) Relating to nonqualification to the State Highway Engineer; or

(b) Relating to removal from the list of prequalified firms to the Secretary of the Transportation Cabinet.

(10) The State Highway Engineer or Transportation Cabinet Secretary, as appropriate, shall notify the firm of his decision within thirty (30) days. The decision of the State Highway Engineer or Transportation Cabinet Secretary shall be final.

Section 7. Conditional Prequalification. (1) The user division or office or Consultant Prequalification Committee may grant conditional prequalification to a firm if the firm:

(a) Has no direct highway or transportation experience but has identified personnel who have technical training or education and other types of experience which may allow the firm to perform the required services; or

(b) Performed poorly on past projects for the cabinet or has been removed from the list of prequalified firms for performance-related reasons and has restructured itself to address the problems.

(2) After the firm has performed services for the cabinet in the category of work for which it was conditionally prequalified, it may request a prequalification determination from the committee in accordance with Section 1 of this administrative regulation.

(3) Denial of conditional prequalification of a firm to perform

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services for the cabinet shall not be appealed.

Section 8. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) Consulting Engineer and Related Services Prequalification Application, TC 40-1, July 1994 edition;

(b) Prequalification Requirements for Geotechnical Drilling Services, TC 64-540, May 1992 edition;

(c) Prequalification Requirements for Geotechnical Engineering Services, TC 64-541, May 1992 edition; and

(d) Prequalification Requirements for Geotechnical Laboratory Services, TC 64-542, May 1992 edition; and

(e) Appendix to the Consulting Engineer and Related Services Prequalification Application, July 1994 edition.

(2) All material incorporated by reference as a part of this administrative regulation may be obtained, viewed, or copied at the Division of Professional Services, 6th Floor State Office Building, 501 High Street, Frankfort, Kentucky 40622. The telephone number is (502) 564-4555. The office hours are 8 a.m. to 4:30 p.m. eastern time on weekdays.

J.M. YOWELL, P.E., State Highway Engineer
FRED N. MUDGE, Secretary

APPROVED BY AGENCY: February 12, 1996

FILED WITH LRC: February 13, 1996 at noon

TRANSPORTATION CABINET (As Amended)

600 KAR 6:050. Procurement bulletins and advertisement for selection of professional firms for engineering or related services.

RELATES TO: KRS 45A.800 through 45A.835, 23 CFR 172, 49 CFR 18, 23 USC

STATUTORY AUTHORITY: KRS 13A.100(1), 45A.800 through 45A.835, 23 CFR 172, 49 CFR 18, 23 USC

NECESSITY AND FUNCTION: This administrative regulation sets forth the procedure to be used by the Transportation Cabinet when issuing public notice of the need for professional engineering or related services while implementing the provisions of KRS 45A.800 to 45A.835.

Section 1. Preparation of a Procurement Bulletin. (1) When the Transportation Cabinet has need of engineering or related services, it shall prepare a procurement bulletin announcing its intentions.

(2) A procurement bulletin prepared by the cabinet shall include a request for proposal for each project anticipated being contracted during a specified period of time which includes the following:

(a) The general scope of the project as provided by the user division;

(b) A discussion of procedures to follow for submission of a proposal on the project;

(c) An anticipated project schedule as provided by the user division;

(d) Any requirements for DBE utilization;

(e) Deadline for filing responses;

(f) The evaluation factors and their relative weights on which the responses will be evaluated by the Selection Committee;

(g) A timetable for the selection committee's meetings for the project;

(h) A list of all firms prequalified pursuant to 600 KAR 6:040 in each applicable category as of the date of the bulletin;

(i) A list of the firms prequalified pursuant to 600 KAR 6:040 and certified as a DBE as of the date of the bulletin;

(j) In certain circumstances deemed appropriate by the State

Highway Engineer, the maximum fee for consultant services for the project;

(k) When appropriate, the item numbers from the "six (6) year plan"; and

(l) The items required by KRS 45A.825(2)(b).

(3) A copy of the procurement bulletin shall be mailed to each firm prequalified in any category to perform engineering or related services for the cabinet.

(4) If deemed appropriate by the State Highway Engineer, the procurement bulletin may indicate the maximum fee for a particular proposed project or require the initial solicitation of a complete work price and qualification proposal.

(5) A procurement bulletin for statewide engineering or related services may specify that more than one (1) firm be selected to provide the services requested in the bulletin.

(6)(a) The user division or office shall recommend the evaluation factors and relative weights to the Transportation Cabinet Secretary. Unless unique or particularly complex circumstances exist, the evaluation factors shall be selected from the list set forth below. The Transportation Cabinet Secretary shall approve the evaluation factors and relative weighting placed on each of the factors that appear in a procurement bulletin for selection of professional firms for engineering or related services.

1. Relative experience of professional personnel assigned to the project team:

a. With highway projects or projects on another mode of transportation or intermodal transportation projects for the Kentucky Transportation Cabinet; and

b. With highway projects or projects on another mode of transportation or intermodal transportation projects for federal, local or other state governmental agencies;

2. Capacity to comply with the project schedule;

3. Past record of performance on a project of similar type and complexity;

4. Project approach and proposed procedures to accomplish the services for the project;

5. Location where the work will be performed;

6. Special or unique expertise;

7. Special or unique equipment; and

8. Familiarity with geographic areas and resources.

(b) The weighting of each factor shall be published in the announcement for the specific project.

(7) Each time a procurement bulletin is published, the cabinet shall place an advertisement of the cabinet's need for engineering or related services and availability of the procurement bulletin in at least two (2) newspapers of general, multicounty circulation and one (1) newspaper which has minorities as its targeted readership.

Section 2. Response to Procurement Bulletin. (1) A prequalified firm responding to a procurement bulletin for engineering or related services shall submit to the Division of Professional Services the following:

(a) The specified number of copies of a completed Response to Announcement for Engineering or Related Services as Prime Consultant, form TC 40-15 revised July 1994. Form TC 40-15 is incorporated by reference in Section 3 ~~as a part~~ of this administrative regulation; and

(b) The letter required by KRS 45A.825(3). -

(2) A prequalified firm responding to a procurement bulletin for construction-related engineering services shall submit to the Division of Professional Services, in addition to the items in subsection(4)(a) of this section, the Supplemental Information in Response to Announcement for Construction Services, form TC 40-7 revised June 1992. Form TC 40-7 is incorporated by reference in Section 3 ~~as a part~~ of this administrative regulation.

(3) A prequalified firm which proposes to employ a subconsultant when responding to a procurement bulletin shall submit to the

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Division of Professional Services, in addition to the other items required by this section, the Subconsultant Qualifications for Response to Advertisement for Engineering and Related Services, form TC 40-15-SUB revised July 1994. Form TC 40-15-SUB is incorporated by reference in Section 3 ~~(as a part)~~ of this administrative regulation.

(4) A firm or proposed subconsultant shall be prequalified in the specified areas of prequalification prior to the response due date published in the announcement of the need for engineering or related services for a particular project or shall not be considered for selection.

(5)(a) The Director, Division of Professional Services, shall certify the list of firms that responded to the procurement bulletin in a timely manner to the appropriate Professional Engineering Services Selection Committee.

(b) Responses received after the deadline shall be returned to the firm and shall not be listed for consideration to perform the project.

(c) Responses received with fewer copies of the response than required shall be returned to the firm and shall not be listed for consideration to perform the project.

(d) The list of responses to the procurement bulletin shall be confidential until the contract is negotiated and the Division of Professional Services receives a copy of the transmittal sheet indicating that the LRC Personal Service Contract Review Subcommittee has received the contract and project information for review ~~[executed and the selected consultant receives a notice of approval for payment from the Division of Professional Services]~~ as set forth in 600 KAR 6:070.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Response to Announcement for Engineering or Related Services as Prime Consultant," Form TC 40-15, July 1994 edition;

(b) "Supplemental Information in Response to Announcement for Construction Services," Form TC 40-7, June 1992 edition; and

(c) "Subconsultant Qualifications for Response to Advertisement for Engineering and Related Services," Form TC 40-15-SUB, July 1994 edition.

(2) The incorporated material may be inspection, copied or obtained at the Division of Professional Services, 6th Floor State Office Building, 501 High Street, Frankfort, Kentucky 40622 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

J.M. YOWELL, P.E., State Highway Engineer
FRED N. MUDGE, Secretary

APPROVED BY AGENCY: February 12, 1996

FILED WITH LRC: February 13, 1996 at noon

TRANSPORTATION CABINET (As Amended)

600 KAR 6:060. Professional engineering service selection committee.

RELATES TO: KRS 45A.800 through 45A.835, 23 CFR 172, 49 CFR 18, 23 USC

STATUTORY AUTHORITY: KRS 13A.100(1), 45A.800 through 45A.835, 23 CFR 172, 49 CFR 18, 23 USC

NECESSITY AND FUNCTION: This administrative regulation sets forth the procedure to be used by the Transportation Cabinet when selecting professional engineering or related services while implementing the provisions of KRS 45A.800 to 45A.835.

Section 1. Establishing a Professional Engineering Services Selection Committee. (1) A Professional Engineering Services

Selection Committee shall be selected as set forth in KRS 45A.810(5) and (6).

(2)(a) The Transportation Cabinet Secretary shall annually request voluntary applications from the professional engineering staff in the cabinet for availability to serve in the pool of six (6) professional engineers required by KRS 45A.810(5)(a).

(b) The Transportation Cabinet Secretary, or his designee, shall review all applications and submit a list of ten (10) applications from which the secretary shall select six (6) to serve in the pool for a period of one (1) year.

(c) Only persons who are employees of the cabinet and registered professional engineers of the Commonwealth shall be appointed to the pool.

(d) A person serving on the Professional Engineering Services Selection Committee from this pool shall not be eligible to also serve on the same selection committee as a representative of a user division as specified KRS 45A.810(5)(b).

(3)(a) The director of the user division responsible for monitoring the professional services shall appoint two (2) professional engineers from either the user division or the same functional area from the highway district offices where the project is located.

(b) If the user division does not have two (2) professional engineering merit employees or if the services in the announcement are for nonengineering but related services, the director shall appoint two (2) employees who have familiarity and experience related to the services that are being contracted.

(c) The director may appoint himself to the committee.

(d) If there are two (2) user divisions with approximately equal or separate responsibilities for the project, upon approval of the Director of the Division of Professional Services, each co-user division shall appoint one (1) member to the selection committee.

(e) If the cabinet is procuring professional engineering or related services in conjunction with another agency or governmental entity or state, that unit outside the cabinet may be designated as a co-user division and be eligible to appoint one (1) member of the selection committee.

(4) An employee of the cabinet shall not be required to involuntarily serve as a member of a Professional Engineering Services Selection Committee.

(5) Each member of a Professional Engineering Services Selection Committee shall execute the ~~[following]~~ forms ~~[which are]~~ incorporated by reference in Section 3(1)(a) to (d) ~~(as a part)~~ of this administrative regulation:

(a) Certificate of Understanding of Restrictions for Members of Professional Engineering Services Selection Committee, form TC 40-9 effective May 1994;

(b) "Ex Parte Disclosure Form," Form TC 40-6 as effective May 1994;

(c) "Certificate of Confidentiality Form," Form TC 40-4 as effective May 1994; and

(d) "Certificate of Conformity with Procurement Process," Form TC 40-10 as effective May 1994.

(6)(a) If the individual, randomly selected to serve on a selection committee in accordance with KRS 45A.810(5)(c), is an employee of a consulting firm, that consulting firm shall not be considered for any projects which are reviewed by that selection committee.

(b) If a firm submitted a response under this circumstance, the firm's response for that project shall be returned by the selection committee with a letter of explanation.

(7) After issuing written approval to advertise for a consultant to perform professional engineering or related services, the secretary of the cabinet, or his designee, shall establish a Professional Engineering Services Selection Committee for each project.

(8) The Division of Professional Services shall provide each Professional Engineering Services Selection Committee with the necessary administrative and technical support and office supplies.

(9)(a) Each member of a Professional Engineering Services

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Selection Committee shall comply with the Executive Branch Code of Ethics established in KRS Chapter 11A.

(b) Each member of a selection committee shall scrupulously comply with both the letter and the spirit of the cabinet's Official Order Number 94902 regarding Conflict of Interest which was issued on May 21, 1993. This Official Order is incorporated by reference in Section 3 [as a part] of this administrative regulation.

(c) Each Transportation Cabinet member of a Selection Committee shall file an annual statement of financial disclosure pursuant to KRS 11A.050.

Section 2. Operation of a Professional Engineering Services Selection Committee. (1)(a) The initial meeting of a Professional Engineering Services Selection Committee shall be called by the Division of Professional Services.

(b) A quorum for the initial meeting shall be three (3) of the five (5) voting members.

(2)(a) Meetings of a Professional Engineering Services Selection Committee may be called by the chairperson at a mutually convenient time during normal working hours with at least one (1) week's notice.

(b) Special meetings may also be called upon a consensus of four (4) of the five (5) voting members of the selection committee.

(c) A motion or decision of the selection committee shall require a simple affirmative vote of all members present for passage.

(d) A quorum for all but the initial meeting shall be constituted by four (4) of the five (5) voting members present.

(e) Voting by proxy shall not be allowed.

(3)(a) The Professional Engineering Services Selection Committee shall give fair and impartial consideration to all responses certified in accordance with KRS 45A.825(6).

(b) The selection committee shall utilize the evaluation factors and weights indicated in the announcement for each project to screen all certified firm responses.

(c) Prior to the second meeting of the selection committee to determine and rank the three (3) most qualified firms, each voting selection committee member shall review all certified responses and preliminarily evaluate and numerically rate each firm using the weighted evaluation factors that appeared in the procurement bulletin. These evaluations and ratings are preliminary and therefore confidential working documents.

(4) In an executive session at its second meeting, the selection committee shall determine the three (3) best qualified firms and develop a ranking of the three (3) by considering the weighted evaluation factors that appeared in the procurement bulletin.

(5)(a) Each committee member shall list all firms in his top three (3) rankings.

(b) All firms included on any of these lists shall be placed on the short list of firms.

(6)(a) All firms included on the short list shall be individually discussed by the committee with regard to their qualifications, the quality of their proposals, and the evaluation factors.

(b) Each committee member shall be given the opportunity to provide insight into why each firm should or should not be selected for the project.

(c) Any firm may be eliminated from further consideration by consensus of the selection committee members.

(7)(a) Each firm remaining under consideration after the discussion period set forth in subsection (6) of this section shall be individually ranked by the committee members using secret ballots.

(b) A new listing of short-listed firms based on the composite rankings of the secret ballots shall be discussed by the selection committee.

(c) Any firm may be eliminated from further consideration by consensus of the selection committee members.

(8) If at the end of the process set forth in subsection (7) of this section, more than three (3) firms remain under consideration, the process set forth in subsection (7) of this section shall be repeated

until only three (3) firms remain for consideration by the selection committee.

(9) Each of the three (3) firms identified in subsection (8) of this section shall be individually ranked by the committee members using secret ballots.

(10)(a) Unless there is a tie between two (2) of the firms, the results of subsection (9) of this section shall determine the ranked order of the three (3) best qualified firms.

(b) If there is a tie ranking and if one of the firms has indicated that more of its work tasks will be performed in Kentucky, that firm shall be ranked higher than the other with which it had tied.

(c) If there is a tie ranking and if the work tasks to be performed in Kentucky are equal, the selection committee shall again perform the functions set forth in subsection (7) of this section until the tie is broken.

(11) If the selection committee elects, it may interview any of the responding firms to aid in its determination of the best qualified firm.

(12) For selection committee reviews involving statewide services advertised in accordance with Section 1(4) of 600 KAR 6:050, the committee shall rank the number of top-ranked firms as specified in the procurement bulletin and may select a second and third ranked firm, but a minimum of three (3) firms shall be ranked.

(13) The evaluations and ratings of the individual selection committee members shall be considered preliminary and confidential working documents and shall not be available to the public.

(14)(a) The Chairman of the Professional Engineering Services Selection Committee shall notify the Director of the Division of Professional Services of the firms determined by the committee to be the three (3) best qualified and the order of their ranking.

(b) The Division of Professional Services shall send the letters required in KRS 45A.825(7)(c).

(c) The Division of Professional Services shall immediately notify by letter the top-ranked firm of its selection for the advertised project.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Certificate of Understanding of Restrictions for Members of Professional Engineering Services Selection Committee," Form TC 40-9, May 1994 edition;

(b) "Ex Parte Disclosure Form," Form TC 40-6, May 1994 edition;

(c) "Certificate of Confidentiality Form," Form TC 40-4, May 1994 edition;

(d) "Certificate of Conformity with Procurement Process," Form TC 40-10, May 1994 edition; and

(e) The Transportation Cabinet's Official Order Number 94902 regarding Conflict of Interest, May 21, 1993 edition.

(2) The material incorporated by reference may be inspection, copied, or obtained at the Division of Professional Services, 6th Floor State Office Building, 501 High Street, Frankfort, Kentucky 40622 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

J.M. YOWELL, P.E., State Highway Engineer

DON C. KELLY, P.E., Secretary

APPROVED BY AGENCY: December 28, 1995

FILED WITH LRC: December 14, 1995 at 11 a.m. -

TRANSPORTATION CABINET (As Amended)

600 KAR 6:070. Contracting for professional engineering or related services.

RELATES TO: KRS 45A.800 through 45A.835, 23 CFR 172, 48 CFR, 49 CFR 18, 23 USC

STATUTORY AUTHORITY: KRS 13A.100(1), 45A.800 through 45A.835, 23 CFR 172, 48 CFR, 49 CFR 18, 23 USC

NECESSITY AND FUNCTION: This administrative regulation sets forth the procedure to be used by the Transportation Cabinet when selecting professional engineering or related services while implementing the provisions of KRS 45A.800 to 45A.835.

Section 1. Methods of Contracting with Consultants. (1) The following methods of contracting with consultants shall be acceptable:

- (a) Lump sum;
- (b) Cost plus a fixed fee;
- (c) Specific rates of compensation; or
- (d) Cost per unit of work.

(2)(a) When the cabinet chooses the lump sum method of contracting, the consultant shall present a statement to the Division of Professional Services showing the probable cost for the elements of work and the expected operating margin.

(b) This statement shall include a supported breakdown of the direct and indirect costs and subconsultant costs which the consultant expects to incur.

(c) The method of dividing the project into work units and the calculation of related time units shall be devised so that the estimate can be easily reviewed.

(d) The Division of Professional Services and the user division shall verify the following supporting documentation before recommending the contract for approval:

1. Reasonableness of the amount proposed and consideration of the degrees of risk and responsibility to be assumed by the consultant;
2. The extent, scope, complexity, character and duration of the required services;
3. Professional and financial investments to be required of the consultant;
4. The consultant's normally-expected return for such services;
5. Conditions under which the consultant is expected to perform;
6. The cabinet's estimate of the appropriate amount for the services required; and
7. The cabinet's findings on the basis of experience and knowledge.

(3)(a) When the cabinet chooses the cost plus a fixed fee method of contracting, an upper limit of payment of actual cost shall be established which cannot be exceeded without obtaining cabinet approval.

(b) During negotiations, the Division of Professional Services or other negotiation unit shall be responsible for establishing the upper limit along with the fixed fee to be paid to the consultant for the services required.

(c) The Division of Professional Services or other negotiation unit shall establish the fixed fee and an upper limit based on past experience gained from negotiations of similar projects, judgment regarding scheduling and complexity of work and the user division's estimates.

(4)(a) When the cabinet chooses the specific rate of compensation method of contracting, the Division of Professional Services or other negotiation unit shall document the basis on which the amount specified as the upper limit or upset limit was established.

(b) The agreement shall contain provisions which permit adjustment to this upper limit when the consultant establishes, and the user division agrees, that there has been or is to be a significant change in the:

1. Scope, complexity or character of the services to be performed;
2. Conditions under which the work is required to be performed;

or

3. Duration of the work if the change from the time period specified in the agreement for completion of the work warrants such adjustment.

(c) In the case of statewide agreements under which there is to

be subsequent individual authorizations, the establishment of a maximum amount for the overall contract shall be submitted to the LRC's Personal Service Contract Review Subcommittee. A maximum amount shall be established for each of the individual authorizations which shall not exceed the maximum amount for the overall contract.

(5)(a) When the cabinet is using the cost per unit of work method of compensation, the consultant shall be paid on the basis of units completed.

(b) This method of contracting is appropriate when the extent of the work cannot be definitely defined but when cost of the work per unit may be determined in advance with reasonable accuracy.

(c) A proposal using this method of contracting shall be supported in the same manner as that indicated for the lump sum method used for consultants.

(6)(a) For an individual acting as a consultant, the specific rates of compensation shall include the direct salary costs, salary additives, indirect costs and the net fee. The agreement of supporting data shall specifically identify these costs.

(b) Other direct costs may be included as an element of a specific rate or as independent cost items.

Section 2. Prenegotiation Procedures. (1) A consultant selected pursuant to 600 KAR 6:060 shall meet with cabinet representatives in accordance with the schedule identified in the procurement bulletin issued pursuant to 600 KAR 6:050 to discuss in detail the scope of services to be provided by the consultant for the project.

(2) After this meeting, the consultant shall submit the following to the cabinet:

(a) For roadway design, work units which quantify [qualify] the tasks to be performed to achieve the roadway design services that appeared in the advertisement or procurement bulletin and an identification of the assignment of the work units to the prime consultant or a subconsultant.

1. The cabinet has the following options regarding the submittal:
 - a. Concur;
 - b. Modify and return the modification to the consultant; or
 - c. Reject and ask the consultant to evaluate and resubmit the work units.

2. After an agreement on the work units between the cabinet and the consultant, each shall independently develop production [labor] rates to be applied to the work units to determine person[man]-hours for each task.

(b) For structure work, work units include a description of the structure to be designed including but not limited to type, length, span arrangement, curves, skew, pilings based on preliminary geotechnical information, an identification of the assignment of the work units to the prime consultant or a subconsultant, and any other pertinent considerations.

1. The cabinet has the following options regarding the submittal:
 - a. Concur;
 - b. Modify and return the modification to the consultant; or
 - c. Reject and ask the consultant to evaluate and resubmit the work units.

2. After an agreement on the work units between the cabinet and the consultant, each shall independently develop production [labor] rates to be applied to the work units to determine person[man]-hours for each task.

(c) For environmental services, a scope of work for each task and corresponding person[man]-hours to achieve each task and an identification of the assignment of the work units to the prime consultant or a subconsultant.

(d) For geotechnical assessments, a copy of the work units and corresponding cost derivatives to achieve each task which qualifies and quantifies the tasks to be performed to achieve the geotechnical services that appear in the announcement and an identification of the assignment of the work units to the prime consultant or a subconsultant.

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1. The cabinet has the following options regarding the submittal:

- Concur;
- Modify and return the modification to the consultant; or
- Reject and ask the consultant to evaluate and resubmit the work units.

2. After an agreement on the work units between the cabinet and the consultant, each shall independently develop production [~~labor~~] rates to be applied to the work units to determine person[~~man~~]-hours for each task.

(e) For bridge maintenance inspection, a copy of work units and proposed equipment usage to achieve the inspection services that appeared in the announcement and an identification of the assignment of the work units to the prime consultant or a subconsultant.

1. The cabinet has the following options regarding the submittal:

- Concur;
- Modify and return the modification to the consultant; or
- Reject and ask the consultant to evaluate and resubmit the work units.

2. After an agreement on the work units between the cabinet and the consultant, each shall independently develop production [~~labor~~] rates to be applied to the work units to determine person[~~man~~]-hours for each task.

(f) For planning studies, work units which qualify the tasks to be performed to achieve the planning study services that appeared in the announcement and an identification of the assignment of the work units to the prime consultant or a subconsultant.

1. The cabinet has the following options regarding the submittal:

- Concur;
- Modify and return the modification to the consultant; or
- Reject and ask the consultant to evaluate and resubmit the work units.

2. After an agreement on the work units between the cabinet and the consultant, each shall independently develop production [~~labor~~] rates to be applied to the work units to determine person[~~man~~]-hours for each task.

(3) The consultant shall submit to the Division of Professional Services a fair and reasonable fee proposal which shall be prepared using the following:

(a) Personnel classifications and average wage rates for each classification as they appear in the audit and adjusted for work in the future years;

(b) Distribution of work by the personnel classifications;

(c) Overhead rates as determined by an audit;

(d) Subconsultants and fee proposals for each;

(e) Direct expenses not included in the overhead and subject to the limitations of subsections (5), (6), (7), and (8) of this section; and

(f) Person-hours to achieve the agreed upon task to achieve the scope of services that appear in the advertisement or procurement bulletin.

(4) After the Division of Professional Services requests a proposal and fee estimate from the consultant, the user division shall:

(a) Prepare an estimate of resources required to complete the project;

(b) Discuss the project with other divisions and request resource estimates from them as necessary; and

(c) Coordinate all of the resource estimates from other divisions to be used by the Division of Professional Services in negotiation of the contract.

(5)(a) Except as set forth in subparagraph (b) of this subsection, for contract negotiation purposes, the maximum allowable overhead rate shall be 150 percent;

(b) For contract negotiation purposes, if a consultant or subconsultant offers special expertise in engineering or related services which is outside normal project development activities, the limitations in 600 KAR 6:080, Section 2, may be suspended and the allowable overhead rate may exceed 150 percent if:

1. The director of the Division of Professional Services recom-

mends approval [~~approves~~];

2. The State Highway Engineer recommends approval [~~approves~~];

3. The Secretary of the Transportation Cabinet approves; and

4. The approved overhead rate does not exceed the actual overhead rate established pursuant to 48 CFR Part 31.

(6) For contract negotiation purposes, travel expenses for consultant employees or survey crews shall be limited to those incurred from an office in Kentucky or the border of Kentucky nearest the consultant's office;

(7) For contract negotiation purposes, direct expenses shall be limited to the following items and limits:

(a) Passenger car - twenty-five (25) cents per mile;

(b) Truck or four (4) - wheel drive vehicle - thirty-five (35) cents per mile;

(c) Lodging;

1. Professional staff - fifty-five (55) dollars per night per person; and

2. Survey field personnel - seventy (70) dollars per night for two (2) persons in one (1) room;

(d) Meals:

1. Breakfast - five (5) dollars per day per person;

2. Lunch - six (6) dollars per day per person; or

3. Dinner - thirteen (13) dollars per day per person;

(e) Printing of reports for distribution external to the Transportation Cabinet - estimated cost from the printer per document;

(f) Travel time for a survey crew - travel time to and from a job site in hours multiplied by the survey crew wage rate multiplied by one and three-tenths (1.3) for salary additives;

(g) Special equipment which is project-specific;

(h) Capital cost of money; and

(i) Computer time, if accounted for as a direct charge, shall not exceed fifteen (15) dollars per hour.

(8) For contract negotiation purposes, the maximum direct salary for a nonprincipal or nonpartner of a firm shall be \$90,000 per year.

Section 3. Contract Negotiations. (1)(a) The Division of Professional Services shall be the designated negotiating agent for the Department of Highways in the Cabinet.

(b) If professional engineering or related services are requested by user divisions within the cabinet but not in the Department of Highways, that user division shall be responsible for negotiating the fee.

(2)(a) The Division of Professional Services or other designated negotiation unit shall receive the proposal and fee estimate from the consultant. The proposal submitted by the consultant shall include either a statement that the payment shall be based on the percentage of work completed or the proposed project milestones and corresponding maximum percentage payments and a breakdown of the estimated fee for performing the work including the following:

1. Direct salaries;

2. Overhead;

3. [~~Payroll additives~~;

4.] Other direct costs including cost of materials which are not included in the overhead;

4. [~~5.~~] Subconsultant costs;

5. [~~6.~~] Operating margin; and

6. [~~7.~~] Use of DBE firms.

(b) The Division of Professional Services or other designated negotiation unit shall analyze the proposal and may confer with others regarding the proposal as necessary. The proposal shall be used as a basis for further negotiation of the professional services agreement.

(c) Unreasonable or deliberately inflated proposals shall be rejected and may be cause for terminating negotiations in accordance with KRS 45A.825(9).

(3) If the contract which is being negotiated uses a method of compensation other than lump sum, the consultant shall use an accounting system which segregates and accumulates reasonable,

allocable and allowable costs to be charged to a contract for an audit by the External Audit Branch.

(4)(a) If a consultant intends to utilize the services of a subconsultant to perform any part of the work, at the time of negotiations the consultant shall submit a fee proposal for the amount of work to be subcontracted.

(b) The fee proposal shall be based on the audited overhead and wage rates for the subconsultant.

(c) A subconsultant shall be prequalified with the cabinet to perform the services to be subcontracted to it if the services are required to be prequalified.

(d) Prior approval from the Division of Professional Services or other negotiation unit shall be necessary.

(e) If a consultant desires to utilize a subconsultant to perform part of the work after a contract has been approved and notice has been given to begin work, the procedures set forth in Section 6 of this administrative regulation shall be followed.

(5) A consultant which is awarded a contract for professional engineering or related services with the cabinet shall perform at least fifty (50) percent of the dollar value of the work for the project unless otherwise approved by the Director of the Division of Professional Services.

(6)(a) The operating margin allowed a professional engineering or related services consultant shall be allowed only on the negotiated direct labor and overhead costs regardless of the type of contract and shall not exceed the following:

1. Lump sum contract:

a. Fifteen (15) percent of the total direct labor cost plus overhead costs for a contract, including all contract modifications, less than \$2,000,000; or

b. Ten (10) percent of the total direct labor cost plus overhead costs for a contract, including all contract modifications, equal to or in excess of \$3,000,000; or

c. For a contract with the total direct labor cost, plus overhead cost of \$2,000,000 to \$3,000,000, the operating margin shall be fourteen (14) percent to ten (10) percent with a one (1) percent reduction for each \$200,000 increase in fee.

2. Unit price contract - fifteen (15) percent of the estimated unit cost at the time of execution of the contract.

(b) A cost plus fixed fee contract shall have a lump sum fee equal to ten (10) percent of the estimated cost at the time of the execution of the agreement.

(7) The Division of Professional Services or other negotiation unit shall compare the consultant's established fee with the cabinet's estimate to determine both the reasonableness of the fee and areas of substantial differences which may require further negotiation.

(8) The Division of Professional Services or other negotiation unit shall negotiate with the consultant to establish a reasonable fee and basis of payment, including incremental payments for completed work where appropriate, for the services to be performed under the contract.

(9)(a) The consultant shall keep written documentation of each negotiation meeting and shall submit to the Division of Professional Services or other negotiation unit the following:

1. Minutes of negotiations;
2. As-negotiated fee;
3. As-negotiated person(man)-hours;
4. Classification percentage distribution; and
5. Direct cost breakdowns.

(b) The public shall not be denied access to the items set forth in paragraph (a) of this subsection.

(10) After the Division of Professional Services or other negotiation unit has negotiated a contract, the head of the unit shall comply with the provisions of KRS 45A.825(10) [send letters to the two (2) other finalists informing them of the consultant which successfully negotiated a contract and the procedure that shall be followed in awarding the contract].

Section 4. Contract Preparation and Execution. (1) The Division of Professional Services or other negotiation unit shall prepare an agreement or contract to cover the services to be provided, method and amount of payment, the time of completion and necessary special provisions.

(a) The agreement shall also include by reference the General Provisions Attachment as revised July 1994 unless the project is for a consultant structure inspection. The General Provisions Attachment is incorporated by reference as a part of this administrative regulation.

(b) If the project is for a consultant structure inspection, the agreement shall also include by reference the Division of Operations, Consultant Structure Inspection Provisions as revised in May 1993. The Division of Operations, Consultant Structure Inspection Provisions Form is incorporated by reference as a part of this administrative regulation.

(2) The contract and negotiation minutes shall be sent to the consultant for the signature of an authorized representative. All original documents shall be returned to the Division of Professional Services or other negotiation unit.

(3) The contract shall be reviewed and approved by the secretary of the cabinet.

(4) When the project is subject to approval from the FHWA and after the contract has received final approval from the cabinet, the Division of Professional Services shall send to the FHWA the following requesting their approval:

(a) A copy of the contract;

(b) The negotiated fee and person-hours;

(c) The consultant's fee and person-hour proposal;

(d) The cabinet's person-hour estimate;

(e) The minutes of the negotiation;

(f) The minutes of the predesign conference;

(g) A copy of the advertisement and announcement;

(h) The list of firms that responded to the announcement in a timely manner;

(i) The written approval from the secretary of the cabinet to engage a professional firm;

(j) The minutes of the Professional Engineering Services Selection Committee;

(k) The memorandum from the Chairman of the Selection Committee stating the ranking of the three best-qualified firms by the Professional Engineering Services Selection Committee; and

(l) The audit report of overhead and wage rates which was used to establish the fee.

(6) If FHWA does not approve the contract, the secretary of the cabinet, after discussion with the State Highway Engineer and staff, may decide to modify the contract, redefine the project, terminate the project or ask for reconsideration by the FHWA.

Section 5. Notice to Proceed and Payments. (1)(a) Before a notice of approval for payment can be issued, funds shall be encumbered by the cabinet.

(b) The funds for statewide contracts shall be encumbered on a project by project basis.

(2) When the Division of Professional Services or other negotiation unit receives a copy of the transmittal sheet indicating that the LRC Personal Service Contract Review Subcommittee has received the contract and project information for review, a notice to proceed shall be sent to the consultant indicating that it may commence work but it shall not bill for services until specifically authorized to do so. For projects requiring approval of a unit of the federal government, notice to proceed shall not be issued until the federal approval is obtained.

(3) When the LRC Personal Service Contract Review Subcommittee issues a notification of acceptance on a contract, the Division of Professional Services or other negotiation unit shall issue a letter to the consultant informing it that it may bill the cabinet for charges incurred while working on the project.

(4)(a) If the LRC Personal Service Contract Review Subcommittee objects to the contract and the cabinet determines that the contract is to be canceled, the Division of Professional Services or other negotiation unit shall notify the consultant of the cancellation and shall take necessary steps to close the contract.

(b) If the cabinet determines that the contract is to be modified to comply with the concerns of the LRC Personal Service Contract Review Subcommittee, the Division of Professional Services or other negotiation unit shall notify the consultant of the necessary modifications and shall follow the contract modification and change order procedures specified in Section 7 of this administrative regulation.

(c) If the cabinet determines that the contract is to be executed as submitted to the LRC Personal Service Contract Review Subcommittee, the Division of Professional Services or other negotiation unit shall issue a letter to the consultant informing it that it may bill the cabinet for charges incurred while working on the project.

Section 6. Contract Administration. All work performed under a professional services contract shall be subject to general supervision, direction, review and approval by the cabinet.

(1)(a) A project supervisor shall be assigned to the project by the director or office head of the user division.

(b) The division director or office head may serve as the project supervisor.

(c) The project supervisor shall be responsible for coordinating all cabinet activities with the consultant and for providing necessary supervision through the duration of the contract. This coordination shall include the following:

1. Scheduling, monitoring and controlling the consultant's activities;

2. Reporting the status of these activities to the appropriate authority;

3. Periodically reviewing the work to determine if the work:

a. Is acceptable;

b. Is in accordance with the agreement for the particular project; and

c. Scope has changed to the point that it may require a supplemental agreement and increased or decreased compensation; and

4. Completing and processing the Consultant Monthly Report Form incorporated by reference in Section 9 of this administrative regulation.

(2)(a) During the project, the consultant may subcontract with other firms to perform specialized services in a manner similar to Section 1(4) of this administrative regulation. The subconsultant shall be prequalified by the cabinet in accordance with the provisions of 600 KAR 6:040 if the services that are subcontracted are required to be prequalified.

(b) If the services to be performed by the subconsultant are subject to prequalification by the cabinet and were not previously identified in the original negotiation or subsequent change orders, the consultant shall submit a request for a fee adjustment for the person[man]-hours to be performed by the subconsultant.

(c) If the subconsultant services are not subject to prequalification procedures and exceed \$25,000, they shall be reviewed by the External Audit Branch for reasonableness of cost. For subcontracts equal to or less than \$25,000, the Director of the Division of Professional Services or other negotiation unit, upon recommendation of the negotiator, may accept the rates and costs if they are reasonable and in line with past costs incurred for similar work.

Section 7. Contract Modifications. (1) When it is determined by either the consultant or the cabinet that one (1) or more of the following conditions are acceptable and necessary, a contract modification for a fee or schedule adjustment may be requested:

(a) Change in termini or section;

(b) Addition of major phases of work to the negotiated scope of work;

(c) Modification of previously approved work resulting from factors beyond the control of the consultant;

(d) Modification of a major item, if in the original contract, the item is designated as a basis of the original negotiations and the conditions for a change order consideration are identified in the original contract;

(e) Delay by the cabinet as outlined in each contract;

(f) Use of a subconsultant for services previously identified to be done by the consultant or other subconsultant; or

(g) Availability of current audit established in accordance with 600 KAR 6:080.

(2) The request for a contract modification may be originated by the Division of Professional Services, user division, highway district office or the consultant.

(3) When the director or office head of the user division determines the change is appropriate, the user division shall advise the consultant in writing of the contemplated change in the scope, complexity, extent, character or duration of the original agreement.

(a) When additional or reduced compensation is justified, the user division shall request a revised proposal from the consultant.

(4) The contract modification shall be negotiated using the procedures set forth in Sections 1, 2, and 3 of this administrative regulation.

(5) The Division of Professional Services or other negotiation unit shall send the Change Order form TC 40-17 as revised June 1992 or the Construction Consultant Change Order form, TC 63-53 revised June 1992, to the consultant for its approval. These forms are incorporated by reference in Section 11 [as a part] of this administrative regulation.

(6) After approval by the cabinet, the change order, LRC's proof of necessity form and other supporting documentation shall be submitted to the LRC Personal Service Contract Review Subcommittee.

(7) For projects requiring FHWA oversight, the approved change order shall be sent to the Federal Highway Administration for approval in accordance with Section 4(4) of this administrative regulation.

(8) Funds shall be encumbered by the cabinet sufficient to pay for the approved change order.

Section 8. Completion of Contract. (1) Upon completion of the contract, the cabinet shall review the work performed to determine that it meets the terms and conditions of the contract and shall evaluate the consultant for future reference.

(2) The project supervisor or the director of the user division shall review the work performed by the consultant, including any progress and final reports, to determine that all terms and conditions of the contract have been met before processing the final voucher for payment or releasing the consultant.

(3) Before approving the final invoice for payment, the director of the user division or the project supervisor shall evaluate the consultant and prepare written documentation of the consultant's performance on the project.

(4) The user division shall send the consultant written documentation of the consultant's performance for the project. Copies of the documentation shall be placed in the contract file maintained by the Division of Professional Services and in the consultant's experience record file.

(5)(a) The consultant may appeal in writing a below average rating to the user division director within thirty (30) days of written documentation of the consultant's performance for the project.

(b) The appeal shall specifically set forth the reasons why the consultant believes the below average rating is in error.

(c) The user division director shall notify the consultant within thirty (30) days from the consultant's appeal of the director's decision of whether or not to revise the performance rating.

(d) The consultant may appeal in writing the user division director's decision to the Chairman of the Consultant Prequalification

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Committee within thirty (30) days.

(e) The Consultant Prequalification Committee shall review all documentation relating to the consultant's performance for the project. The committee may discuss the performance rating with the project supervisor or the consultant.

(f) The committee shall notify the consultant and the user division of its decision within ninety (90) days from the consultant's appeal.

(g) If the consultant's appeal is denied by the Consultant Prequalification Committee, it may appeal the decision to the State Highway Engineer within thirty (30) days of written notice of denial of its appeal by the Consultant Prequalification Committee.

(h) The State Highway Engineer shall notify the consultant of his decision within thirty (30) days.

(i) The decision of the State Highway Engineer shall be final.

(j) If the performance evaluation documentation is revised, the initial documentation shall be removed from all files and replaced with the revised performance document.

(6) The Director of the Division of Professional Services or head of other negotiation unit shall request the External Audit Branch to perform a final audit if appropriate. The audit shall determine the total allowable contract costs and the total dollars to be paid to the consultant. All contracts utilizing a cost plus fixed rate method of payment shall be audited.

(7) The user division shall forward the Federal Highway Administration a copy of all progress and final reports for federal-aid projects if required or requested by the FHWA.

Section 9. [8-] Cancellation of Contract. (1) Each professional service contract shall include a provision for the termination of the agreement and shall allow for the cancellation of the contract by the cabinet with proper notice to the consultant.

(2) When the cabinet decides to cancel a professional services contract, the Division of Professional Services or other negotiation unit shall notify the consultant of the cancellation and of the reasons for the cancellation.

(3) The cabinet shall be liable only for payment of services up to the effective date of cancellation of the contract as specified by the terms of the contract.

(4) The cabinet shall be liable for a demobilization fee equal to ten (10) percent of the remaining balance of the contract not to exceed \$25,000.

Section 10. [9-] Payments to Consultants. Before payment of a partial or final request for payment, the cabinet shall review the work of the consultant, including any progress or final reports, to ensure that the work for which the payment is to be made has been completed and that the terms and conditions of agreement have been satisfactorily followed.

(1) During the course of the project, progress billings shall be submitted by the consultant as agreed upon in the contract. The consultant shall submit an Engineer's Pay Estimate, TC 61-408 revised March 1988 and a Consultant Monthly Report, TC 61-2 revised October 1995 as an invoice to the chief district engineer or director of the user division or to their designees. These two (2) forms are incorporated by reference in Section 11 ~~as a part~~ of this administrative regulation.

(2) The chief district engineer or director of the user division or his designee shall review the Engineer's Pay Estimate and Consultant Monthly Report, verify that the work has been completed as described in the document, and sign both forms.

(3) If an Engineer's Pay Estimate is not needed to be submitted to the chief district engineer or director of the user division within a given month, the Consultant Monthly Report shall still be submitted.

(4) Final invoices and requests for payment shall be authorized only after all work has been reviewed and accepted or approved, including any final reports prepared by the consultant. All terms and conditions of the contract shall be satisfactorily met and the final audit

shall be performed prior to processing the final payment.

Section 11. [40-] Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) "Change Order," Form TC 40-17, June 1992 edition;

(b) "Construction Consultant Change Order", Form TC 63-53, June 1992 edition;

(c) "Engineer's Pay Estimate", Form TC 61-408, March 1988 edition; and

(d) "Consultant Monthly Report", Form TC 61-2, October 1995 edition.

(2) All material incorporated by reference as a part of this administrative regulation may be obtained, viewed or copied at the Division of Professional Services, 6th Floor State Office Building, 501 High Street, Frankfort, Kentucky 40622. Its telephone number is (502) 564-4555. Its office hours are 8 a.m. to 4:30 p.m. eastern time on weekdays.

J.M. YOWELL, P.E., State Highway Engineer

FRED N. MUDGE, Secretary

APPROVED BY AGENCY: February 12, 1996

FILED WITH LRC: February 13, 1996 at noon

TRANSPORTATION CABINET (As Amended)

600 KAR 6:080. Financial records and audits of firms.

RELATES TO: KRS 45A.800 through 45A.835, 23 CFR 172, 48 CFR, 49 CFR 18, 23 USC

STATUTORY AUTHORITY: KRS 13A.100(1), 45A.800 through 45A.835, 23 CFR 172, 48 CFR, 49 CFR 18, 23 USC

NECESSITY AND FUNCTION: This administrative regulation sets forth the procedure to be used by the Transportation Cabinet when auditing professional engineering or related services providers while implementing the provisions of KRS 45A.800 to 45A.835. It further sets the standards firms are to follow in the keeping of their financial records.

Section 1. Financial Records of Firms. (1) A firm which has been prequalified shall allow the cabinet access to all financial information necessary to determine the firm's direct wage rates, indirect cost rates, overhead, and direct project charges which are not included in overhead rates.

(2)(a) A prequalified firm shall maintain all financial records including payroll time records for all employees including the firm's principals in accordance with 48 CFR Part 31.

(b) A specific incurred cost or expense shall not be considered both a direct cost and indirect cost.

(3) When a firm is notified by the Transportation Cabinet of a pending on-site audit, the firm shall collect the following information to be given to the auditor when he arrives on-site. The auditor may request that a portion of the information which can be readily and easily reproduced be mailed to him prior to arriving on site.

(a) Chart of accounts;

(b) The latest fiscal or calendar year financial statement of the firm. If one is available which was compiled, reviewed, or audited by an independent CPA, it shall also be made available to the auditor;

(c) Income tax returns for the audit year;

(d) Statement of company policies to include but not be limited to personnel policies, personal leave time, vacation time, sick leave, overtime, pay raise, travel, subsistence reimbursement, bonuses, employment, or retirement plans;

(e) Copy of a current proposal for a project, if available;

(f) General ledger;

(g) Cash disbursements and accounts payable journals;

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- (h) Copies of all leases to include but not be limited to leases on office space, buildings, machinery, copiers, and motor vehicles;
 - (i) Schedule of current personnel by classification;
 - (j) Most current payroll register;
 - (k) Quarterly federal payroll tax forms;
 - (l) Billing statements;
 - (m) List of bonuses to individual employees and the date paid;
 - (n) Copy of the pension or retirement plan of the firm and the contributions made on behalf of each employee;
 - (o) List of officers and principals of the company which includes their salaries and other compensations paid during the audit year and the amount of time they work direct;
 - (p) All contracts which were active during the audit year; and
 - (q) Minutes from the directors or stockholders meetings.
- (4)(a) Except for the items set forth in subsection (3)(c) and (q) of this section, the firm shall provide the auditor with copies of the items set forth in subsection (3) of this section.
- (b) The auditor may review the items set forth in subsection (3)(c) and (q) of this section but shall not remove them from the premises of the firm.
- (5) A direct cost shall be determined by the provisions of 48 CFR 31.202 and not by whether it is reimbursable.

Section 2. Limitations on Overhead, Direct Costs, and Indirect Costs. (1) The maximum direct salary for a principal or partner of a firm shall be \$100,000 per year.

(2) In the calculation of indirect costs for overhead, the maximum salary for administrative purposes shall be:

- (a) \$100,000 a year for a principal or partner of a firm; or
- (b) \$90,000 ~~75,000~~ a year for a nonprincipal or nonpartner of a firm.

(3) The maximum direct salary ~~for a nonprincipal or nonpartner of a firm~~ shall be:

- (a) \$100,000 per year for a principal or partner of a firm; or
- (b) \$90,000 per year for a nonprincipal or nonpartner of a firm;

(4)(a) The lobbying portion of dues paid to organizations shall not be allowed in the computation of indirect costs.

(b) If an organization has not separated the lobbying portion of its dues in the billing statement, the organization shall be contacted by the auditor for the information.

(c) If the amount of the dues attributable to lobbying is not made available to the auditor, the total amount of dues paid to the organization shall not be allowed in computation of indirect costs.

(5) To compute the average hourly pay rate for any salaried job classification at a firm, the number of available annual working hours per year shall be 2080.

(6) As a reasonableness test for indirect labor charges, indirect labor charges, including but not limited to bonuses and temporary help, shall not exceed sixty-seven (67) percent of the direct labor base of the firm.

Section 3. Approved Audits. (1) If the cabinet has not audited the firm in the previous twelve (12) months, the last available audit may be used for determination of the fee specified in the contract with the understanding that a contract modification shall be processed if an audit by the cabinet reveals substantial differences in overhead rates, wage rates or direct project expenses.

(2)(a) If the firm has a current audit of sufficient detail prepared by a Defense Contract Audit Agency, an independent certified public accountant, or other audit accepted by a federal, state, or local governmental agency and desires the Transportation Cabinet to utilize that audit for establishment of its overhead rate, the firm shall provide in a timely manner the audit report to the Transportation Cabinet prior to the scheduled audit.

(b) The External Audit Branch of the Transportation Cabinet shall review any audit submitted to the Transportation Cabinet pursuant to the provisions of paragraph (a) of this subsection. If necessary for an

adequate review, the firm shall provide a copy of the audit work papers in addition to the audit report.

(c) The External Audit Branch of the Transportation Cabinet may approve the audit for use, disapprove the audit for use, or approve the audit based on limitations imposed by the Transportation Cabinet pursuant to 600 KAR 6:070.

(d) Subject to the review performed in paragraph (b) of this subsection and any adjustments made based on limitations imposed by the Kentucky Transportation Cabinet pursuant to 600 KAR 6:070, the negotiation unit may use the overhead rates, wage rates, and direct project expenses from an audit submitted pursuant to paragraph (a) of this subsection in negotiating a fee. This shall only be done with the understanding that a contract modification shall be processed if an audit by the cabinet reveals substantial differences in overhead rates, wage rates, or direct project expenses.

(3) Quarterly, the Division of Professional Services shall select a minimum of one (1) and a maximum of three (3) lump sum contracts that have been completed during the previous three (3) months and shall request an audit from the External Audit Branch.

Section 4. Audit Standards. (1) The Transportation Cabinet, when auditing a firm, shall abide by the accounting and auditing standards contained in the material adopted without change or incorporated by reference in Section 6(1) and (2) of this administrative regulation. ~~[provisions of the following:~~

~~(a) "Government Auditing Standards, 1994 Revision" by the Comptroller General of the United States;~~

~~(b) "Codification of Statements on Auditing Standards, (Including Statements on Standards for Attestation Engagements)", copyright 1995 by the American Institute of Certified Public Accountants, Inc.;~~

~~(c) 48 CFR Part 31, "Contract Cost Principles and Procedures", as effective October 1, 1995;~~

~~(d) 48 CFR Part 30, "Cost Accounting Standards Administration", as effective October 1, 1995, but only as it relates to 48 CFR Part 31;~~

~~(e) 48 CFR Chapter 99, Subchapter B, "Procurement Practices and Cost Accounting Standards", as effective March 30, 1995;~~

~~(f) 26 CFR Part 1.167, "Depreciation", as effective July 18, 1995, but only when the firm does not have an acceptable depreciation schedule in effect; and~~

~~(g) "Original Pronouncements, Accounting Standards as of June 1, 1995, Volume 1 and Volume 2" published by [et] the Financial Accounting Standards Board.~~

~~(2) The "Government Auditing Standards", "Original Pronouncements, Accounting Standards" and "Codification of Statements on Auditing Standards" are incorporated by reference as a part of this administrative regulation.]~~

(2) ~~[(3)]~~ The term "common control" as it is used in 48 CFR Part 31 shall be determined to exist when the companies or the principals of the company involved in real property renting, leasing arrangements, or joint ventures share common ownership of twenty (20) percent or more.

(3) ~~[(4)]~~(a) Prior to the issuance of a final audit report, the auditor from the Transportation Cabinet shall present the draft audit findings to the firm either in an exit conference or in written correspondence to the firm.

(b) If the auditor provides the draft audit findings in writing, he shall notify the firm that within one (1) week of the mailing of the draft audit findings, the firm may request a copy of the auditor's work papers for review. Any comments the firm submits in writing within fifteen (15) days of the mailing of the work papers shall be taken into consideration in the issuance of the final audit report.

(c) If the auditor and the firm hold an exit conference, the auditor shall allow the firm to review or copy the work papers. The firm may submit any additional comments in writing within fifteen (15) days of the exit conference. These additional comments shall be taken into consideration in the issuance of the final audit report.

TRANSPORTATION CABINET
Department of Highways
Permits Branch
(As Amended)

603 KAR 3:080. Advertising devices.

RELATES TO: KRS 177.830 to 177.890, 23 USC 131 [448], 23 CFR Part 750

STATUTORY AUTHORITY: KRS 177.860, 23 USC 131 [448], 23 CFR Part 750

NECESSITY AND FUNCTION: KRS 177.860 authorizes the Department of Highways to establish reasonable standards for advertising devices on or visible from interstate, parkway and federal-aid primary highways. This administrative regulation is the means used by the Department of Highways to establish those standards. In addition KRS 177.867 requires the Department of Highways to pay just compensation for the removal of legally-erected advertising devices which are not in compliance with current state law or administrative regulation. This administrative regulation sets forth standards for determining when the Department of Highways shall pay just compensation.

Section 1. Definitions. (1) "Advertising device" or "device" means as defined in KRS 177.830(5).

(2) "Abandoned" or "discontinued" means that for a period of one (1) year or more that the device:

- (a) Has not displayed any advertising matter;
- (b) Has displayed obsolete advertising matter; or
- (c) Has needed substantial repairs.

A notice that the device is for sale, rent, or lease shall not be considered advertising matter.

(3) "Activity boundary line" means the delineation on a property of those regularly used buildings, parking lots, storage and process areas which are an integral part of and contiguous to the primary activity which takes place on the property. In an industrial park, the service road shall be considered within the activity boundary line for the industrial park as a separate entity.

(4) "Allowed" means legal to exist without a permit from the Department of Highways.

(5) "Billboard" or "off-premise advertising device" means a device that contains a message relating to an activity or product that is foreign to the site on which the device and message are located or an advertising device erected by a company or individual for the purpose of selling advertising messages for profit.

(6) "Centerline of the highway" means a line equidistant from the edges of the median separating the main traveled ways of a divided highway, or the centerline of the main traveled way of a nondivided highway.

(7) "Commercial or industrial activities" means as defined in KRS 177.830(9).

(8) "Commercially or industrially developed area" means, as it is applied to interstate and parkway highways only:

(a) Any area within 100 feet of, and including any area where there are located within the protected area at least ten (10) separate commercial or industrial enterprises, not one of the structures from which one (1) of the enterprises is being conducted is located at a distance greater than 1620 feet from any other structure from which one (1) of the other enterprises is being conducted; and

(b)1. The land use for the area as of September 21, 1959 was clearly established by state law as industrial or commercial; or

2. ~~((b))~~ The land use for the area was within an incorporated municipality as the boundaries existed on September 21, 1959 and is currently zoned for commercial or industrial use at the time of the application for an advertising device permit; and

(c) Not less than ten (10) of the enterprises referred to in paragraph (a) of this subsection are at the time of the permit

Section 5. Appeal of Audit Findings. (1) If a firm disagrees with the final results of an audit performed or approved by the Transportation Cabinet, the firm may request a review of the audit ~~[appeal]~~ within thirty (30) ~~[forty-five (45)]~~ days of the date the final audit report is transmitted to the firm ~~[Audit Review Committee of the Transportation Cabinet]~~. The request for a review shall be in writing and clearly state all of the concerns with the audit and the reasons for the concern.

(2) The Audit Review Committee shall consist of the following:

- (a) Commissioner of the Department of Fiscal Management, Chair;
 - (b) Deputy State Highway Engineer for Project Development; and
 - (c) General counsel.
- (3) A committee member may appoint a proxy to serve on this committee.

(4) The Audit Review Committee shall discuss the findings of the audit and the request for review. The Audit Review Committee may request the firm or the auditor to answer questions in person, by electronic communication, or in writing.

(5) If the firm is not satisfied with the decision of the Audit Review Committee, he may further appeal to the Secretary of the Transportation Cabinet within thirty (30) days of transmittal of the committee's decision to the firm. An administrative hearing to hear the appeal shall be held pursuant to the provisions of KRS Chapter 13B. ~~[Secretary of the Transportation Cabinet.]~~

Section 6. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) "Government Auditing Standards, 1994 Revision" by the Comptroller General of the United States;

(b) "Codification of Statements on Auditing Standards, (Including Statements on Standards for Attestation Engagements)," copyright 1995 by the American Institute of Certified Public Accountants, Inc.; and

(c) "Original Pronouncements, Accounting Standards as of June 1, 1995, Volume I and Volume II" published by the Financial Accounting Standards Board.

(2) The following federal regulations are adopted without change:

(a) 48 CFR Part 31, "Contract Cost Principles and Procedures," as effective October 1, 1995;

(b) 48 CFR Part 30, "Cost Accounting Standards Administration," as effective October 1, 1995, but only as it relates to 48 CFR Part 31;

(c) 48 CFR Chapter 99, Subchapter B, "Procurement Practices and Cost Accounting Standards," as effective March 30, 1995; and

(d) 26 CFR Part 1.167, "Depreciation," as effective July 18, 1995, but only when the firm does not have an acceptable depreciation schedule in effect; and

(3) All material incorporated by reference as a part of this administrative regulation may be obtained, viewed, or copied at the External Audit Branch, 3rd Floor State Office Building, 501 High Street, Frankfort, Kentucky 40622. The telephone number is (502) 564-7008. The office hours are 8 a.m. to 4:30 p.m. eastern time on weekdays.

Section 7. Repeal. 600 KAR 1:101 is hereby repealed.

J.M. YOWELL, P.E., State Highway Engineer
FRED N. MUDGE, Secretary

APPROVED BY AGENCY: February 12, 1996

FILED WITH LRC: February 13, 1996 at noon

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application and were on March 10, 1960, located in an area governed by state or local zoning laws and in compliance [consistent] with the state and local zoning laws and administrative regulations. If there was no local zoning ordinance in effect on March 10, 1960 or if there is no local zoning ordinance in effect at the time of the permit application, the provisions of paragraph (a) of this subsection shall not be applicable.

(9) "Commercial or industrial zone" means as defined in KRS 177.830(7).

(10) "Comprehensively zoned" means, as it is applied to FAP highways only, that each parcel of land under the jurisdiction of the zoning authority has been placed in some zoning classification.

(11) "Department" means the Department of Highways within the Kentucky Transportation Cabinet.

(12) "Destroyed" means that the advertising device has sustained damage by any means in excess of fifty (50) [sixty (60)] percent of the entire advertising device which includes supports, poles, guys, struts, panels, facing, and bracing [depreciated replacement cost]. The damage is such that to be structurally and visually acceptable, one (1) or more of the following remedies is essential:

(a) Adding guys or struts;

(b) Adding new supports or poles by splicing or attaching to existing supports;

(c) Adding separate new auxiliary supports or poles;

(d) Adding new or replacement peripheral or integral structural bracing or framing; or

(e) Adding new or replacement panels or facings.

(13) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any way bring into being or establish, but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance or repair of an advertising device.

(14) "Federal-aid primary highway" or "FAP highway" means as defined in KRS 177.830(3) and 23 USC 131. The FAP highways are listed in Section 11 of this administrative regulation.

(15) "Identifiable" means capable of being related to a particular product, service, business or other activity even though there is no written message to aid in establishing the relationship.

(16) "Interstate highway" means as defined in KRS 177.830(2).

(17) "Legible" means capable of being read without visual aid by a person of normal visual acuity, or capable of conveying an advertising message to a person of normal visual acuity.

(18) "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, each direction has its own main traveled way. It does not include such facilities as frontage roads, turning roadways, access ramps, or parking areas.

(19) "Nonbillboard off-premise advertising device" means, as it is applicable to FAP highways only, an advertising device not located on the property which it is advertising and limited to advertising for a city, church, or civic club which includes any nationally, regionally or locally known religious or nonprofit organization.

(20) "Nonconforming advertising device" means an off-premise advertising device which was lawfully erected but does not comply with the provisions of state law or administrative regulation passed at a later date or which later fails to comply with state law or administrative regulation due to changed conditions similar to the following:

(a) Zoning changes;

(b) Highway relocation;

(c) Highway reclassification; or

(d) Changes in restrictions on size, spacing or distance.

(21) "Official sign" means a sign located within the highway right-of-way installed by or on behalf of the Department of Highways or other public agency having jurisdiction. Included in these signs are:

(a) Signs denoting the location of underground utilities;

(b) Signs required by federal, state or local governments to delineate boundaries of reservations, parks or districts;

(c) Street signs or traffic control signs; or

(d) Signs required by state law.

(22) "On-premise advertising device" means an advertising device that contains a message relating to the primary [an] activity or the sale of a primary product within the boundaries of the property on which the device is located.

(23) "Parkway" means any highway in Kentucky originally constructed as a toll road whether or not a toll for the use of the highway is currently being collected. As it relates to advertising devices, parkways shall be considered the equivalent of interstate highways.

(24) "Permitted" means legal to exist only if a permit is issued from the Department of Highways.

(25) "Primary business or activity" means that the sale of one product or a business activity which takes precedence over any or all other product sales or business activities.

(26) "Protected area" means all areas within the boundaries of this Commonwealth which are adjacent to and within 660 feet (200.64 meters) of the state-owned highway right-of-way of the interstate, parkway and FAP highways and those areas which are outside urban area boundary lines and beyond 660 feet (200.64 meters) from the right-of-way of all interstate, parkway and FAP highways within the Commonwealth. Where these highways terminate at a state boundary which is not perpendicular or normal to the center line of the highway, "protected area" also means all of these areas inside the boundaries of the Commonwealth which are adjacent to the edge of the right-of-way of an interstate highway in an adjoining state.

(27) "Public service information" means information allowed on an on-premise advertising device which may be illuminated by any flashing, moving or intermittent light or lights and which shall be limited to time, temperature, date, and current weather conditions.

(28) "Public service sign" means, as it is applicable to FAP highways only, a sign erected or located on a school bus shelter.

(29) ~~[(29)]~~ "Public service message" means a message pertaining to an activity or service which is performed for the benefit of the public and not for profit or gain of a particular person, firm or corporation. This definition shall apply to signs on school bus shelters on FAP highways only.

(30) ~~[(29)]~~ "Routine change of message" means, as it relates to a nonconforming advertising device, the message change on an advertising device ~~[is]~~ from one (1) advertised product or activity to another. This includes the lamination or preparation of the existing panels or facings at [inside] a plant or factory for the changing of messages when this is the normal operating procedure of a company.

(31) ~~[(30)]~~ "Routine maintenance" means, as it relates to a nonconforming advertising device:

(a) The maintenance of an advertising device which is limited to replacement of nuts and bolts, nailing, riveting or welding, cleaning and painting, or manipulating to level or plumb the device;

(b) The routine change of message; and

(c) The lamination or preparation [fixing] of existing panels or facings at a location other than that of the advertising device.

(d) Routine maintenance shall not mean:

1. Adding guys or struts for the stabilization of the device or substantially changing the device; or

2. Replacement or repair of panels, poles, or facings or the addition of new panels, poles, or facings;

(32) ~~[(31)]~~ "Traveled way" means the portion of a roadway dedicated to the movement of vehicles, exclusive of shoulders.

(33) ~~[(32)]~~ "Turning roadway" means a connecting roadway for traffic, turning between two (2) intersecting legs of an interchange.

(34) ~~[(33)]~~ "Unzoned commercial or industrial area" means as defined in KRS 177.830(8).

(35) ~~[(34)]~~ "Urban area" means as defined in KRS 177.830(10).

(36) ~~[(35)]~~ "Visible" means capable of being seen, whether or not legible or identifiable without visual aid by a person of normal visual acuity and erected for [with] the purpose of being seen from the

traveled way.

Section 2. Signs on Highway Right-of-way. (1) Official signs allowed. An advertising device shall not be erected or maintained within or over the state-owned highway right-of-way except directional or other official signs or signals erected by or on behalf of the state or other public agency having jurisdiction.

(2) Types of official signs. The following official signs (with size limitations) may be allowed on state-owned highway right-of-way:

(a) Directional and other official devices including signs or devices placed by the Department of Highways;

(b) Signs or devices, limited in size to two (2) square feet (0.184 square meters), denoting the location of underground utilities; or

(c) Signs, limited in size to 150 square feet (thirteen and eight-tenths (13.8) square meters), erected by federal, state or local governments to delineate boundaries of reservations, parks or districts.

Section 3. General Conditions Relating to Advertising Devices. The requirements of this section shall apply to advertising devices on interstate, parkway and FAP highways.

(1) Bonus agreement.

(a) Advertising devices which are visible from interstate highways, parkways, or FAP highways shall be governed by the provisions of the agreement between the Kentucky Department of Highways and the Federal Highway Administration which was executed on December 23, 1971.

(b) This agreement is authorized by KRS 177.890 and 23 CFR Part 1.35 and required by 23 CFR Parts 190 and 750.

(c) The agreement is incorporated by reference in Section 13 [as a part] of this administrative regulation.

(2) Advertising device allowed if not visible. An advertising device which is not visible from the main traveled way of the interstate, parkway or FAP highway shall be allowed in protected areas.

(3) ~~(2)~~ Visible from more than one (1) highway. If an advertising device is visible from more than one (1) interstate, parkway or FAP highway on which control is exercised, the appropriate provisions of this administrative regulation or KRS Chapter 177 shall apply to each of these highways.

(4) ~~(3)~~ Nonconforming advertising device may exist. An off-premise nonconforming, but otherwise legal, advertising device may continue to exist until just compensation has been paid to the owner, only so long as it is:

(a) Not destroyed, abandoned or discontinued;

(b) Subjected to only routine maintenance;

(c) In conformance with local zoning or sign or building restrictions at the time of the erection; and

(d) In compliance with the provisions of Section 4(3) of this administrative regulation and KRS 177.863.

(e) Performance of other than routine maintenance on a nonconforming, but otherwise legal, advertising device shall cause it to lose its legal status and to be classified as illegal.

(5) ~~(4)~~ Vandalized nonconforming device.

(a) The owner of a nonconforming, but otherwise legal, advertising device destroyed by vandalism or other criminal or tortious act may apply to the Department of Highways to reerect the advertising device in kind.

(b) The application for the reerection of the advertising device shall contain the following:

1. Plans and pictures showing the proposed new structure to be as exact a duplicate of the destroyed nonconforming advertising device as possible, including the same number of poles, type of stanchion, supports, material of poles or stanchion, and material of facing;

2. Sufficient proof that the destruction was the result of vandalism or other criminal or tortious act;

3. Ownership of the advertising device;

4. Dimensions of the destroyed advertising device;

5. Material used in erection of the destroyed advertising device;

6. Durability of the new device;

7. Stanchion type; and

8. Current lease from land owner.

(c) The Department of Highways shall not issue a notice to reconstruct until all of these conditions have been met.

(d) The owner of the vandalized nonconforming advertising device shall not reerect the advertising device until a notice to reconstruct has been issued by the Department of Highways.

(6) ~~(5)~~ Required measuring methods.

(a) To establish protected areas, distances from the edge of a state-owned highway right-of-way shall be measured horizontally along a line at the same elevation and at a right angle to the centerline of the highway for a distance of 660 feet (200.64 meters) inside urban area boundaries and to the horizon outside urban area boundary lines.

(b) ~~[To measure distances for the determination of spacing for advertising devices, a line shall be drawn perpendicular from each advertising device to the centerline of the highway to embrace the greatest longitude along the centerline of the highway.]~~

~~(e)~~ 1. V-shaped or back-to-back type billboard advertising devices shall not be more than fifteen (15) feet apart at the nearest point between the two (2) sign facings [billboards] and shall be connected by bracing or a maintenance walkway.

2. The angle formed by the two (2) sign facings [billboards] shall not be greater than forty-five (45) degrees.

(c) ~~(d)~~ The spacing between advertising devices shall be measured as described in KRS 177.863(2)(c).

(7) ~~(6)~~ Criteria for off-premise advertising devices. The following criteria are applicable to any off-premise advertising device located in a protected area:

(a) An off-premise advertising device shall not exceed the maximum size stated in KRS 177.863(3)(a);

(b) V-shaped, double-faced, or back-to-back billboard advertising devices shall be considered as specified in KRS 177.863(2)(b);

~~(c)~~ 1. A billboard advertising device may contain two (2) messages per direction of travel if the device does not exceed the maximum size stated in KRS 177.863(3)(a);

2. If a billboard advertising device contains two (2) messages on a single facing or panel, each one (1) shall occupy approximately fifty (50) percent of the device;

3. If a billboard advertising device contains two (2) messages in one (1) direction of travel, each on a separate panel or facing where one (1) panel or facing is placed above or beside the other but where the two (2) separate panels or facings are not touching, there may be a size differential in the panels if dictated by the terrain of the site of the billboard advertising device and if the differential is approved by the Transportation Cabinet prior to the erection of the device.

~~(d)~~ 1. The issuance of billboard permits as they relate to the required spacing between the billboards shall be determined on a "first come, first served" basis.

2. Proof of lease or ownership of a site shall accompany the application for a permit submitted to the Department of Highways pursuant to Section 6 of this administrative regulation.

3. An approved advertising device application shall only be valid for one (1) year. If the device has not been constructed in that year, the applicant shall apply for renewal of his approved application prior to erecting the advertising device.

~~(e)~~ An on-premise advertising device shall not affect spacing requirements for billboard advertising.

(e) ~~(f)~~ A billboard advertising device may only be illuminated by white lights.

(8) ~~(7)~~ Criteria for on-premise advertising devices. The following criteria are applicable to all on-premise advertising devices located in a protected area:

(a) An on-premise advertising device shall not exceed [have] the

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maximum size specified in KRS 177.863(3)(a) if it is placed within fifty (50) feet (fifteen and two-tenths (15.2) meters) of the advertised activity boundary lines.

(b) Only one (1) on-premise device may be located at a distance greater than fifty (50) feet (fifteen and two-tenths (15.2) meters) from the activity boundary line.

(c) An on-premise advertising device shall not exceed twenty (20) feet (12.08 meters) in length, width or height or 150 square feet (thirteen and eight-tenths (13.8) square meters) in area including border and trim but excluding supports if it is farther than fifty (50) feet from the activity boundary line.

(d) 1. An on-premise advertising device shall not be located more than 400 feet (121.6 meters), measured within the property boundary, from the advertised activity boundary line.

2. If using a corridor to reach the location of the device, the corridor shall be not less than 100 feet (thirty and four-tenths (30.4) meters) in width and shall be contiguous to an integral part of and of the same entitlement as the property on which the advertised activity is located.

3. Any other activity which is in any manner foreign to the advertised activity shall not be located on or have use of the corridor between the advertised activity and the location of the device.

4. An activity incidental to the primary activity advertised shall not be considered in taking measurements.

5. When taking measurements for the placement of an on-premise industrial park sign as described in paragraph (j) of this subsection, the access road into the industrial park shall be considered an integral part of the property on which the activity is taking place.

(e) There shall not be requirements for spacing between on-premise advertising devices.

(f) Only the following types of on-premise advertising devices shall be located so that they are visible from the main traveled way of an interstate, parkway or FAP highway:

1. Those indicating the name and address of the owner, lessee or occupant of the property on which the advertising device is located;

2. Those showing the name or type of business or profession conducted on the property on which the advertising device is located;

3. Information required or authorized by law to be posted or displayed on the property;

4. Those advertising the sale or leasing of the property upon which the advertising device is located;

5. Those setting forth the advertisement of an activity or sale of products on the property where the advertising device is located; or

6. Signs with a maximum area of eight (8) square feet (0.736 square meters) noting credit card acceptance or trading stamps.

(g) An on-premise advertising device shall advertise only the primary activity or primary business conducted upon the property on which it is located.

(h) Brand names shall not be advertised on ~~in~~ an on-premise advertising device when the sale of an item with the brand name is incidental to the primary activity or business.

(i) A marquee type on-premise advertising device, such as a device at a typical theater or cinema, may change messages from advertising one (1) legitimate on-premise activity to another. The message change shall not occur more than one (1) time per day.

(j) Industrial park type on-premise advertising devices which shall be limited in area to 150 square feet (thirteen and eight-tenths (13.8) square meters) may contain only the following messages:

1. The name of the industrial park;

2. The city or county associated with the industrial park; or

3. The name of the individual business or industries located in the industrial park.

Section 4. Specific Requirements for Advertising Devices on Interstate and Parkway Highways. (1) Permit if visible. Except for a nonconforming advertising device, an advertising device which is

located in a protected area and which is visible from the main traveled way of an interstate or parkway highway shall have an approved permit from the Transportation Cabinet, Department of Highways to be a legal advertising device. Advertising devices closer than fifty (50) feet (fifteen and two-tenths (15.2) meters) to the edge of the main traveled way of any interstate or parkway highway shall not be issued a permit.

(2) Criteria for billboard advertising devices.

(a) Billboard advertising devices may be erected or maintained in a protected area of an interstate or parkway highway if the area is a commercially or industrially developed area as defined in Section 1 of this administrative regulation and if the advertising device complies with the provisions of KRS Chapter 177 and this administrative regulation as well as applicable county or city zoning ordinances or administrative regulations.

(b) A billboard advertising device structure designed to be primarily viewed from an interstate or parkway highway shall not be erected within 500 feet (152 meters) of any other off-premise advertising device on the same side of the interstate or parkway highway unless separated by a building, natural obstruction or roadway in such manner that only one (1) off-premise advertising device located within the 500 feet (152 meters) is visible from the interstate or parkway highway at any one time.

(3) Prohibited advertising devices. The erection or existence of the following advertising devices shall not be permitted or allowed in protected areas:

(a) An advertising device which is advertising an activity that is illegal under state or federal law, or administrative regulation;

(b) An obsolete advertising device;

(c) An advertising device that is not clean, safe, and in good repair;

(d) An advertising device that is not securely affixed to a substantial structure which is permanently attached to the ground;

~~(e) [An advertising device illuminated by other than white lights;~~

~~(f) An advertising device which attempts or appears to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or traffic control device;~~

~~(f) [(g)] An advertising device which prevents the driver of a vehicle from having a clear and unobstructed view of official signs or approaching or merging traffic;~~

~~(g) [(h)] An advertising device which contains, includes or is illuminated by any flashing, intermittent or moving lights, except for an on-premise device[s] providing public service information [including time, date, temperature or weather];~~

~~(h) [(i)] An advertising device which uses lighting in any way unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a highway, or unless it is of a low intensity or a low brilliance so as not to cause glare or not to impair the vision of the driver of any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle;~~

~~(i) [(j)] An advertising device which moves or has any animated or moving parts;~~

~~(j) [(k)] An advertising device erected or maintained upon trees or painted or drawn upon rocks or other natural features;~~

~~(k) [(l)] An advertising device exceeding 1,250 square feet (115 square meters) in area, including border and trim but excluding supports;~~

~~(l) [(m)] An advertising device erected upon or overhanging the right-of-way of any highway; or~~

~~(m) [(n)] An advertising device which interferes with any official sign, signal or traffic control device.~~

(4) The provisions of KRS 177.860(4) shall not be applicable to an advertising device erected or proposed to be erected in the protected area of an interstate or parkway highway unless it is in an area which is a commercially or industrially developed area as defined in Section 1 of this administrative regulation.

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Section 5. Specific Requirements for Advertising Devices on Federal-aid Primary Highways. (1) Billboard advertising devices on FAP highways. Billboard advertising devices may be permitted in protected areas of FAP highways if they are located in unzoned commercial or industrial areas or commercial or industrial zones and if the devices comply with applicable state, county or city zoning ordinances or administrative regulations.

(a)1. It shall be legal to have a permitted billboard advertising device in an unzoned commercial and industrial area of an FAP highway as long as there is a commercial, business, or industrial activity in the area.

2. Upon the termination or abandonment of the business or industry on which the unzoned commercial or industrial area was based, the billboard advertising device shall be reclassified as nonconforming.

3. If the Department of Highways reclassifies the device as nonconforming, the owner shall be notified.

(b) Except for a nonconforming advertising device, a billboard advertising device which is visible from the main traveled way of a FAP highway and in a protected area shall have an approved permit from the Department of Highways.

(c) An unzoned commercial or industrial area shall not be created when a commercial or industrial activity is located more than 300 feet from the right-of-way of the FAP highway.

(d)1. Minimum spacing between billboard advertising devices in unzoned commercial or industrial areas shall be 300 feet (ninety-one and two-tenths (91.2) meters) unless separated by a building, roadway or natural obstruction in a manner that only one (1) device located within the required spacing is visible from the highway at any time.

2. The minimum spacing requirement shall be reduced to 100 feet (thirty and four-tenths (30.4) meters) within incorporated municipalities which do not have comprehensive zoning.

(e) Minimum spacing between billboard advertising devices in any comprehensively zoned commercial or industrial area shall be 100 feet (thirty and four-tenths (30.4) meters) unless separated by a building, roadway or natural obstruction in a manner that only one (1) sign located within the required spacing is visible from the highway at any time.

(f) Advertising devices which meet the criteria set forth in KRS 177.863(1) shall be prohibited.

(2) Establishing limits of an unzoned commercial or industrial area.

(a) In measuring distances for the determination of an unzoned commercial or industrial area near FAP highways, two (2) lines shall be drawn from the activity boundary line perpendicular to the centerline of the main traveled way to encompass the greatest longitudinal distance along the center line of the highway.

(b) Measurements for establishing unzoned commercial or industrial areas shall begin at the outside edge of the activity boundary lines and shall be measured 700 feet (212.8 meters) in each direction.

(3) Nonbillboard off-premise advertising devices on FAP highways permitted.

(a) The owner of a nonbillboard off-premise advertising device shall apply for a permit in accordance with the procedures set forth in Section 6 of this administrative regulation. A metal tag corresponding to the permit shall not be issued by the Department of Highways.

(b) A nonbillboard off-premise advertising device shall not be permitted on or over the state-owned right-of-way of any FAP highway.

(c) Only one (1) nonbillboard off-premise advertising device relating to a particular city, church, or civic organization may be erected in each direction of travel on any one (1) FAP highway.

(d) Spacing between two (2) nonbillboard off-premise advertising devices shall be 100 feet (thirty and four-tenths (30.4) meters).

(e) A nonbillboard off-premise advertising device shall not affect

the spacing requirements for billboards.

(f) Church or civic club type nonbillboard advertising devices which shall be limited in area to eight (8) square feet (0.736 square meters) may contain only the following messages:

1. Name and address of the church or civic club;

2. Location and time of meetings, and a directional arrow; or

3. Special events such as Vacation Bible School, revival, etc.

These temporary messages shall be in lieu of the original or a part of the original message and shall not exceed the maximum of eight (8) square feet (0.736 square meters) in area.

(4) Public service sign criteria. Public service signs may be allowed if they conform to the following requirements:

(a) The maximum size for a public service sign shall be thirty-two (32) square feet (2.944 square meters) in area including border and trim.

(b)1. The public service sign shall contain a message of benefit to the public which occupies not less than fifty (50) percent of the area of the sign.

2. The remainder of the sign may identify the donor, sponsor or contributor of the school bus shelter.

3. The sign shall not contain any other message.

(c) Only one (1) public service sign on each school bus shelter shall face in any one (1) direction of travel.

Section 6. Required Permits for Advertising Devices. (1) Permit required.

(a) Except for a nonconforming advertising device, a permit shall be required from the Department of Highways for any off-premise advertising device located in a protected area of an interstate, parkway or FAP highway route.

(b) A permit shall be required for each on-premise advertising device on interstate and parkway highway routes.

(c) Compliance with the provisions of this administrative regulation is required for on-premise advertising devices on FAP routes.

(d) By January 1, 1994 each permitted off-premise advertising device shall have a metal tag supplied by the department attached to the device.

(2) Application for an advertising device permit.

(a)1. Application for an advertising device permit shall be made on form TC 99-31 as revised in December 1995 (~~September, 1993~~). The application form, completed in triplicate, shall be submitted to the jurisdictional highway district office of the proposed advertising device. The application form is hereby incorporated by reference in Section 13 (as a part) of this administrative regulation.

2. The issuance of approved advertising device applications as they relate to the required spacing between billboards shall be determined on a "first-come, first-served" basis.

(b) The application for an advertising device permit shall be accompanied by the following:

1. Vicinity map;

2. Applicant's plot plan;

3. Location, milepoint and sign plans for the advertising device;

4. A copy of all applicable local permits;

5. A copy of the lease or ownership of the proposed billboard site, if applicable; and

6. If the request is for an on-premise advertising device, the application shall include a detailed description of the exact wording of the message to be conveyed on the device. This information may be furnished either by photograph or drawing.

(c) The applicant shall submit three (3) copies of all required documentation.

~~[(d) Copies of this application form may be viewed, copied or obtained from the Department of Highways, Permits Branch, Eleventh (Division of Traffic, First) Floor, State Office Building, 501 High Street, Frankfort, Kentucky 40622. The telephone number of the Permits Branch is (502) 564-4501 (Division of Traffic is (502) 564-3020). Its hours of operation are 8 a.m. to 4:30 p.m. eastern time, Monday~~

~~through Friday except state holidays.]~~

(3) An approved advertising device application shall be valid for only one (1) year. If the device has not been constructed and inspected for compliance in that year, the applicant shall apply for renewal of the application.

Section 7. Illegal or Unpermitted Advertising Devices. (1) Unpermitted advertising devices. The jurisdictional chief district engineer or his representative shall notify the owner of an unpermitted or illegal advertising device by registered letter that the advertising device is in violation of Kentucky's advertising device laws or administrative regulation under the following conditions:

(a) The advertising device which is not located on state-owned highway right-of-way has not been issued a permit; or

(b) The advertising device which is not located on state-owned highway right-of-way for which a permit has been issued is found in violation of state law or this administrative regulation.

(2) Content of notice.

(a)1. If the advertising device appears to be eligible for a permit, the owner shall be given a period of ten (10) days from the date of notification by registered letter, to make application for a permit.

2. If by the end of the ten (10) days the owner does not submit a completed application to the Department of Highways, the owner shall be sent a new notice allowing him a period of thirty (30) days from the date of the second notice to remove the device.

(b) If an advertising device previously issued a permit is changed after the device received approval from the Department of Highways, the owner shall be allowed a period of thirty (30) days from the date of notification by registered letter for making the adjustments or corrections necessary to bring the advertising device into compliance with state law or administrative regulation.

(c) If a permit is not necessary for a particular advertising device but the advertising device is not in compliance with KRS Chapter 177 or this administrative regulation, the owner shall be allowed a period of thirty (30) days from the date of notification by registered letter for making any necessary adjustments or corrections to the advertising device.

(d) An advertising device which is ineligible for a permit or otherwise in violation of KRS Chapter 177 or this administrative regulation shall be declared to be a public nuisance and the advertising device shall be removed by the permittee or owner ~~(of the advertising)~~ within thirty (30) days after written notification that the advertising device is in violation.

(e) If after the thirty (30) days the noncompliant advertising device remains, the Department of Highways shall notify the owner or permittee of the action which it intends to take ~~[legal action]~~ to have the noncompliant advertising device removed or otherwise brought into compliance.

(3) Appeal of notice.

(a) If the permittee or owner disagrees with any notice received from the Department of Highways, within twenty (20) days of receipt of the notice, he may contact the person who sent the notice to unofficially protest the notice and to attempt to correct any problems with his advertising device or to provide additional information to the Department of Highways.

(b) If the owner or permittee is not satisfied with the result of his action taken pursuant to paragraph (a) of this subsection, he may appeal to the Transportation Cabinet, Office of General Counsel, 501 High Street, 10th Floor, State Office Building, Frankfort, Kentucky 40622, within twenty (20) days of the date of the Department of Highway's written response.

(c) The owner or permittee may appeal directly to the Transportation Cabinet, Office of General Counsel at the address set forth in paragraph (b) of this subsection without following the procedure set forth in paragraph (a) of this subsection.

Section 8. Just Compensation for the Removal of an Advertising

Device. (1) Buying rights, title, etc. When the Transportation Cabinet determines that it is necessary to remove either a legal or nonconforming advertising device, just compensation shall be paid for the following:

(a) The taking from the owner of the advertising device all right, title, leasehold and interest in the advertising device; or

(b) The taking from the owner of the real property on which the advertising device is located or the right to erect and maintain the advertising device thereon.

(2) Just compensation procedures.

(a) Payment of just compensation shall be determined by an appraisal or value finding.

(b) A nonconforming advertising device shall not qualify for just compensation if:

1. It is destroyed, abandoned, or discontinued;

2. It receives more than routine maintenance; or

3. It does not comply with the provisions of Section 4(3) of this administrative regulation and KRS 177.863.

Section 9. Appeal Procedure. (1)(a) Any party aggrieved by the action of the Transportation Cabinet pursuant to the provisions of this administrative regulation within twenty (20) days of the date of the notice or action may file a written appeal with the Office of General Counsel in the Transportation Cabinet, 501 High Street, Frankfort, Kentucky 40622.

(b) The appeal shall set forth the nature of the complaint and the grounds for the appeal.

(2) The administrative hearing and subsequent procedures shall be conducted pursuant to the provisions of KRS Chapter 13B.

(3) If the appellant wishes to continue the appeal after the administrative hearing set forth in KRS Chapter 13B, the court of proper jurisdiction for the filing of an appeal shall be Franklin Circuit Court.

Section 10. Scenic Byways. (1) On any FAP, interstate, or parkway highway designated by the Transportation Cabinet ~~[or the Federal Highway Administration]~~ as a scenic byway pursuant to 603 KAR 3:090 ~~[including the Great River Road]~~, additional outdoor advertising devices shall not be erected, allowed or permitted after the date of the designation of the highway as scenic~~[-regardless of the highway classification].~~

(2) The outdoor advertising devices legally in existence at the time of designation of the highway as scenic may continue to have routine maintenance. ~~[The Great River Road segments are the following:~~

~~(a) KY 94 from the Tennessee state line in Fulton County to KY 239 in Hickman County;~~

~~(b) KY 239 from KY 94 in Hickman County to KY 123 in Carlisle County;~~

~~(c) KY 123 from KY 239 to KY 1022 in Carlisle County;~~

~~(d) KY 1022 from KY 123 to US 51 in Carlisle County; and~~

~~(e) US 51 in Carlisle County to the Illinois state line.]~~

(3) The sponsor of a scenic byway application pursuant to 603 KAR 3:090 for a highway which is not a FAP, interstate, or parkway may petition the Transportation Cabinet to impose the outdoor advertising device restrictions set forth in this section.

(4) The following FAP highways in Kentucky have been designated as scenic byways pursuant to 603 KAR 3:090:

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	From	To
	Milepoints	
(a) Cordell Hull Highway in Barren County:		
KY 70 - From I-65 overpass to KY 90.	5.118	5.359
KY 90 - From KY 70 at Cave City via Happy Valley Road to US 31E (Glasgow Bypass).	.000	9.923
US 31E - From KY 90 to US 68.	14.849	14.258
US 31EX - From US 68 to Washington Street around Courthouse Square in Glasgow.	1.516	1.384
(b) Old Kentucky Turnpike in Larue County:		
US 31E - From the entrance to the Abraham Lincoln Birthplace National Historic Site via Hodgenville to the Nelson County Line.	7.000	20.725
(c) Old Kentucky Turnpike in Nelson County:		
US 31E - From the Larue County Line to US 62 in Bardstown.	.000	14.205
US 62 - From US 31E to US 150.	14.294	14.653
US 150 - From US 62 to entrance of My Old Kentucky Home State Park.	0.000	0.375
(d) Shakertown Road in Mercer County:		
US 68 - From 1.2 miles east of Shaker Village to 1.2 miles west of Shaker Village.	15.652	13.252
(e) Duncan Hines Scenic Highway in Warren County:		
KY 101 - From US 31W (south) to Edmonson County Line.	11.641	12.850
US 31E - From Duncan Hines former home to KY 446 overpass.	16.559	17.569
(f) Duncan Hines Scenic Highway in Edmonson County:		
KY 101 - From Warren County Line to KY 259 at Rhoda.	0.000	4.131
KY 259 - From KY 101 at Rhoda to KY 70 (east).	9.242	12.096
KY 70 - From KY 259 (south) to KY 259 (north).	12.388	9.939
KY 259 - From KY 238 at Bee Spring to KY 738.	18.998	17.568.
(g) Great River Road in Fulton County:		
KY 239 - From Hickman County Line to KY 94 in Cayce.	6.379	3.617
KY 94 - From the Tennessee State Line to KY 1099 west of Hickman.	0.000	10.902
KY 94 - From KY 1099 east of Hickman to KY 239 in Cayce.	13.642	22.121
(h) Great River Road in Hickman County:		
KY 239 - From Fulton County Line to KY 123.	0.000	3.753
KY 123 - From KY 239 to Proposed FAP 94 at Hailwell.	10.048	15.788
KY 123 - From Bottery Road in South Columbus to KY 58.	20.882	21.787
(i) Pine Mountain Road in Letcher County:		
US 119 - From KY 15 in Whitesburg to KY 806 near Oven Fork.	17.308	9.155
(j) US 68 Segment 1 in Boyle County:		
US 68 - From US 150 in Perryville to US 150 in Perryville.	7.369	7.475
(k) US 68 Segment 1 in Jessamine County:		
US 68 - From Mercer County Line to 0.5 miles south of KY 1980.	0.000	11.610
(l) US 68 Segment 1 in Mercer County:		
US 68 - From US 127 at Mooreland Avenue to Jessamine County Line.	6.752	20.104
(m) US 68 Segment 2 in Bourbon County:		
US 27/68 - From Fayette County Line to US 68X in Paris.	0.000	6.765
US 68X - From 10th Street to 8th Street in Paris.	1.366	1.487
US 68X - From Paris Bypass to North Middletown Road in Paris.	2.583	2.772
US 68 - From US 68X to the Nicholas County Line.	2.360	10.814
(n) US 68 Segment 2 in Nicholas County:		
US 68 - From Bourbon County Line to KY 32/36.	0.000	3.717
(o) US 68 Segment 3 in Nicholas County:		
US 68 - From the Licking River Bridge to the Robertson County Line.	11.687	12.211
(p) US 68 Segment 3 in Robertson County:		
US 68 - From Nicholas County Line to the Fleming County Line.	0.000	1.357
(q) US 68 Segment 3 in Fleming County:		
US 68 - From Robertson County Line to the Mason County Line.	0.000	5.423
(r) US 68 Segment 3 in Mason County:		
US 68 - From Fleming County Line to US 62 in Washington.	0.000	11.854
US 62 - From KY 2515 to Ohio State Line.	13.381	18.000

Section 11. Identification of FAP Highways. The following are the FAP highway segments as designated on June 1, 1991 and which are governed by the provisions of this administrative regulation. If in existence, a noncardinal, one (1) way couplet shall also be part of the FAP system.

(1) Adair County:

From Milepoint To

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KY 55 - From Cumberland Parkway in Columbia to the Taylor County Line.	10.059	19.006
KY 80 - From KY 55 (Courthouse Square) via Burkesville RD in Columbia to KY 61 N.	11.775	12.282
KY 61 - From KY 80 in Columbia to Green County Line.	15.248	23.997
(2) Allen County:		
US 231 - From US 31E northwest of Scottsville to Warren County Line.	.000	9.075
US 31E - From Tennessee State Line via Scottsville Bypass to Barren County Line.	.000	19.189
(3) Anderson County:		
US 127 - From Mercer County Line to US 127 Bypass.	.000	2.535
US 127B - From US 127 south of Lawrenceburg to US 127 north of Lawrenceburg.	.000	6.656
US 127 - From US 127 Bypass to Franklin County Line.	8.897	11.120
KY 151 - From US 127 Bypass to Franklin County Line.	.000	4.587
(4) Ballard County:		
US 51 - From Carlisle County Line via 4th Street in Wickliffe to Illinois State Line.	.000	8.297
US 60 - From Green Street in Wickliffe via 4th Street and Lee Street via Barlow and Kevil to McCracken County Line.	.000	16.937
KY 121 - From Carlisle County Line to 4th Street in Wickliffe.	.000	8.609
(5) Barren County:		
KY 70 - From I 65 at Cave City to KY 90.	5.118	5.359
US 68 - From US 31E (South Green Street) to KY 90 at Broadway.	12.577	12.650
KY 90 - From KY 70 at Cave City via Happy Valley Road to US 31E (Glasgow Bypass).	.000	9.923
KY 90 - From US 68 (Broadway) in Glasgow to Metcalfe County Line.	9.923	22.022
US 68 - From US 31E (Glasgow Bypass) via Main Street to US 31EX (Business) (N Race).	11.741	12.577
US 31EX - From Washington Street in Glasgow via South Green Street to US 68-(E Main St).	1.384	1.461
US 31EX - From US 68 (East Main Street) via West Main Street to North Race Street.	1.461	1.516
US 31E - From Allen County Line via Glasgow Bypass to KY 90.	.000	14.849
(6) Bell County:		
US 25E - From Virginia State Line to Knox County Line.	.000	19.714
US 119 - From US 25E to Harlan County Line.	.000	15.756
(7) Bourbon County:		
US 27 - From Fayette County Line via Lexington Road and Paris Bypass to Harrison County Line.	.000	15.435
US 68 - From US 27 in Paris via Paris Bypass to Nicholas County Line.	.000	10.814
US 460 - From Scott County Line to Paris Bypass.	.000	7.696
US 68X - From 10th Street via Main Street to 8th Street in Paris.	1.366	1.487
US 68X - From Paris Bypass via Carlisle Road to North Middletown Road in Paris.	2.583	2.772
US 460 - From US 68X (Carlisle Road) via North Middletown Road to the Montgomery County Line.	9.150	21.933
KY 627 - From Clark County Line via 10th Street to US 68X (Main Street).	.000	9.511
US 460 - From US 68X (Main Street) via 8th Street to US 27 (Paris Bypass).	7.696	9.150
(8) Boyd County:		
US 23 - From Lawrence County Line via Court Street in Catlettsburg, and Greenup Avenue and Winchester Avenue in Ashland to Greenup Co. Line.	.000	21.042
KY 180 - From south limits of I-64 Interchange to US 60.	.627	2.518
US 60 - From KY 180 near Cannonsburg via 13th Street to Winchester Avenue in Ashland.	4.023	12.198
US 23S - From US 60 (Winchester Avenue) via 13th Street Bridge to Ohio State Line.	.000	.591
(9) Boyle County:		
KY 34 - From US 150 (Main Street) in Danville via Lexington Road to Garrard County Line.	12.406	17.770
KY 52 - From US 150 to Garrard County Line.	.000	5.114
US 127 - From Lincoln County Line to existing alignment near Bonta Lane.	.000	2.000
US 127 - From proposed alignment near Bonta Lane to south urban limits of Danville.	1.864	2.972
US 127B - From US 127 via the Danville Bypass to US 127 at KY 2168.	.000	5.270
US 127 - From KY 2168 to Mercer County Line.	7.867	9.849
US 127 - From US 127B in Danville via 4th and 3rd Streets to US 150 (Main Street).	2.972	4.957
US 150 - From Washington County Line to US 68 in Perryville.	.000	4.504
US 68 - From US 150 in Perryville to US 150 in Perryville.	7.369	7.475
US 150 - From US 68 in Perryville to Lincoln County Line.	4.495	18.766
US 127 - From US 150 at Maple Street Intersection via Main St. to US 150 at 3rd Street Intersection.	5.495	4.957
US 150B - From US 127 (Hustonville Road) to US 150 (Standford Road).	.000	2.272
(10) Bracken County:		
KY 9 - From Mason County Line to Pendleton County Line.	.000	19.857
(11) Breathitt County:		
KY 15 - From Perry County Line to Wolfe County Line.	.000	27.505
(12) Breckinridge County:		
KY 259 - From Grayson County Line to KY 79.	.000	7.901
KY 79 - From KY 259 to US 60.	5.294	14.990
KY 3199 - From Hancock County Line to US 60X (Business).	.000	1.056
US 60X - From KY 3199 to US 60.	.000	2.500
US 60 - From US 60X (Business) via the Hardinsburg Bypass to the Meade County Line.	3.500	31.788
(13) Bullitt County:		

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US 31E - From Spencer County Line to US 31E Mainline (Main St in Mt. Washington.)	.000	2.913
US 150 - From point on US 31E Mainline via Mt. Washington Bypass to another point on US 31E Mainline.	.000	2.000
US 31E - From proposed Mt. Washington Bypass to Jefferson County Line.	5.320	5.465
(14) Caldwell County:		
US 641 - From Lyon County Line to Crittenden County Line.	.000	4.269
(15) Calloway County:		
KY 121 - From US 641 to Graves County Line.	14.075	24.156
US 641 - From Tennessee State Line via Murray to Marshall County Line.	.000	17.444
(16) Campbell County:		
US 27 - From Pendleton County Line to US 27 South.	.000	22.250
US 27 - From US 27 South (York St.) Via new bridge to Ohio State Line.	.000	.400
KY 1120 - From Kenton County Line to York Street.	.000	.668
KY 1998 - From US 27 to KY 8.	2.813	5.014
KY 471 - From US 27 to 471 (Eastbound I-275 Overpasses).	.000	.729
KY 9 - From Pendleton County Line to north limits of I-275 Interchange.	.000	17.978
(17) Carlisle County:		
US 51 - From Hickman County Line to proposed location of the Great River Road.	.000	10.725
US 51 - From a point on US 51 Mainline via the proposed Great River Road to the Ballard County Line.	.000	1.800
US 94 - From Hickman County Line via the proposed Great River Road to proposed US 51.	.000	9.000
KY 121 - From Graves County Line to Ballard County Line.	.000	9.714
(18) Carter County:		
KY 7 - From Elliot County Line to US 60 in Grayson.	.000	10.865
KY 1 - From US 60 to KY 9.	10.646	11.934
KY 9 - From KY 1 to Lewis County Line.	.000	18.262
(19) Casey County:		
US 127 - From Russell County Line to Lincoln County Line.	.000	23.715
(20) Christian County:		
US 41A - From Tennessee State Line to end of north exit ramp of Pennyryle Parkway.	.000	13.611
US 41LP - From KY 107 to northwest urban limits of Hopkinsville at KY 91/1682.	.000	5.100
KY 3493 - From US 41A at a point south of Hopkinsville to KY 107.	.000	1.892
US 41 - From Todd County Line to southbound exit ramp of the Pennyryle Parkway.	.000	10.325
US 41 - From US 68 to US 68 in Hopkinsville.	11.909	12.441
US 68 - From Trigg County Line to Todd County Line.	.000	21.126
KY 1682 - From US 68 to Pennyryle Parkway.	.000	3.904
(21) Clark County:		
KY 627 - From Madison County Line to KY 1958.	.000	6.360
KY 1958 - From KY 627 to north limits of the I64 interchange.	.000	2.860
KY 627 - From southern limits of I-64 Interchange to Bourbon County Line.	9.154	14.812
(22) Clay County:		
KY 80 - From south limits of interchange ramps of Daniel Boone Parkway to US 421.	7.101	7.537
US 421 - From KY 80 to Jackson County Line.	16.915	32.841
(23) Clinton County:		
KY 90 - From Cumberland County Line to Wayne County Line.	.000	12.816
US 127 - From Tennessee State Line to Russell County Line.	.000	20.967
(24) Crittenden County:		
US 60 - From Livingston County Line to Union County Line.	.000	23.018
US 641 - From Caldwell County Line to US 60.	.000	7.494
(25) Cumberland County:		
KY 90 - From Metcalfe County Line to Clinton County Line.	.000	22.450
KY 61 - From Tennessee State Line to KY 90 West.	.000	13.701
(26) Daviess County:		
Proposed FAP 10 - From US 60 near Maceo to Indiana State Line.	.000	3.800
US 60 - From Owensboro Beltline to US 60 (Lewisport Road).	.000	2.600
US 60 - From US 60 Bypass West of Owensboro to Hancock County Line.	10.179	27.979
US 60B - From US 60 to US 60 (Lewisport Road).	.000	10.212
US 60S - From KY 54 to Owensboro Beltline.	.000	.500
KY 54 - From US 431 (Frederica Street) east limits of US 60 Bypass Interchange.	.000	2.663
US 431 - From McLean County Line to 2nd Street.	.000	14.670
KY 2245 - From US 431 (Frederica Street) via 5th Street to US 631 (Lewis Street).	.000	.246
US 231 - From US 60 Bypass via Hartford Road, Breckinridge Street, 5th Street, Lewis Street and Ohio River Bridge to Indiana State Line.	11.243	15.721
KY 2235 - From US 60 via Triplet Street to US 60.	.000	.145
KY 1467 - From US 231 (5th Street) via Breckinridge Street and Leitchfield Road to 2nd Street.	.000	.234
(27) Edmonson County:		
KY 101 - From Warren County Line to KY 259 at Rhonda.	.000	4.131
KY 259 - From KY 101 at Rhonda to KY 70 eastbound.	9.242	12.096

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<u>KY 70 - From KY 259 southbound to KY 259 northbound.</u>	9.939	12.388
<u>KY 259 - From KY 70 westbound to Grayson County Line.</u>	12.096	22.692
<u>(28) Elliott County:</u>		
<u>KY 7 - From Morgan County Line to Carter County Line.</u>	.000	19.312
<u>(29) Fayette County:</u>		
<u>US 27 - From Jessamine County Line via Nicholasville Road, South Limestone, Euclid Avenue, South Upper, Bolivar, and South Broadway to US 25.</u>	.000	6.941
<u>US 25 - From Main Street via Newtown Pike to KY 922 at Georgetown Street.</u>	14.632	15.237
<u>KY 4 - The entire length of New Circle Road.</u>	.000	19.283
<u>KY 922 - From US 25 (Georgetown Road) via Newtown Pike to north limits of I-75 Interchange.</u>	.000	3.055
<u>US 27 - From KY 4 (New Circle Road) via Paris Pike to Bourbon County Line.</u>	8.450	15.767
<u>US 60 - From Woodford County Line to US 27/68.</u>	.000	8.162
<u>US 68 - From southeast urban limits of Lexington at Jessamine County Line via Harrodsburg Road to KY 4.</u>	.000	3.110
<u>US 421 - From KY 4 via West Main Street to US 25.</u>	.000	1.798
<u>US 25 - From KY 418 via Richmond Road, East Main Street, and West Main Street to US 421.</u>	8.244	14.632
<u>KY 418 - From US 25 to southeast limits of I-75 Interchange.</u>	.000	2.602
<u>(30) Fleming County:</u>		
<u>KY 32 - From Rowan County Line to KY 11 at a point southwest of Flemingsburg.</u>	10.615	28.293
<u>KY 11 - From junction with KY 32 at point southwest of Flemingsburg to Mason County Line.</u>	10.860	17.263
<u>US 68 - From Robertson County Line to Mason County Line.</u>	.000	5.423
<u>(31) Floyd County:</u>		
<u>KY 114 - From Magoffin County Line to KY 1428 in Prestonsburg.</u>	.000	12.430
<u>US 23 - From Pike County Line to KY 114 ramp.</u>	.000	15.389
<u>KY 80 - From Knott County Line to US 23.</u>	.000	14.435
<u>KY 1428 - From KY 114 in Prestonsburg to KY 321 in Prestonsburg.</u>	15.605	16.091
<u>KY 321 - From KY 1428 in Prestonsburg to US 23 south of Auxier.</u>	.000	4.278
<u>US 23 - From KY 321 south of Auxier to Johnson County Line.</u>	21.502	24.014
<u>(32) Franklin County:</u>		
<u>US 127 - From Anderson County Line via Capital Plaza-West Frankfort Connector Wilkerson Boulevard to Owen County Line.</u>	.000	22.098
<u>US 421 - From US 127 (Owenton Road) via Thornhill Bypass to US 460 (Georgetown Road).</u>	3.072	4.520
<u>KY 151 - From Anderson County Line to I-64.</u>	.000	2.222
<u>US 60 - From US 460 at Georgetown Road in Frankfort via Versailles Road to Woodford County Line.</u>	10.716	14.038
<u>US 421 - From US 127 to Henry County Line.</u>	4.520	17.886
<u>US 460 - From US 60 at Versailles Road in Frankfort via Georgetown RD to Scott County Line.</u>	.000	6.114
<u>KY 676 - From US 127 (Lawrenceburg Road) via East-West Connector in Frankfort to US 60 (Versailles Road).</u>	.000	5.287
<u>(33) Fulton County:</u>		
<u>US 51 - From Purchase Parkway to Hickman County Line.</u>	.000	5.472
<u>KY 239 - From Hickman County Line to KY 94 in Cayce.</u>	6.379	3.617
<u>KY 94 - From the Tennessee State Line to KY 1099 west of Hickman.</u>	0.000	10.902
<u>KY 94 - From KY 1099 east of Hickman to KY 239 in Cayce.</u>	13.642	22.121
<u>KY 1099 - Fulton Bypass from KY 94 west of Hickman to KY 94 east of Hickman.</u>	.000	2.966
<u>(34) Gallatin County:</u>		
<u>KY 35 - From Owen County Line at Sparta to I-71.</u>	.000	2.128
<u>(35) Garrard County:</u>		
<u>US 27 - From Lincoln County Line to Jessamine County Line.</u>	.000	16.510
<u>KY 34 - From Boyle County Line to US 27.</u>	.000	1.610
<u>KY 1295 - From KY 52 to Madison County Line.</u>	.000	6.928
<u>KY 52 - From Boyle County Line to KY 954.</u>	.000	13.476
<u>KY 954 - From KY 52 to Madison County Line.</u>	.000	7.564
<u>(36) Graves County:</u>		
<u>US 45 - From southern interchange of Purchase Parkway to McCracken County Line.</u>	18.950	31.580
<u>KY 80 - From Purchase Parkway via West Broadway to US 45 at 7th Street in Mayfield.</u>	9.638	11.461
<u>KY 58 - From US 45 at 7th Street via East Broadway to Marshall County Line.</u>	5.530	14.881
<u>KY 121 - From Calloway County Line via Murray Road and 5th Street to KY 58 at Broadway.</u>	.000	10.623
<u>US 45 - From KY 80 at Broadway via North 8th Street to KY 121 at Housman Street.</u>	17.219	17.952
<u>KY 121 - From US 45 (North 8th Street) via Housman Street to Carlisle County Line.</u>	10.623	22.559
<u>(37) Grayson County:</u>		
<u>KY 259 - From Edmonson County Line to US 62 westbound.</u>	.000	12.954
<u>US 62 - From KY 259 southbound to KY 259 northbound.</u>	20.787	21.296
<u>KY 259 - From US 62-Eastbound to Breckinridge County Line.</u>	12.954	21.459
<u>(38) Green County:</u>		
<u>KY 61 - From Adair County Line to US 68.</u>	.000	8.194
<u>US 68 - From KY 61 southbound to West Hodgenville Avenue in Greensburg.</u>	11.954	13.616

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KY 61 - From KY 88 north of Greensburg to Larue County Line.	9.796	24.344
(39) Greenup County:		
KY 8 - From Lewis County Line to KY 8 Spur at South Portsmouth.	.000	1.956
US 23 - From Boyd County Line to south end of US Grant Bridge.	.000	28.760
KY 8 - From KY 8 Spur to US 23 at south limits of U.S. Grant Bridge in South Portsmouth.	1.956	3.023
KY 8S - From KY 8 via Carl Perkins Bridge to Ohio State Line.	.000	.610
KY 10 - From Lewis County Line to the second landward pier from river's edge in Ohio.	.000	12.844
(40) Hancock County:		
US 60 - From Daviess County Line to KY 3199 in Hawesville.	.000	10.782
KY 3199 - From US 60 in Hawesville to another junction with US 60.	.000	3.301
US 60 - From KY 3199 to Squirrel Tail Hollow Road.	13.666	15.220
KY 3199 - From another junction with US 60 to the Breckinridge County Line.	3.301	5.558
KY 69 - From US 60 at Hawesville to Indiana State Line.	14.126	15.018
(41) Hardin County:		
US 31WB - From Western Kentucky Parkway to US 31W.	.202	3.704
US 31W - From US 31W Bypass to Meade County Line.	18.818	33.040
US 31W - From Meade County Line to Jefferson County Line.	33.040	37.143
KY 61 - From Larue County Line to US 31W.	.000	5.309
(42) Harlan County:		
US 119 - From Bell County Line to proposed relocation east of Cumberland.	.000	38.082
US 119 - From a point on the US 119 Mainline near Cumberland to Letcher County Line.	.000	1.100
US 421 - From Virginia State Line to Leslie County Line.	.000	27.632
(43) Harrison County:		
US 27 - From Bourbon County Line to Pendleton County Line.	.000	19.472
(44) Henderson County:		
US 41 - From Pennyrlie Parkway to Indiana State Line (north urban limits of Henderson).	13.414	21.193
US 60 - From Union County Line to Henderson Bypass.	.000	8.712
KY 425 - From US 60 (Morganfield Road) via Henderson Bypass to end of the northbound ramp junction with the Pennyrlie Parkway.	.000	6.201
(45) Henry County:		
KY 55 - From Shelby County Line to KY 22 west in Eminence.	.000	1.408
KY 22 - From KY 55 south to KY 55 north.	7.420	7.522
KY 55 - From KY 22 east to US 421.	1.408	4.490
US 421 - From Franklin County Line to Shelby County Line at Pleasureville.	.000	6.434
US 421 - From Shelby County Line near Pleasureville to Trimble County Line.	6.434	25.144
(46) Hickman County:		
US 51 - From Fulton County Line to Carlisle County Line.	.000	14.451
KY 239 - From Fulton County Line to KY 123.	0.000	3.753
KY 123 - From KY 239 to Proposed FAP 94 at Hailwell.	10.048	15.788
KY 123 - From Bottery Road in South Columbus to KY 58.	20.882	21.787
Proposed FAP 94 - From KY 123 at Hailwell to .??	.000	19.095
(47) Hopkins County:		
KY 281 - From east limits of interchange ramps of Pennyrlie Parkway to US 41.	.000	.712
US 41A - From US 41 and KY 281 to Webster County Line.	.000	13.278
(48) Jackson County:		
KY 30 - From Laurel County Line to Owsley County Line.	.000	20.919
US 421 - From Clay County Line to Rockcastle County Line.	.000	29.585
(49) Jefferson County:		
US 31W - From Hardin County Line via Dixie Highway, Bernheim Lane, 22nd Street, Dumesnil Street and 21st Street to Main Street.	.000	20.292
US 31W - From 21st Street via Market Street to US 3E at Main and 2nd Streets.	20.292	22.135
US 150 - From Main Street via 21st Street and 22nd Street to I-64.	.000	.741
US 150T - From 22nd Street to 21st Street.	.000	.089
US 31 - From US 31E (Main Street) via George Rogers Clark Bridge to 0.02 mile north of 4th Street in Jeffersonville, Indiana.	.000	1.122
US 31E - From Bullitt County Line to US 31W at Main and 2nd Streets.	.000	17.814
KY 841 - From US 31W at Dixie Highway via Gene Snyder Freeway to I-65.	.000	10.250
(50) Jessamine County:		
US 27 - From the Garrard County Line to Fayette County Line.	.000	15.070
US 68 - From Mercer County Line to Fayette County Line.	.000	12.060
(51) Johnson County:		
US 23 - From Floyd County Line to Lawrence County Line.	.000	18.386
US 460 - From Magoffin County Line to US 23 near Paintsville.	.000	7.700
(52) Kenton County:		
KY 1120 - From I-75 to Campbell County Line.	.000	1.212
(53) Knott County:		
KY 15 - From Letcher County Line to Perry County Line.	.000	9.380

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<u>KY 80 - From Perry County Line to Floyd County Line.</u>	.000	20.093
<u>(54) Knox County:</u>		
<u>US 25E - From Bell County Line to Laurel County Line.</u>	.000	26.571
<u>KY 90 - From Whitley County Line to 1.621 miles south of US 25E at KY 3041 (Proposed).</u>	.000	2.100
<u>KY 3041 - From 1.621 miles south of US 25E to US 25E.</u>	.000	1.621
<u>(55) Larue County:</u>		
<u>KY 61 - From Green County Line via Hodgenville Bypass to Hardin County Line.</u>	.000	13.603
<u>US 31E - From KY 61 south via Hodgenville to Nelson County Line.</u>	6.900	20.725
<u>(56) Laurel County:</u>		
<u>US 25E - From Knox County Line in Corbin to west limits of I-75 ramps.</u>	.000	2.024
<u>US 25 - From Daniel Boone Parkway in London to KY 490.</u>	13.612	16.315
<u>KY 490 - From US 25 to KY 30 at East Bernstadt.</u>	.000	.877
<u>KY 30 - From KY 490 to Jackson County Line.</u>	1.404	9.806
<u>KY 80 - From Pulaski County Line to the Daniel Boone Parkway and US 25 near London.</u>	.000	11.083
<u>KY 192 - From west ramps of I-75 to the Daniel Boone Parkway east of London.</u>	18.190	22.041
<u>(57) Lawrence County:</u>		
<u>US 23 - From Johnson County Line to Boyd County Line.</u>	.000	28.947
<u>KY 645 - From US 23 to Martin County Line.</u>	.000	5.205
<u>(58) Lee County:</u>		
<u>KY 11 - From Owsley County Line via Beattyville to Wolfe County Line.</u>	.000	14.845
<u>(59) Leslie County:</u>		
<u>US 421 - From Harlan County Line via Main Street in Hyden to KY 118 (Hyden Spur).</u>	.000	22.613
<u>KY 118 - From US 421 in Hyden via Hyden Spur to Daniel Boone Parkway.</u>	.000	3.524
<u>(60) Letcher County:</u>		
<u>KY 15 - From US 119 at Whitesburg to KY 7 North at Isom.</u>	.000	9.230
<u>KY 7 - From KY 15 to KY 15.</u>	13.497	14.157
<u>KY 15 - From KY 7 South in Isom to Knott County Line.</u>	9.230	10.675
<u>US 23 - From Virginia State Line along proposed alignment to US 119 to Pike County Line.</u>	.000	7.000
<u>US 119 - From Harlan County Line to proposed US 23 near Virginia State Line.</u>	.000	27.798
<u>(61) Lewis County:</u>		
<u>KY 9 - From Carter County Line to Mason County Line.</u>	.000	31.218
<u>KY 8C - From KY 10 to KY 8 south of Quincy.</u>	.000	.127
<u>KY 8 - From KY 8C south of Quincy to Greenup County Line.</u>	28.575	36.910
<u>KY 10 - From KY 9 Greenup County Line.</u>	6.788	19.834
<u>(62) Lincoln County:</u>		
<u>US 27 - From Pulaski County Line via Stanford to Garrard County Line.</u>	.000	21.982
<u>US 127 - From Casey County Line via Hustonville to Boyle County Line.</u>	.000	10.847
<u>US 150 - From Boyle County Line to US 150 Bypass.</u>	.000	4.347
<u>US 150B - From US 150 to US 150.</u>	.000	3.522
<u>US 150 - From US 150/US 150 Bypass near Preacherville Road to Rockcastle County Line.</u>	8.705	19.665
<u>(63) Livingston County:</u>		
<u>US 60 - From McCracken County Line via Smithland, Burna, and Salem to Crittenden County Line.</u>	.000	29.059
<u>US 62 - From Marshall County Line via Lake City to Lyon County Line.</u>	.000	2.854
<u>(64) Logan County:</u>		
<u>US 79 - From Todd County Line via Clarksville Road and 9th Street to US 431 North.</u>	.000	12.135
<u>US 68 - From Todd County Line via Hopkinsville Road, 4th Street and Franklin Street to Warren County Line.</u>	.000	26.567
<u>US 431 - From Tennessee State Line to Muhlenberg County Line.</u>	.000	31.898
<u>(65) Lyon County:</u>		
<u>US 62 - From Livingston County Line to US 641 at Fairview.</u>	.000	10.465
<u>US 641 - From US 62 at Fairview to Caldwell County Line.</u>	.000	5.715
<u>(66) McCracken County:</u>		
<u>US 45 - From Graves County Line via Lone Oak Road and Jackson Street to US 60 East (Jackson Street).</u>	.000	10.820
<u>US 60 - From Ballard County Line via Hinkleville Road and Park Avenue to US 45 (28th Street) at Laclede.</u>	.000	13.544
<u>US 60 - From US 45 (28th Street) via Jackson Street, 21st Street, Beltline Highway, and Division Street to the Livingston County Line.</u>	13.544	20.028
<u>US 62 - From US 60 to US 68.</u>	12.881	15.513
<u>US 68 - From US 62 to Marshall County Line.</u>	.000	2.677
<u>(67) McCreary County:</u>		
<u>US 27 - From Tennessee State Line to Pulaski County Line.</u>	.000	22.252
<u>KY 90 - From US 27 to Whitley County Line.</u>	.000	11.920
<u>(68) McLean County:</u>		
<u>US 431 - From Muhlenberg County Line to Daviess County Line.</u>	.000	11.573
<u>(69) Madison County:</u>		
<u>KY 1295 - From Garrard County Line to KY 52.</u>	.000	4.529

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KY 52 - From KY 1295 via Lancaster Avenue to KY 876.	5.444	10.910
KY 954 - From Garrard County Line to KY 21.	.000	.139
KY 21 - From KY 954 via Lancaster Road and Chestnut Street in Berea to US 25 at Mt. Vernon Road.	6.176	9.115
US 25 - From KY 21 West via Chestnut Street in Berea to KY 21 East.	2.863	3.810
KY 21 - From US 25 at Estill Street via Prospect Street and Big Hill Road in Berea to US 421.	9.115	14.196
KY 876 - From west limits of I-75 interchange in Richmond to KY 52 (Irvine Road).	7.097	10.755
US 25 - From US 421 via Big Hill Avenue to KY 876.	11.960	15.500
US 421 - From US 25 to Rockcastle County Line.	.000	13.031
US 421S - From KY 52 (Irvine Road) to north urban limits of Richmond at US 25.	.000	3.900
US 25 - From proposed Richmond Bypass to northwest limits of I-75 interchange at Richmond.	19.188	20.158
KY 627 - From US 25 west of I-75 to Clark County Line.	.000	6.118
(70) Magoffin County:		
US 460 - From Mountain Parkway to KY 114.	12.546	14.635
KY 114 - From US 460 to Floyd County Line.	.000	5.026
US 460 - From Morgan County Line to Mountain Parkway West.	.000	12.546
US 460 - From KY 114 to Johnson County Line.	14.635	20.426
(71) Marion County:		
US 68 - From Taylor County Line to KY 55 (Walnut St.).	.000	10.690
KY 55 - From US 68 (Main Street) via Walnut Street to KY 49 (St. Marys Road).	.000	.389
KY 49 - From KY 55 (St. Marys Road) via Walnut Street to KY 49 (Proctor Knott Avenue).	17.815	17.968
KY 55 - From KY 55 (Proctor Knott Avenue) via Walnut and Spalding Avenue to Washington County Line.	.389	4.669
(72) Marshall County:		
KY 58 - From Graves County Line to KY 80.	.000	2.156
KY 80 - From KY 58 to US 68.	.000	16.926
US 68 - From McCracken County Line to Trigg County Line.	.000	28.085
US 641 - From Calloway County Line to US 62.	.000	19.422
US 62 - From I-24 to Livingston County Line.	8.805	12.081
US 641S - From US 641 to Purchase Parkway.	.000	3.519
(73) Martin County:		
KY 645 - From KY 40 at a point west of Inez Bypass to KY 3 northbound south of Inez.	4.682	6.605
KY 3 - From KY 645 westbound via Inez Bypass to KY 645 eastbound.	9.709	10.019
KY 645 - From KY 3 southbound via Inez Bypass to KY 40 southeast of Inez.	6.605	7.632
KY 40 - From KY 645 southeast of Inez to West Virginia State Line.	11.900	20.280
KY 645 - From Lawrence County Line to KY 40 at a point west of Inez.	.000	4.682
(74) Mason County:		
KY 11 - From Fleming County Line to KY 9.	.000	8.452
US 68 - From Fleming County Line to US 62 in Washington.	.000	11.854
US 62 - From US 68 in Washington via Lexington Road, Forest Avenue, and Aberdeen Bridge to Ohio State Line.	12.672	18.000
KY 9 - From Lewis County Line to Bracken County Line.	.000	19.554
KY 546S - From KY 9 to Ohio State Line via proposed New Bridge.	.000	4.600
(75) Meade County:		
US 31W - From Hardin County Line to Hardin County Line.	.000	3.827
US 60 - From Breckinridge County Line to US 31W.	.000	15.644
KY 144 - From US 60 to KY 448 near Buck Grove.	25.390	28.665
KY 448 - From KY 144 to KY 1051 (Brandenburg Bypass).	.000	4.392
KY 1051 - From KY 448 via Brandenburg Bypass to KY 79.	.000	2.218
KY 79 - From KY 1051 via Brandenburg Bypass to Indiana State Line.	8.237	9.912
(76) Menifee County:		
US 460 - From Montgomery County Line to Morgan County Line.	.000	19.750
(77) Mercer County:		
US 127 - From Boyle County Line via Danville Road to US 68.	.000	4.402
US 68 - From US 127 at Mooreland Avenue to Jessamine County Line.	6.752	20.104
US 127 - From US 68 to Anderson County Line.	4.402	17.150
(78) Metcalfe County:		
KY 90 - From Barren County Line to Cumberland County Line.	.000	11.719
(79) Montgomery County:		
US 460 - From Bourbon County Line to KY 686 (Mount Sterling Bypass).	.000	8.289
KY 686 - From US 460 (Maysville Road) via Mount Sterling Bypass to US 460 (Frenchburg Road) at south urban limits of Mount Sterling.	.000	3.460
US 460 - From south urban limits of Mount Sterling to Menifee County Line.	10.702	22.151
(80) Morgan County:		
KY 7 - From US 460 in West Liberty to Elliot County Line.	.000	11.683
KY 203 - From Wolfe County Line to US 460.	.000	3.761
US 460 - From Menifee County Line via West Liberty to Magoffin County Line.	.000	28.634
(81) Muhlenberg County:		

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US 431 - From Logan County Line to McLean County Line.	.000	27.779
(82) Nelson County:		
US 31E - From Larue County Line via New Haven Road, Cathedral Street, and Stephen Foster Avenue to Spencer County Line.	.000	27.588
US 62 - From US 31E to US 150.	14.294	14.653
US 150 - From US 62 to Washington County Line.	.000	7.682
(83) Nicholas County:		
US 68 - From Bourbon County Line to Robertson County Line.	.000	12.211
(84) Owen County:		
US 127 - From Franklin County Line to KY 35 at Bromley.	.000	24.687
KY 35 - From US 127 to Gallatin County Line.	.000	4.132
(85) Owsley County:		
KY 30 - From Jackson County Line to KY 11-North.	.000	11.206
KY 11 - From KY 30 to Lee County Line.	14.227	17.307
(86) Pendleton County:		
US 27 - From Harrison County Line to Campbell County Line.	.000	19.422
KY 9 - From Bracken County Line to Campbell County Line.	.000	4.339
(87) Perry County:		
KY 15 - From Knott County Line at Vicco to Breathitt County Line.	.000	25.179
KY 80 - From KY 15 to Knott County Line.	7.910	15.862
(88) Pike County:		
US 23 - From Letcher County Line along proposed alignment to four lane east of Dorton.	.000	4.200
US 23 - From KY 610 at Dorton via Pikeville to Floyd County Line.	6.589	35.123
US 119 - From US 23 north of Pikeville to West Virginia State Line.	.000	29.748
US 460 - From US 23 north of Shalbiana to Virginia State Line.	.000	25.445
(89) Powell County:		
KY 11 - From Wolfe County Line to Mountain Parkway.	.000	3.504
(90) Pulaski County:		
US 27 - From McCreary County Line to Lincoln County Line.	.000	30.693
KY 80B - From US 27 to KY 80.	.000	2.315
KY 80 - From KY 80 Bypass to Laurel County Line.	21.636	40.393
KY 90 - From Wayne County Line to US 27.	.000	4.169
KY 461 - From KY 80 to Rockcastle County Line.	.000	8.441
(91) Robertson County:		
US 68 - From Nicholas County Line to Fleming County Line.	.000	1.357
(92) Rockcastle County:		
US 150 - From Lincoln County Line to US 25 in Mount Vernon.	.000	10.511
US 25 - From I-75 to US 150.	11.764	13.882
US 421 - From Jackson County Line to Madison County Line.	.000	.601
KY 461 - From Pulaski County Line to US 25.	.000	9.404
US 25 - From KY 461 to I-75.	15.018	15.678
(93) Rowan County:		
KY 32 - From Fleming County Line to south limits of I-64 interchange.	.000	5.784
(94) Russell County:		
US 127 - From Clinton County Line to Casey County Line.	.000	26.998
(95) Scott County:		
US 460 - From Franklin County Line to proposed Georgetown Bypass near Great Crossings.	.000	7.100
Proposed Georgetown Bypass - From US 460 Mainline near Great Crossings to US 25.	.000	3.400
US 460B - From US 25 via US 460 (Georgetown Bypass) to US 62/US 460.	.000	2.891
US 460 - From US 62/US 460B to Bourbon County Line.	8.583	15.421
(96) Shelby County:		
KY 55 - From I-64 to southwest urban limits of Shelbyville via Taylorsville Road and Boone Station Road to Henry County Line.	6.246	17.850
US 60 - From KY 55 South (Taylorsville Road) via Midland Trail and Main Street to KY 55 North (Boone Station Road).	8.589	11.398
KY 53 - From I-64 to US 60 (Frankfort Road) via Mt Eden Road.	6.180	7.978
US 421 - From Henry County Line to Henry County Line.	.000	.661
(97) Simpson County:		
US 31W - From south limits of I-65 Interchange to KY 100.	2.300	6.488
KY 100 - From US 31W Mainline to the I-65 ramps east of I-65.	9.675	12.875
(98) Spencer County:		
US 31E - From Nelson County Line to Bullitt County Line.	.000	2.433
(99) Taylor County:		
KY 55 - From Adair County Line to US 68 (Broadway).	.000	10.293
US 68 - From KY 55 via Broadway to Marion County Line.	4.939	13.600
(100) Todd County:		
US 41 - From Tennessee State Line to Christian County Line.	.000	12.458

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US 79 - From Tennessee State Line to Logan County Line.	.000	10.606
US 68 - From Christian County Line to Logan County Line.	.000	14.060
(101) Trigg County:		
US 68 - From Marshall County Line to Christian County Line.	.000	28.224
(102) Trimble County:		
US 421 - From Henry County Line to US 42 South.	.000	6.704
US 42 - From US 421 South in Bedford to US 421 North in Bedford.	8.078	8.249
US 421 - From US 42 North to Indiana State Line.	6.704	19.287
(103) Union County:		
KY 56 - From Illinois State Line to proposed Morganfield Bypass.	.000	11.600
KY 56 - From existing US 56 via proposed Bypass to US 60.	.000	1.400
US 60 - From Crittenden County Line to proposed Morganfield Bypass.	.000	15.500
US 60 - From existing US 60 via proposed Bypass to US 60 east of Morganfield.	.000	2.900
US 60 - From proposed Bypass east of Morganfield to Henderson County Line.	18.100	26.069
KY 109 - From Webster County Line to US 60.	.000	1.536
(104) Warren County:		
KY 101 - From I-65 to US 31W.	7.861	11.641
US 31W - From KY 101 south to KY 101 north.	27.869	28.557
KY 101 - From US 31W to Edmonson County Line.	11.641	12.850
US 68 - From Logan County Line to US 31W.	.000	13.060
US 31W - From US 68 to KY 446 Overpass.	14.670	17.569
KY 446 - From US 31W to I-65.	.000	1.090
KY 880 - From KY 185 to US 68.	.000	5.128
KY 185 - From KY 880 to US 68.	.000	.292
US 231 - From Allen County Line to I-65.	.000	9.106
(105) Washington County:		
KY 55 - From Marion County Line to US 150.	.000	4.551
KY 555 - From US 150 to north end of Bluegrass Parkway Interchange.	.000	14.738
US 150 - From Nelson County Line to Boyle County Line.	.000	21.359
(106) Wayne County:		
KY 90 - From Clinton County Line to Pulaski County Line.	.000	25.235
(107) Webster County:		
US 41A - From Hopkins County Line to KY 670.	.000	1.324
KY 670 - From US 41A to KY 109.	.000	2.712
KY 109 - From KY 670 to Union County Line.	2.876	14.664
(108) Whitley County:		
KY 90 - From McCreary County Line to US 25W.	.000	8.328
US 25W - From KY 90 to east limits of I-75 ramps.	22.183	29.677
KY 90 - From US 25W along proposed alignment to Knox County Line.	.000	2.000
(109) Wolfe County:		
KY 15 - From Breathitt County Line to KY 191.	.000	9.515
KY 15S - From KY 15 to Mountain Parkway.	.000	1.054
KY 11 - From Lee County Line to Powell County Line.	.000	5.317
KY 191 - From KY 15 Spur to KY 203.	.000	10.342
KY 203 - From KY 191 to Morgan County Line.	.000	1.323
(110) Woodford County:		
US 60 - From Franklin County Line to Fayette County Line.	.000	13.039

Section 12. No Encroachment Permits for Vegetation Control. An encroachment permit shall not be issued pursuant to the provisions of 603 KAR 5:150 for the clearing or trimming of any vegetation on state-owned right-of-way which is in front of an outdoor advertising device.

Section 13. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) "The Bonus Agreement" between the Kentucky Department of Highways and the Federal Highway Administration, executed December 23, 1971; and

(b) "Application for an Advertising Device Permit," Form TC 99-31, December 1995 edition.

(2) Material incorporated by reference as a part of this administrative regulation may be viewed, copied, or obtained from the Transportation Cabinet, Permits Branch, 11th Floor, State Office Building, 501 High Street, Frankfort, Kentucky 40622. The telephone number is (502) 564-4105. The business hours are 8 a.m. to 4:30 p.m. eastern time on weekdays.

J.M. YOWELL, P.E., State Highway Engineer

FRED N. MUDGE, Secretary

APPROVED BY AGENCY: February 12, 1996

FILED WITH LRC: February 13, 1996 at noon

PUBLIC PROTECTION AND REGULATION CABINET Kentucky Racing Commission (As Amended)

810 KAR 1:015. Claiming races.

RELATES TO: KRS 230.215(2), 230.225(1), 230.260(3) [230.240 to 230.360]

STATUTORY AUTHORITY: KRS 230.215(2), 230.225(1), 230.260(3), (6) [Chapter 13A]

NECESSITY AND FUNCTION: KRS 230.215(2), 230.225(1), 230.260(3) requires that the commission promulgate administrative regulations prescribing conditions governing horse

racine. This administrative regulation prescribes conditions for claiming races. ~~[To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this administrative regulation relates to the claiming of horses.]~~

Section 1. (1) In claiming races a [any] horse shall be subject to claim for its entered price by a [any] licensed owner in good standing, or by the holder of a certificate of eligibility to claim. The procedure for obtaining a certificate of eligibility to claim shall be as follows:

(a) An applicant shall, fifteen (15) days prior to entering a claim, submit:

1. An application for owners original license;
2. ~~[which shall be accompanied by]~~ A financial statement;
3. A finger print card;
4. The name of a licensed trainer, or person eligible to be licensed as a trainer, who will assume care and responsibility for the horse claimed; and

5. The requisite fee for owners license.

(b) The certificate of eligibility shall be valid for the remainder of the calendar year.

(2)(a) A claim may be made by an authorized agent.

(b) ~~[, but]~~ An agent may claim only for the account of those for whom he is licensed as agent.

(c) The name of the authorized agent; and ~~[, as well as]~~ the name of the owner for whom the claim is being made shall appear on the claim slip.

(3) A [No] person shall not claim his own horse or cause his own horse to be claimed, directly or indirectly, for his own account.

(b) A [No] claimed horse shall not remain in the same stable or under the care or management of the owner or trainer from whom it is claimed.

(4)(a) A [No] person shall not claim more than one (1) horse from a [any one (1)] race.

(b) An [No] authorized agent~~[, although representing several owners,]~~ shall not submit more than one (1) claim for a [any] race.

(c) Only one (1) claim shall be entered on behalf of a stable in a race if a stable consist of horses:

1. Owned by more than one (1) person; and

2. Trained by the same trainer. ~~[When a stable consists of horses owned by more than one (1) person and trained by the same trainer, not more than one (1) claim may be entered on behalf of the stable in any one (1) race.]~~

(5)(a) A claimed horse shall not run for thirty (30) days after being claimed in a race in which the determining eligibility price is less than ~~[twenty five (25) percent more than]~~ the price for which the horse was claimed.

(b) The day ~~[claimed shall not count but the]~~ following the ~~[calendar]~~ day the horse is claimed shall be the first day;

(c) ~~[, and]~~ The claimed horse shall be entitled to enter whenever necessary to permit ~~[so that]~~ it may start on the 31st calendar day following the claim.

(d) This subsection shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper.

(6)(a) A [No] horse claimed in a claiming race shall not be sold or transferred, wholly or in part, ~~[to anyone]~~ within thirty (30) days after the day it was claimed, except in another claiming race.

(b) Unless the stewards grant permission for a claimed horse to enter and start at an overlapping or conflicting meeting in Kentucky, a horse shall not race elsewhere until the close of the meeting at which it was claimed.

(7)(a) A claim shall be:

1. Made on Commission "Claim Blank";
2. Sealed in an envelope supplied by the Commission; and
3. Deposited in the association's claim box.

(b) The "Claim Blank" form and envelope shall be filled out completely and accurately. ~~[No horse shall race elsewhere until after the close of the meeting at which it was claimed, except that the~~

stewards may grant permission for a claimed horse to enter and start at an overlapping or conflicting meeting within the boundaries of the Commonwealth of Kentucky.

(7) Each claim shall be made in writing and on a form and in an envelope supplied by the association. Both form and envelope shall be filled out completely, and shall be accurate in every detail.

(8)(a) Claims shall be deposited in the claim box at least fifteen (15) minutes before post time of the race from which the claim is being made.

(b) ~~[No]~~ Money or its equivalent shall not be put in the claim box.

(c) A claim shall be valid if the claimant at the time of filing the claim has a credit balance in his account with the horseman's bookkeeper of not less than the amount of the claim, plus the Kentucky sales tax. ~~[For a claim to be valid the claimant shall have at the time of filing the claim a credit balance in his account with the horseman's bookkeeper of not less than the amount of the claim, plus the Kentucky sales tax.]~~

(9) The stewards, or their designated representative, shall:

(a) Open the claim envelopes for each race as soon as the horses leave the paddock en route to the post; and

(b) ~~[, They shall thereafter]~~ Check with the horseman's bookkeeper to ascertain whether the proper credit balance has been established with the association.

(10) If more than one (1) valid claim is filed for the same horse, title to the horse shall be determined by lot under the supervision of the stewards or their designated representative.

(11)(a) After the race has been run a horse that has been claimed shall be delivered to the claimant.

(b) The claimant shall present written authorization for the claim from the racing secretary.

(c) After written authorization has been presented, horses that are sent to the detention area for post race testing shall be delivered.

(d) Other horses shall be delivered in the paddock.

(e) A person shall not refuse to deliver a horse claimed out of a claiming race to the person legally entitled to the horse.

(f) If the owner of a horse that has been claimed refuses to deliver the horse to the claimant, the horse shall be disqualified from further racing until delivery is made. ~~[Any horse that has been claimed shall, after the race has been run, be delivered to the claimant, who shall present written authorization for the claim from the racing secretary. Horses which are sent to the detention area for post race testing shall be delivered at that point; others shall be delivered in the paddock. No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race, and furthermore the horse in question shall be disqualified from further racing until delivery is made.]~~

(12)(a) A claim shall be ~~[Claims are]~~ irrevocable.

(b) Title to a claimed horse shall be vested in the successful claimant from the time the horse is a starter.

(c) The successful claimant shall ~~[then]~~ become the owner of the horse whether it is:

1. ~~[be]~~ Alive or dead;
2. Sound or unsound; or
3. Injured during the race, or after it.

(d) A claimed horse shall run in the interest of and for the account of the owner from whom it is claimed.

(13)(a) A person shall not offer to:

1. Enter, or enter into an agreement to claim, or not to claim;
- or
2. Attempt, or attempt to prevent another person from claiming any horse in a claiming race.

(b) A person shall not attempt by intimidation to prevent anyone from running a horse in a claiming race.

(c) An owner or trainer shall not make an agreement with another owner or trainer for the protection of each other's horse in a claiming race. ~~[No person shall offer to enter or enter into, an~~

~~agreement to claim or not to claim or attempt to prevent another person from claiming any horse in a claiming race. No person shall attempt by intimidation to prevent anyone from running a horse in any claiming race. No owner or trainer shall make an agreement with another owner or trainer for the protection of each other's horses in a claiming race.]~~

(14)(a) A claim that does not comply with the provisions of this administrative regulation shall be void.

(b) The stewards shall be the judges of the validity of a claim.
~~[Claims which are not made in keeping with this administrative regulation shall be void. The stewards may at any time in their discretion require any person filing a claim to make affidavit in writing that he is claiming in accordance with this administrative regulation. The stewards shall be the judges of the validity of the claim.]~~

(15) A ~~[Any]~~ person holding a lien of any kind against a horse entered in a claiming race shall record the lien with the racing secretary or horseman's bookkeeper at least thirty (30) minutes before post time for that race. If none is so recorded, it shall be presumed that none exists.

(16) The engagements of a claimed horse pass automatically with the horse to the claimant.

(17) Notwithstanding any designation of sex or age appearing on the racing program or in any racing publication, the claimant of a horse shall be solely responsible for determining the age or sex of the horse claimed.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Claim Blank (Rev 96)"; and

(b) Claim Blank envelope.

(2) This material may be inspected at Kentucky Racing Commission, 4063 Iron Works Pike, Building B, Lexington KY 40511, Monday through Friday, 8 a.m. to 4:30 p.m.

WAYNE G. LYSTER, III, Chairman

APPROVED BY AGENCY: December 21, 1995

FILED WITH LRC: December 21, 1995 at 4 p.m.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management and Development
(As Amended)

904 KAR 3:041. Food Stamp Employment and Training Program.

RELATES TO: KRS 194.050, 7 CFR 273.7

STATUTORY AUTHORITY: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer a Food Stamp Employment and Training (ET) 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 technical eligibility requirements used by the cabinet in the administration of the Food Stamp ET Program. This administrative regulation corrects a deficiency found by the Interim Joint Committee on Health and Welfare by deleting an age factor to the priority status criteria listed in Section 3(2) of this administrative regulation.

Section 1. Definitions. (1) "Conciliation" means a fifteen (15) day period that is used to determine why noncompliance with ET requirements occurred.

(2) "Exempt" means an individual who is excused by the agency from participation in the employment and training program.

(3) "Primary wage earner (PWE)" means the household member

providing the most earned income in the prior two (2) months.

(4) "Voluntary quit" means the self-termination of employment by a household member on a voluntary basis.

Section 2. Work Registration. (1) Except those meeting exempt criteria in subsection (4) of this section, all household members shall be required to register for work:

(a) At the initial application for food stamps; and

(b) Every twelve (12) months following the initial application.

(2) Work registration shall be completed by:

(a) The member required to register; or

(b) The person making application for the household.

(3) Unless otherwise exempt, persons who are excluded household members of the food stamp case, shall be required to register for work during periods of disqualification. These individuals are:

(a) Ineligible aliens;

(b) Individuals disqualified for refusing to provide or apply for a Social Security number; and

(c) Individuals disqualified for intentional program violation.

(4) The following shall be exempt from work registration requirements:

(a) A person younger than sixteen (16) years of age or a person sixty (60) years of age or older;

(b) A person age sixteen (16) or seventeen (17) who is not a head of a household or who is attending school, or enrolled in an employment training program on at least a half-time basis;

(c) A person with a physical or mental disability;

(d) A household member subject to and complying with any work requirement in the AFDC Program;

(e) A parent or other household member who is responsible for the care of:

1. A dependent child under age six (6); or

2. An incapacitated person;

(f) A person who receives unemployment compensation or a person who has applied for, but has not yet begun to receive, unemployment compensation if that person was required to register for work with the Department for Employment Services as part of the unemployment compensation application process;

(g) A regular participant in a substance abuse or alcohol treatment and rehabilitation program;

(h) A person who is employed or self-employed and:

1. Working a minimum of thirty (30) hours weekly; or

2. Receiving weekly earnings at least equal to the federal minimum wage multiplied by thirty (30) hours;

(i) A migrant or seasonal farm worker who:

1. Meets the criteria in paragraph (h) of this subsection; and

2. Is under contract or similar agreement with an employer or crew chief to begin employment within thirty (30) days; or

(j) A student enrolled at least half time in any recognized school, training program, or institution of higher education, provided that those meeting student status have met the eligibility conditions in 904 KAR 3:025, Section 3.

(5) A household member who loses exemption status due to a change in circumstances that are subject to the reporting requirements of the Food Stamp Program shall work register:

(a) When the change is reported, if the change is:

1. A change in the source of income or in the amount of gross monthly income totaling more than twenty-five (25) dollars, unless the amount change is in an Aid to Families with Dependent Children (AFDC) grant;

2. Any change in household composition, including the addition or loss of a household member;

3. A change in residence and the resulting change in shelter costs;

4. The acquisition of a nonexempt licensed vehicle or loss of a vehicle exemption for a who has a physical disability household

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member;

5. A change in total resources that reach or exceed the allowable maximum; or

(b) At the household's next recertification if the change in circumstance involves a change not subject to reporting requirements in paragraph (a) of this subsection.

(6) All nonexempt household members shall be subject to the following work requirements:

(a) Keep the initial assessment interview;

(b) Provide requested verification by mail or in person;

(c) Participate in an ET program if assigned;

(d) Respond to any request for additional information regarding employment status or availability for work;

(e) Report to an employer if referred by the ET worker or designee provided that the potential employment is not unsuitable as designated in Section 7 of this administrative regulation; and

(f) Accept a bona fide offer of suitable employment at a wage not less than state or federal minimum wage.

(7) Household members who are exempt or those completing the work registration requirements may volunteer to participate in the ET program.

(8) The ET worker shall explain to the food stamp applicant:

(a) The work requirements for each nonexempt household member;

(b) The rights and responsibilities of the work registered household members; and

(c) The consequences of failing to comply.

(9) Each household member required to register shall be notified in writing of the requirements in subsection (6) of this section.

Section 3. Employment and Training Participation. (1) Work registrants who reside in a county which offers a Food Stamp Employment and Training Program shall be required to participate in the Food Stamp Employment and Training Program based on priority status.

(2) Priority status shall be determined if the work registrant:

~~(a) [1-] [Is under age thirty (30) and] Has no high school diploma or GED;~~

~~(b) [2-] [Is under age thirty (30) and] Has no employment in the last twelve (12) months; or~~

~~(c) [3-] Is a veteran[; regardless of age].~~

(3) ET participants shall:

(a) Be placed in education, skills training or job search activities;

(b) Be reimbursed for miscellaneous and dependent care expenses, if otherwise eligible, up to:

1. The child care maximum payments as specified in 904 KAR 2:017 not to exceed \$200 per month per child under two (2) years of age or \$175 per month per child for all other eligible dependent children for child care expenses incurred on or after September 1, 199; and

2. Twenty-five (25) dollars a month for miscellaneous expenses incurred while participating in the ET Program.

(4) Those participants who do not meet the criteria in subsection (2) of this section shall not be selected to participate in an ET component unless they are adamant about participating.

Section 4. Components. All counties offering the Employment and Training Program shall offer the following services and activities:

(1) Educational components shall be:

(a) Literacy programs;

(b) Adult basic education (ABE);

(c) General equivalency diploma (GED); and

(d) Community college.

(2) Skills training components shall be:

(a) Vocational school;

(b) On-the-job training; and

(c) Kentucky Domestic Violence Association (KDVA).

(3) Job search components shall be:

(a) Job seeking skills training;

(b) Group job search; and

(c) Individual job search.

Section 5. Conciliation. (1) When an ET participant fails to comply with ET program requirements, a conciliation period shall be initiated.

(2) Conciliation shall be used to:

(a) Determine the reason for the noncompliance; and

(b) Allow the participant the opportunity to resolve the problem in order to continue participation.

(3) Conciliation lasts for fifteen (15) days and in that time the ET worker shall:

(a) Determine good cause for noncompliance; or

(b) Encourage the participant to resume ET activity; or

(c) Recommend disqualification for failure to comply with program requirements.

(4) If the participant resumes ET activity, no further action is required toward applying a sanction.

(5) If conciliation is unsuccessful and the participant does not provide good cause or refuses to comply, a disqualification shall be imposed.

Section 6. Determining Good Cause. (1) Good cause shall be determined in instances where the work registrant has failed to comply with:

(a) Work registration requirements as specified in Section 1 of this administrative regulation;

(b) Employment and training requirements as specified in Section 3 of this administrative regulation; or

(c) Voluntary quit requirements as specified in Section 9 of this administrative regulation.

(2) Good cause for failing to meet work registration and employment and training requirements shall include circumstances beyond the control of the registrant including:

(a) Illness;

(b) Illness of another household member requiring the presence of the registrant;

(c) A household emergency;

(d) Unavailability of transportation; and

(e) Inadequate child care for children who have reached age six (6) but are under age twelve (12).

Section 7. Sanctions in the ET Program. (1) Disqualifications shall be imposed as follows:

(a) If the nonprimary wage earner (non-PWE) fails to comply with ET, the individual shall be ineligible to receive food stamp benefits for two (2) months;

(b) If the primary wage earner (PWE) fails to comply with ET requirements, the entire household shall be ineligible to receive food stamp benefits for two (2) months.

(2) If a disqualification is imposed, the disqualified member shall make reapplication for food stamps or request that the member be added to an active food stamp case to initiate a cure for noncompliance.

(3) Ineligibility as outlined in subsections (1) and (2) of this section continues until the ineligible member:

(a) Leaves the household;

(b) Becomes exempt from work registration;

(c) Complies with the work registration requirements; or

(d) The two (2) month disqualification period expires, whichever occurs first.

(4) If an ineligible household member joins a new household and:

(a) Is the primary wage earner, the entire new household then becomes ineligible for the remainder of the disqualification period; or

(b) Is not the primary wage earner, only he remains ineligible for the remainder of the disqualification period.

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Section 8. Unsuitable Employment. Employment shall be considered unsuitable by the agency if:

(1) The wage offered is less than the highest of the following:

- (a) The applicable federal minimum wage;
- (b) The applicable state minimum wage; or

(c) Eighty (80) percent of the federal minimum wage if neither the federal nor state minimum wage is applicable.

(2) The employment offered is on a piece-rate basis and the average hourly yield the employee can reasonably expect to earn is less than the applicable hourly wage specified in subsection (1) of this section.

(3) The household member, as a condition of employment or continuing employment, is required to join, resign from, or refrain from joining any legitimate labor organization.

(4) The work offered is at a site subject to a strike or lockout at the time of the offer, unless the strike has been enjoined under 29 USC 178 and 45 USC 152.

(5) In addition, employment shall be considered unsuitable if the household member involved can demonstrate or the worker otherwise becomes aware that:

(a) The degree of risk to health and safety is unreasonable;

(b) The member is physically or mentally unsuited to perform the employment. This shall be documented by medical evidence or by reliable information from other sources;

(c) The employment offered within the first thirty (30) calendar days of registration is not in the member's major field of experience as demonstrated by the individual or if the worker otherwise becomes aware;

(d) Daily commuting time exceeds two (2) hours a day, not including transporting a child to and from a child care facility;

(e) The distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the member to the job site; or

(f) The working hours or nature of the employment interferes with the member's religious observances, convictions or beliefs.

Section 9. Voluntary Quit. (1) A primary wage earner who voluntarily quits a job of twenty (20) hours or more a week without good cause sixty (60) days or less prior to the date of food stamp application shall not be eligible to participate in the program.

(2) The disqualification period for voluntary quit shall be:

(a) Ninety (90) days from the date of quit if the individual is an applicant; and

(b) Ninety (90) days beginning with the first of the month after all normal procedures for taking adverse action have been taken if the individual is in an active food stamp case.

(3) Good cause for leaving employment includes criteria in Section 5 of this administrative regulation and the following:

(a) Discrimination by the employer based on:

- 1. Age;
- 2. Race;
- 3. Sex;
- 4. Color;
- 5. Disability;
- 6. Religious beliefs;
- 7. National origin; or
- 8. Political beliefs;

(b) Work demands or conditions that render continued employment unreasonable, as in working without being paid on time;

(c) Acceptance of employment by the head of household, or enrollment of at least half time in any recognized school, training program or institution of higher education, that requires the head of household to leave employment;

(d) Acceptance of employment by any other household member or enrollment at least half time in any recognized school, training program or institution of higher education in another county or similar political subdivision which requires the head of household to leave

employment;

(e) Resignations of persons under age sixty (60) which are recognized by the employer as retirement;

(f) Employment which becomes unsuitable by not meeting criteria in Section 8 of this administrative regulation after the acceptance of the employment;

(g) Acceptance of a bona fide offer of employment of more than twenty (20) hours a week or in which the weekly earnings are equivalent to the federal minimum wage multiplied by twenty (20) hours which, because of circumstances beyond the control of the primary wage earner, subsequently either does not materialize or results in employment of less than twenty (20) hours a week or weekly earnings of less than the federal minimum wage multiplied by twenty (20) hours; and

(h) Leaving a job in connection with patterns of employment in which workers frequently move from one (1) employer to another as in migrant farm labor or construction work.

(4) Good cause for voluntary quit shall be verified if questionable.

Section 10. Curing Sanction for Voluntary Quit. (1) A household may begin participation in the Food Stamp Program following the voluntary quit disqualification period if it applies again and is determined eligible.

(2) Eligibility may be reestablished during a disqualification period and the household shall, if otherwise eligible, be allowed to resume participation if the member who caused the disqualification:

(a) Secures new employment which is comparable in salary or hours to the job which was quit; or

(b) Leaves the household.

(3) A work registrant who:

(a) Is required to participate in the:

1. Food Stamp Employment and Training Program; or

2. Aid to Families with Dependent Children (AFDC), Job Opportunities and Basic Skills (JOBS) Program as specified in 904 KAR 2:006 and 904 KAR 2:370; and

(b) Fails to participate shall be ineligible to receive food stamp benefits for two (2) months unless:

1. Good cause exists;

2. The noncompliant individual was participating in a JOBS component which is more stringent than the components of the ET Program; or

3. The noncompliant JOBS participant is otherwise exempt from work registration in the ET Program.

(c) An individual who is not sanctioned in the Food Stamp Program as meeting the criteria in paragraph (b)2 of this subsection shall be work registered in the ET Program unless otherwise exempt by subsection (2) of this section.

Section 11. Hearing Process. Work registrants shall have the same opportunity to request a hearing as specified in 904 KAR 3:070.

Section 12. Replacements for employment and training reimbursement checks that are lost or stolen shall be made by completing appropriate forms.

Section 13. Material Incorporated by Reference. (1) Forms necessary for participation in the Food Stamp Employment and Training Program are being incorporated effective January 1, 1994. These forms include:

(a) ET-101, revised 7/93;

(b) ET-102, revised 8/93;

(c) ET-102 Supplement A, revised 12/91;

(d) J/ET-108, revised 9/91;

(e) ET-111, revised 7/93;

(f) ET-112, revised 10/90;

(g) ET-114, revised 12/91;

(h) ET-116, revised 12/93.

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(2) Material incorporated by reference may be inspected and copied at the Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

Section 14. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

JOHN L. CLAYTON, Commissioner

STEPHEN L. HENRY, Secretary

APPROVED BY AGENCY: December 27, 1995

FILED WITH LRC: January 4, 1996 at 11 a.m.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, MARCH 15, 1996

FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems
(Amendment)

105 KAR 1:140. Contribution reporting.

RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852, 26 USC 401(a)(17)

STATUTORY AUTHORITY: KRS 61.645(9)(f)

NECESSITY AND FUNCTION: Employers participating in the Kentucky Employees Retirement System, County Employees Retirement System and State Police Retirement System are required to report creditable compensation and contributions to the retirement systems and other information that the Board of Trustees may require. 26 USC 401(a)(17) places a limit on the amount of creditable compensation on which contributions may be made. This administrative regulation sets out the reporting requirements for all participating agencies.

Section 1. (1) Each employer shall report the creditable compensation and contributions of its employees at least once per month on the Summary of Wages Earned, Form 3, dated June 1991, or in a format acceptable to the retirement system. Employers who report on magnetic diskette or tape may report on a semimonthly basis. Employers shall report only the creditable compensation earned during the period for which the report is prepared and shall report only the employee and employer contributions on the basis of this creditable compensation.

(2) The creditable compensation reported shall also include severance pay, bonus pay or other lump sum payments to the employee in connection with an employer assisted service purchase which shall be averaged by the retirement system over the employee's entire period of service with the employer to the date of purchase and all years of creditable compensation adjusted equally.

(3) Effective July 1, 1996, the creditable compensation on which contributions are reported shall not exceed the maximum annual compensation limit contained in 26 USC 401(a)(17). The Retirement System shall notify employers of the maximum annual compensation limit. Each employer shall report contributions on all creditable compensation up to the maximum annual limit. Once an employee's creditable compensation has reached the maximum annual limit, the employer shall continue to report the employee's creditable compensation but shall not report any further employer or employee contributions on the employee's creditable compensation. If excess contributions are erroneously reported, the retirement system shall refund the excess contributions.

Section 2. If creditable compensation in excess of actual compensation is reported, the employer shall request a refund of the excess employer and employee contributions. The retirement system shall remit the excess employer and employee contributions to the employer in the form of checks made payable to the employer and employee. The employer shall distribute the employee's check to the employee if the amount is due the employee or shall redeposit the check into the account from which the funds were drawn.

Section 3. If creditable compensation less than actual creditable compensation paid is reported, the employer shall report the deficiency by pay period to the retirement system along with the employer and employee contributions owed as a result of the deficiency. The employer may report the additional creditable compensation by letter or other form which shall include:

- (1) The Social Security number, name and gross creditable

compensation of the employee by pay period.

(2) The total employer and employee contributions required on the additional creditable compensation and the computation of both amounts.

(3) The signature of the individual authorized by the agency to report contributions to the retirement system.

Section 4. If an expense allowance is paid to a county official by the state, the state shall withhold the employee contributions applicable to the amount and remit it to the retirement system on behalf of the county. The county shall report the employer contributions on the Expense Allowances Quarterly Report, Form 3-E dated July 1991.

Section 5. An employer may change the name or address of an employee by submitting a letter or personnel document effecting the change signed by a personnel or payroll official.

Section 6. Each employer shall provide to the retirement system, upon request and in the form prescribed by the retirement system, information relating to all employee wages, employment status or other employment related information. Upon request, each employer shall make all relevant records related to its employees available to the retirement system during regular working hours.

Section 7. The forms required by this administrative regulation are incorporated by reference and may be obtained from the retirement office at Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.

JOHN E. KING, Vice-chair

APPROVED BY AGENCY: February 15, 1996

FILED WITH LRC: February 16, 1996 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 22, 1996, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 17, 1996, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for 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: Pamala S. Johnson, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, (502) 564-4646.

REGULATORY IMPACT ANALYSIS

Agency Contact: Pamala S. Johnson

(1) Type and number of entities affected: This amendment will impact agencies participating in KERS, CERS or SPRS with employees who earn more than the maximum allowable annual compensation under 26 USC 401(a)(17), \$150,000 in 1996.

(2) Direct and indirect costs or savings to those affected: Employees and employers will not have to pay contributions on

salaries in excess of the limit.

(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 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 received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: There will be no significant change in reporting or paperwork requirements.

1. First year following implementation:

2. Second and subsequent years:

(3) Effects on the promulgating administrative body: There is no impact on the retirement system.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: This will require programming changes to check for employees who exceed the maximum compensation limit. Because there are so few employees in the systems with earnings in excess of \$100,000, the additional paperwork should be minimal.

(4) Assessment of anticipated effect on state and local revenues: This amendment does not impact state or local government revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Administrative expenses of KERS, CERS and SPRS are paid through employer contributions.

(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 alternate methods; reasons why alternatives were rejected: This amendment is required in order to continue as a tax exempt plan under federal Internal Revenue Service rules. Failure to adopt the amendment could result in the assets and contributions becoming subject to federal income tax.

(8) Assessment of expected benefits: Adoption of the amendment will conform to federal requirements.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This amendment has no impact on public health or the environment.

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

(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: Retirement laws in Chapters 16, 61 and 78 set no limit on the amount of compensation on which contributions may be withheld.

(a) Necessity of proposed regulation if in conflict: This amendment is required in order to continue as a tax exempt plan under federal Internal Revenue Service rules. Failure to adopt the amendment could result in the assets and contributions becoming subject to federal income tax.

(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? Tiering was not applied. The amendment affects all employers with employees paid in excess of the federal maximum.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of 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 amendment relates to retirement contribution reporting on local government employees.

3. State the aspect or service of local government this administrative regulation will affect. This amendment requires local government agencies to cease reporting employer and employee contributions once an employee has earned the federal maximum compensation.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: The amendment will have a minor savings for CERS employers who have employees with salaries in excess of \$150,000 in fiscal year 1996-97. The total savings is not significant because of the number of affected individuals involved.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 26 USC 401(a)(17)

2. State compliance standards. This administrative regulation limits the creditable compensation on which employer and employee contributions shall be withheld and reported to the retirement system.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate requires that the state adopt the limitation on compensation for retirement purposes, set at \$150,000 for fiscal year 1996-97.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation imposes the same requirements as those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This is not applicable to this administrative regulation, since the standard is not stricter than required by the federal mandate.

GENERAL GOVERNMENT CABINET Kentucky Board of Nursing (Amendment)

201 KAR 20:070. Licensure by examination.

RELATES TO: KRS 314.041(1), 314.051(1)

STATUTORY AUTHORITY: KRS 314.131(1)

NECESSITY AND FUNCTION: To assure that applicants for licensure by examination meet minimum standards set forth by the board as necessary for safe practice. To provide some security in the examination process.

Section 1. Eligibility for Licensure by Examination. To be eligible for licensure by examination, applicants shall:

(1) Hold a high school diploma or equivalent.

(2) Have completed an approved program of practical nursing for licensed practical nurse licensure or an approved program of registered nursing for registered nurse licensure.

(3) For graduates of Kentucky programs of nursing, have the nursing program submit verification that the applicant has completed

the program of nursing and has successfully completed all requirements for a degree, diploma or certificate therefrom, on a form prescribed by the board. For graduates of programs of nursing outside Kentucky, submit an official transcript of nursing program.

(4) Submit a properly executed application for licensure; current application for licensure fee; and one (1) passport type photograph (two (2) x three (3) inches) taken within the past six (6) months with the photographs signed and dated by the applicant on the front under the facial features and by the nurse administrator of U.S. nursing program (if graduated therefrom) on the back of the photographs. Snapshots are not acceptable.

(5) Submit certified copies of court records of any misdemeanor or felony convictions with a letter of explanation.

(6) Notify the board in writing as soon as any new address is established after submitting the application.

(7) Submit a copy of a marriage certificate or court order to change name after the original application is filed.

(8) Abide by and cooperate with security procedures established by the board, when taking the examination.

(9) Apply to take and pass the national council licensure examination or its equivalent.

(10) Pay all necessary fees for application for licensure as stated in this section and, if applicable, Sections 2 and 4 of this administrative regulation.

(11) Meet the requirement of 902 KAR 2:150.

(12) An application for licensure is valid for a period of one (1) year from date the applicant is declared eligible to take the examination.

Section 2. Graduates of Foreign Nursing Schools. (1) To be eligible for application for licensure by examination, graduates of foreign nursing schools shall submit evidence of the following:

(a) Certificate showing successful completion of commission on graduates of foreign nursing schools examinations (registered nurse applicants only). This requirement shall not apply to the following:

1. An applicant who is licensed as a registered nurse in a United States jurisdiction;

2. An applicant who has received a graduate degree in nursing from a university or college in the United States; or

3. A graduate of a program of nursing in Canada.

(b) If licensed in another United States jurisdiction or country, verification of licensure as a nurse with a statement from the licensing authority that the license is in good standing and has not been revoked, suspended, probated, or otherwise disciplined in that country and that no such action is currently pending.

(c) Legal permanent or temporary residency in the United States according to the laws and regulations of the U.S. Department of Justice, Immigration and Naturalization Services and the U.S. Department of Labor.

(2) Applicants for licensure by examination shall meet requirements as stated in Section 1 of this administrative regulation.

(3) Credentials in a foreign language shall be translated at the applicant's expense by an official translation agency or approved college or university.

Section 3. Licensing Examination Standards. (1) The applicant shall pass the national council licensure examination or an examination acceptable to the board.

(2) An applicant who has taken any examination other than the state board test pool examination or national council licensure examination subsequent to 1953 shall provide evidence to the board that such examination met the following standards of equivalency:

(a) Accepted psychometric procedures are used in the development of the examination;

(b) The examination is available to the board in the English language;

(c) The examination test plan blueprint is available for board

review and identifies, to the satisfaction of the board, test content and content weightings;

(d) Test items are available for board review and demonstrate to the satisfaction of the board the testing of competency necessary for safe practice;

(e) At least one (1) of the reliability estimations for the examination is 0.80 or higher;

(f) The examination is revised after each administration to insure currency and security of content;

(g) The examination is given under strict security measures;

Section 4. Retaking the Examination. (1) Examination candidates who fail to achieve a passing result may retake the examination after meeting the requirements as stated in Section 1 of this administrative regulation and, if applicable, Section 2 of this administrative regulation, and after submission of:

(a) The retake application; and

(b) The applicable fee.

(2) The examination may be retaken no more often than once every three (3) months from the date the last examination was taken by the applicant.

Section 5. Release of Examination Scores. The board shall not release examination numerical results to any individual or agency without written authorization from the applicant or licensee except as follows:

(1) The candidate;

(2) Other state boards of nursing;

(3) National Council of State Boards of Nursing Inc.

MELDA S. LOGAN, President

APPROVED BY AGENCY: March 13, 1996

FILED WITH LRC: March 15, 1996 at 10 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on April 22, 1996, at 10 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 17, 1996, 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 hearing will not be made unless a written request for a transcript is made. If you do not wish to attend this hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the hearing or written comments to the contact person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 329-7000.

REGULATORY IMPACT ANALYSIS

Contact person: Nathan Goldman

(1) Type and number of entities affected: RN and LPN applicants. The number varies from year to 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: N/A

(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: N/A

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

1. First year following implementation: Simpler reporting require-

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ments.

2. Second and subsequent years: Same
- (3) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings: N/A
 1. First year:
 2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
 - (b) Reporting and paperwork requirements: The amendment would cut down on paperwork requirements for graduates of Kentucky schools.
 - (4) Assessment of anticipated effect on state and local revenues: N/A
 - (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: N/A
 - (b) Kentucky: N/A
 - (7) Assessment of alternative methods; reasons why alternatives were rejected: The method chosen was the simplest and the most effective.
 - (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
 - (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: N/A
 - (11) TIERING: Is tiering applied? N/A

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources (Amendment)

301 KAR 2:172. Deer hunting seasons and requirements.

RELATES TO: KRS 150.010, 150.170, 150.175, 150.180, 150.340, 150.360, 150.370, 150.390, 150.395, 150.990

STATUTORY AUTHORITY: 150.025, 150.170, 150.175

NECESSITY AND FUNCTION: To set deer hunting season dates and limits, and to prescribe the methods by which deer may be legally taken. This amendment is necessary to expand the zones for the youth hunt, change tagging procedures to conform to the department's automated licensing system, and limit the taking of coyotes during muzzle-loader season. [This administrative regulation contains the substance of 301 KAR 2:171, which it repeals. Substantive changes from 301 KAR 2:171 are: establishing a youth hunt the fourth Saturday in October, and requiring persons hunting or accompanying deer hunters during deer firearm seasons to wear hunter orange.]

Section 1. Definitions. (1) "Adult" means an individual at least eighteen (18) years of age.

(2) "Antlered deer" means a deer with one (1) antler at least four (4) inches long, measured from the skin to the tip of the antler.

(3) "Antlerless deer" means a deer without antlers or with both antlers less than four (4) inches long, measured from the skin to the tips of the antlers.

(4) "Any deer" means antlered or antlerless deer.

(5) "Archery equipment" means long bows, recurve bows or compound bows incapable of holding an arrow at full or partial draw without aid from the archer.

(6) "Arrow" means the projectile fired from a bow or crossbow.

(7) "Barbed broadhead" means a point or portion of a blade projecting backward from a broadhead designed to hold an arrow within an animal.

(8) "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.

(9) "Firearms" means breech or muzzle-loading rifles, shotguns or handguns.

(10) "Fully automatic firearms" means a firearm which fires more than one (1) time with a single pull of the trigger.

(11) "Modern gun" means a rifle, handgun or shotgun which is loaded from the rear of the barrel.

(12) "Muzzle-loading gun" means a rifle, shotgun or handgun which is loaded from the discharging end of the barrel or discharging end of the cylinder.

(13) "Shotshell" means ammunition containing more than one (1) projectile.

(14) "Zone" means the grouping of counties or portions of counties as stipulated in 301 KAR 2:174, Deer hunting zones.

Section 2. Archery and Crossbow Season Dates. (1) Deer hunters may use archery equipment October 1 through January 15.

(2) Deer hunters may use crossbows:

(a) For ten (10) days beginning the fourth Tuesday in November; and

(b) During modern gun deer and muzzle-loader seasons.

Section 3. Archery and Crossbow Zone Limits. (1) During the modern gun deer season or muzzle-loader seasons, deer hunters using archery equipment or crossbows shall observe the same limits as hunters using firearms.

(2) During the youth hunt as specified in Section 8 of this administrative regulation, persons using archery equipment may take any deer in Zones 1 through 6 [4].

(3) During portions of archery or crossbow seasons not concurrent with the modern gun deer season or the muzzle-loader seasons:

(a) In Zones 1 through 6, hunters may take any deer.

(b) In Zone 7, hunters shall not take antlerless deer.

Section 4. Muzzle-loading Gun Season Dates. Deer hunters may use muzzle-loading firearms:

(1) For two (2) days beginning the third Saturday in October.

(2) For seven (7) days beginning the second Saturday in December.

(3) During the modern gun deer season.

Section 5. Muzzle-loading Gun Season Zone Limits. (1) During seasons when muzzle loaders are the only firearms allowed, deer hunters using muzzle-loading firearms, archery equipment or crossbows shall observe the following limits:

(2) In Zones 1 through 5, hunters may take any deer.

(3) In Zones 6 or 7, hunters shall not take antlerless deer.

Section 6. Modern Gun Deer Season Dates. (1) Zones 1 through 6: ten (10) days beginning the second Saturday in November.

(2) Zone 7: five (5) days beginning the second Saturday in November.

Section 7. Zone Limits for the Modern Gun Deer Season. Hunters using firearms, archery equipment or crossbows during the modern gun deer season shall observe the following limits:

(1) Zone 1: any deer for the entire ten (10) day season.

(2) Zone 2: any deer the first five (5) days; antlered deer the last five (5) days.

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(3) Zone 3: any deer the first two (2) days; antlered deer the last eight (8) days.

(4) Zone 4: antlered deer the first eight (8) days; any deer the last two (2) days.

(5) Zones 5 and 6: antlered deer for the entire ten (10) day season.

(6) Zone 7: antlered deer for the entire five (5) day season.

Section 8. Youth Hunt. (1) For two (2) consecutive days beginning on the fourth Saturday in October, persons under the age of sixteen (16) may use firearms to take:

(a) Any [antlerless] deer [on the fourth Saturday in October] in Zones 1 through 4.

(b) Antlered deer in Zones 5 through 7.

(2) Adults accompanying juveniles during the youth hunt shall not carry firearms and shall comply with the hunter orange provisions of Section 12 of this administrative regulation.

Section 9. Use of Tags. (1) Hunters shall not tag antlered deer with an "antlerless deer" tag.

(2) Hunters may tag either antlered or antlerless deer with the "any deer" tag.

Section 10. Illegal Hunting Equipment. (1) Deer hunters shall not use devices other than firearms, archery equipment or crossbows.

(2) Firearm hunters shall not use:

(a) Rimfire ammunition.

(b) Fully automatic firearms.

(c) Firearms with a magazine capacity greater than ten (10) rounds.

(d) ~~Steel [Fully]~~ jacketed ammunition.

(e) Tracer bullet ammunition.

(f) Shotshells.

(g) Muzzle-loading rifles smaller than .40 caliber.

(h) Muzzle-loading handguns smaller than .44 caliber.

(3) Archery or crossbow hunters shall not use:

(a) Broadheads smaller than seven-eighths (7/8) inch wide.

(b) Barbed broadheads.

(c) Crossbows without a working safety device.

(d) Chemically treated arrows.

(e) Arrows with chemical attachments.

(4) Except when firearms are permitted for deer hunting, archery or crossbow deer hunters shall not carry firearms.

Section 11. Season Limits. Except as provided in 301 KAR 2:178, 2:111 or 2:211, a person shall not take more than two (2) deer per license year, which shall not include more than one (1) antlered deer.

Section 12. Hunter Orange. (1) During the modern gun deer season, muzzle-loader seasons or the youth hunt, persons hunting any species, and persons accompanying them, shall display solid, unbroken hunter orange visible from all sides on the head, back and chest:

(2) Subsection (1) of this section shall not apply to:

(a) Persons hunting migratory birds; or

(b) Persons hunting at night.

(3) The hunter orange portions of garments worn to fulfill the requirements of this section:

(a) May display a small section of another color.

(b) Shall not have mesh weave openings exceeding one-fourth (1/4) inch by any measurement.

(4) Camouflage pattern hunter orange garments worn without additional solid hunter orange on the head, back and chest shall not meet the requirements of this section.

Section 13. Hunter Requirements, Shooting Hours, and Taking of Other Species. (1) An adult shall accompany firearm deer hunters

under sixteen (16) years old and shall remain in a position to take immediate control of the juvenile's firearm.

(2) Adults accompanying juvenile hunters shall not be required to possess a hunting license or deer permit if the adult is not hunting.

(3) Hunters may be in the woods or stands before or after daylight hours, but shall not take deer except during daylight hours.

(4) Deer hunters may take wild hogs. Hunters shall check wild hogs at an official deer check station.

(5) Deer hunters shall not use dogs or other domestic animals.

(6) Hunters in vehicles or boats shall not take deer.

(7) Hunters shall not take swimming deer.

Section 14. License and Deer Permit Requirements. (1) Unless exempted by KRS 150.175, persons shall have a deer permit in their possession while hunting:

(a) Deer;

(b) Wild hogs; or

(c) Coyotes during seasons or wildlife management area hunts where firearms are allowed for deer hunting.

(2) Holders of deer permits shall sign them before hunting.

(3) Persons possessing adult hunting licenses shall use no more than one (1) two (2) tag deer permit per license year.

(4) Persons possessing valid junior statewide hunting licenses shall not use more than two (2) individual junior deer hunting permits or one (1) two (2) tag permit.

(5) Juvenile hunters shall use the tag accompanying a junior deer hunting permit as either the "antlerless" or "any deer" tag as appropriate to the season and zone.

(6) A person whose name does not appear on the permit shall not use any portion of the deer permit.

(7) Persons who have lost their deer permit may purchase replacements pursuant to 301 KAR 5:030 [after filing an affidavit with the licensing agent attesting to the loss].

Section 15. Tagging Deer. (1) Resident landowners, tenants and their dependents shall:

(a) Tag deer taken on their property only if they remove the deer from that property.

(b) Follow the tagging requirements of subsection (2) of this section for deer removed from their property.

(2) Other hunters not required to have a deer permit shall:

(a) Write "antlerless tag" and "any deer tag" on two (2) separate cards.

(b) Write their name and address on both cards.

(c) Carry these cards while deer hunting.

(d) Immediately after taking a deer, and before moving the carcass:

1. Write on the appropriate card the date when, and the county where, the deer was taken.

2. Attach the tag to the carcass:

a. While transporting the carcass by vehicle; or

b. Whenever the hunter is not in physical possession of the carcass. [Attach the card to the carcass before moving the deer from where it was taken.]

(3) Hunters required to have deer permits shall:

(a) Immediately after taking a deer, and before moving the carcass, cut, punch, or mark with indelible ink the appropriate tag portion of the permit to indicate the day and month the deer was taken.

(b) Attach the tag portion of the permit to the carcass:

1. While transporting the carcass by vehicle; or

2. Whenever the hunter is not in physical possession of the carcass. [Immediately attach the appropriate tag to the carcass before moving the deer.]

(4) Hunters who tag deer shall:

(a) Attach the tag so that it cannot be removed without destroying the tag or mutilating the carcass.

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~~(b) Not remove the tag until the carcass is processed.]~~

Section 16. Checking Deer. (1) Landowners, tenants or their dependents are not required to check deer taken on their property.

(2) Other persons taking deer shall:

(a) Unless an authorized employee of the department checks the deer in the field, transport the entire or field-dressed carcass to the nearest open check station by 9 a.m. on the day after the deer was taken.

(b) Give a completed game check card to the person checking the deer.

(c) Retain the hunter's copy of the game check card until the deer is processed.

(d) Attach the taxidermy portion of the game check card to any parts of the deer removed for mounting.

Section 17. Transporting and Processing Deer. (1) Persons shall not transport unchecked deer out of Kentucky.

(2) Persons bringing deer or parts of deer into Kentucky shall have proof that the deer was legally taken.

(3) A person shall not submit deer taken outside Kentucky for Kentucky trophy deer listing.

(4) Persons may sell deer hides to licensed fur buyers and licensed fur processors.

(5) Persons who process deer shall:

(a) Keep accurate records of the hunter's name, address and date received for each deer in their possession.

(b) Provide and affix to each deer a tag showing the hunter's name, address and date received. This tag shall remain on the carcass until it is processed.

(c) Not accept deer carcasses without proper owner identification.

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

MIKE BOATWRIGHT, Chairman

APPROVED BY AGENCY: March 1, 1996

FILED WITH LRC: March 14, 1996 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 29, 1996 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 24, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: John Wilson, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4406.

REGULATORY IMPACT ANALYSIS

Contact Person: John Wilson

(1) Type and number of entities affected: An estimated 212,000 hunters will participate in white-tailed deer seasons provided for by this 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: No public comments received. This administrative regulation continues deer seasons in

effect for many years and should have no impact on costs of living or employment.

(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 received. This administrative regulation will have no impact on the costs 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: This administrative regulation will impose no new reporting or paperwork requirements. As in past years, deer hunters will be required to report deer harvested by checking the carcass at an official check station.

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: This administrative regulation will not cause the agency to incur additional costs or realize any additional savings.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None have been identified.

(b) Reporting and paperwork requirements: The department must collect, tabulate and analyze data from mandatory deer check stations. This is a continuing requirement which will impose no additional reporting or paperwork requirements on the agency.

(4) Assessment of anticipated effect on state and local revenues: State and local revenues will be positively affected by this activity, and by the purchase of required licenses and permits.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The sale of hunting licenses and deer permits.

(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: This administrative regulation applies to all geographical areas of the Commonwealth.

(b) Kentucky: Deer hunters expend money for equipment, transportation, food and lodging. These expenditures average approximately \$25 per hunter, for a positive direct economic impact of \$5,300,000.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative to regulated hunting is closing the season. This alternative was rejected because white-tailed deer are a renewable natural resource and their numbers are at levels which can sustain regulated harvest by hunters.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Regulated hunting controls deer populations and prevents the environmental damage to the landscape caused by deer overpopulation. Deer hunting provides outdoor recreation for over 200,000 Kentuckians annually.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: Without hunting, deer populations grow unchecked, creating increasing levels of deer-vehicle collisions, crop depredations, and destruction of habitat.

(9) Identify and 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:

(11) TIERING: Is tiering applied? Tiering is not appropriate

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because the administrative regulation applies equally to all individuals or entities it regulates. Disparate treatment of any persons of entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U. S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources (Amendment)

301 KAR 2:174. Deer hunting zones.

RELATES TO: KRS 150.010, 150.170, 150.175, 150.180, 150.340, 150.360, 150.370, 150.390, 150.395, 150.990

STATUTORY AUTHORITY: 150.025, 150.170, 150.175, 150.340, 150.370

NECESSITY AND FUNCTION: To establish zones for deer hunting to control deer harvest and populations, and to provide optimum opportunity for deer hunters. This amendment is necessary to make zone assignments for the 1996 hunting season. [This administrative regulation contains the substance of 301 KAR 2:171(2), with the following changes in zone assignments: Allen County, Zone 3 to Zone 4; Bell County, Zone 6 to Zone 7; Boyd County, Zone 5 to Zone 4; Bracken Co; Zone 3 to Zone 4; Bullitt County, Zone 3 to Zone 4; Butler County Zone 4 to Zone 3; Carter County, Zone 5 to Zone 4; Christian County, Zone 3 to Zone 2; Fayette County, Zone 7 to Zone 6; Fleming County, Zone 6 to Zone 5; Greenup County, Zone 5 to Zone 4; Hardin County, Zone 3 to Zone 2; Jessamine County, Zone 7 to Zone 6; Johnson County, Zone 7 to Zone 6; Lawrence County, Zone 5 to Zone 4; Leslie County, Zone 7 to closed; Livingston County, Zone 2 to Zone 3; Logan County, Zone 4 to Zone 3; Morgan County, Zone 6 to Zone 5; Ohio County, Zone 2 to Zone 1; Oldham County, Zone 1 to Zone 2; Pike County closed to Zone 7; Pulaski County, Zone 6 to Zone 5; Rowan County, Zone 6 to Zone 5; and Wolfe County, Zone 7 to Zone 6.]

Section 1. Definitions. "Zone" means counties or portions of counties grouped for deer hunting season dates and limits.

Section 2. Zone Assignments. (1) Zone 1 consists of Boone and Jefferson [and Ohio] Counties.

(2) Zone 2 consists of Carroll, [Boone,] Christian, [Crittenden,] Gallatin, Hancock, [Hardin,] Hopkins, Logan, Muhlenburg, Ohio, Oldham, Todd, Trimble, and Webster Counties.

(3) Zone 3 consists of Allen, Barren, Breckinridge, Butler, Caldwell, Crittenden, [Campbell, Carroll,] Grayson, Hardin, [Kenton,] Livingston, [Logan,] Lyon, Meade, Simpson, and [Shelby,] Trigg [and Trimble] Counties.

(4) Zone 4 consists of Adair, [Allen, Anderson,] Ballard, [Barren, Boyd, Boyle,] Bracken, Bullitt, Calloway, Campbell, Carlisle, [Carter, Casey,] Cumberland, Daviess, [Franklin,] Fulton, [Grant,] Graves, Green, [Greenup,] Harrison, Henderson, Henry, Hickman, Kenton, [Larue, Lawrence, Marion,] McLean, McCracken, [Mercer,] Metcalfe, Monroe, [Nelson, Owen,] Pendleton, Robertson, Shelby, [Scott, Simpson,] Spencer, Taylor, Union, Warren, [Washington,] and Woodford Counties.

(5) Zone 5 consists of Anderson, Boyd, Boyle, Carter, Casey, Clinton, Edmonson, Elliott, Fleming, Franklin, Grant, Greenup, Hart, Larue, Lawrence, Marion, Marshall, Mason, Mercer, Morgan, Nelson, Nicholas, Owen, Pulaski, Rowan, Russell, Scott, Washington, and Wayne Counties.

(6) Zone 6 consists of Bath, Bourbon, Breathitt, Clark, Fayette, Garrard, Jackson, Jessamine, Johnson, Knott, Laurel, Lewis, Lincoln, Madison, Martin, McCreary, Menifee, Montgomery, Powell, Whitley,

and Wolfe Counties.

(7) Zone 7 consists of Bell, [Bourbon, Breathitt,] Clay, Estill, Floyd, Harlan, [Knott,] Knox, Lee, Letcher, Magoffin, [Montgomery,] Owsley, Perry, Pike, [Powell,] and Rockcastle Counties.

Section 3. Leslie County is closed to deer hunting.

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

MIKE BOATWRIGHT, Chairman

APPROVED BY AGENCY: March 1, 1996

FILED WITH LRC: March 14, 1996 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 29, 1996 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 24, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: John Wilson, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4406.

REGULATORY IMPACT ANALYSIS

Contact Person: John Wilson

(1) Type and number of entities affected: An estimated 212,000 hunters will participate in white-tailed deer seasons provided for by this 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: No public comments received. This administrative regulation continues deer seasons in effect for many years and should have no impact on costs of living or employment.

(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 received. This administrative regulation will have no impact on the costs 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: This administrative regulation will impose no new reporting or paperwork requirements.

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: This administrative regulation will not cause the agency to incur additional costs or realize any additional savings.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None have been identified.

(b) Reporting and paperwork requirements: The department must collect, tabulate and analyze data from mandatory deer check stations. This is a continuing requirement which will impose no additional reporting or paperwork requirements on the agency.

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

State and local revenues will be positively affected by this activity, and by the purchase of required licenses and permits.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The sale of hunting licenses and deer permits.

(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: This administrative regulation applies to all geographical areas of the Commonwealth. Placing counties in zones with more liberal or more restrictive harvest requirements may create slight economic impact.

(b) Kentucky: Deer hunters expend money for equipment, transportation, food and lodging. These expenditures average approximately \$25 per hunter, for a positive direct economic impact of \$5,300,000.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative is a uniform season statewide. This alternative was rejected because such a uniform season would allow too many deer to be taken in some areas and not enough in others. It would neither provide optimal recreational opportunities nor meet deer population objectives.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Regulated hunting controls deer populations and prevents the environmental damage to the landscape caused by deer overpopulation. Deer hunting provides outdoor recreation for over 200,000 Kentuckians annually.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: In some areas, deer populations could grow to levels which would create increasing incidents of deer-vehicle collisions, crop depredations, and destruction of habitat. In other areas, deer populations could be decreased or eliminated.

(9) Identify and 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: This regulation contains the substance of portions of 301 KAR 2:171. Substantive changes are listed in the "Necessity and Function" section of this administrative regulation. 301 KAR 2:171 is being repealed and replaced by three regulations to better meet the drafting, formatting and language requirements of KRS Chapter 13A.

(11) TIERING: Is tiering applied? Tiering is applied to this administrative regulation. Each county of Kentucky was examined separately and placed in one of eight categories, depending upon deer population, last season's harvest and population objectives for the future.

**TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(Amendment)**

301 KAR 2:178. Deer hunting on wildlife management areas.

RELATES TO: KRS 150.010, 150.170, 150.175, 150.180, 150.340, 150.360, 150.370, 150.390, 150.395, 150.990

STATUTORY AUTHORITY: 150.025, 150.170, 150.175

NECESSITY AND FUNCTION: To establish deer hunting administrative regulations on wildlife management areas and other public lands open to deer hunting. The purpose of this amendment is

to adjust dates and other hunting requirements on wildlife management areas. ~~(The substance of this administrative regulation was formerly contained in 301 KAR 2:171, which is being repealed. Substantive changes from 301 KAR 2:171(9) are: decreasing from three (3) to two (2) the number of youth hunts on Ballard WMA; opening Peabody WMA during the early muzzle loader season; changing the Green River Lake WMA quota hunt from any deer to antlered deer; closing Lloyd, Kentucky River and Lapland WMAs to weekend gun deer hunting; establishing an antlered deer quota hunt and an archery season at Fishtrap Lake WMA; increasing the area limit from one (1) to two (2) deer at Higginson-Henry WMA; moving the quota hunt at Paintsville Lake WMA from November to December; changing the archery season opening date from October 15 to October 1 on Cane Creek and Beaver Creek WMAs; and adjusting dates for deer hunts on the West Kentucky WMA.)~~

Section 1. Definitions. (1) "Modern gun season" means the ten (10) consecutive-day period beginning the second Saturday in November.

(2) "Private inholding" means privately owned property completely surrounded by a WMA.

(3) "Quota hunt" means WMA deer hunts, including youth hunts, whose participants are selected by a random drawing.

(4) "Statewide deer requirements" means the season dates, zone descriptions and other requirements for deer hunting established in 301 KAR 2:172 and 2:174.

(5) "Wildlife management area" means a tract of land the department controls or manages through ownership, lease, license or cooperative agreement.

(6) "WMA" means a wildlife management area.

(7) "WMA tag" means a carcass tag the department issues to hunters for use on WMA deer hunts.

Section 2. General WMA Requirements. (1) Unless specified otherwise in this administrative regulation, statewide deer requirements apply to WMAs.

(2) If specific deer hunting dates are given for a WMA in this administrative regulation, persons shall hunt deer only on those dates.

(3) On WMAs, Westvaco Public Hunting Areas, the Daniel Boone National Forest, Reelfoot National Wildlife Refuge, Land Between the Lakes and the Big South Fork National Rivers and Recreation Area, persons:

(a) Shall not use nails, spikes, screw-in devices, wire or tree climbers for attaching tree stands or climbing trees.

(b) May use portable stands and climbing devices that do not injure trees.

(c) Shall not place portable stands in trees more than two (2) weeks before opening day, and shall remove them within one (1) week following the last day, of each hunting period.

(d) Shall plainly mark portable stands with their name and address.

(e) Shall not use existing permanent tree stands.

(4) Limits.

(a) A hunter may take two (2) deer from the West Kentucky and Higginson-Henry WMAs.

(b) A hunter shall not take more than one (1) deer from each of the other WMAs listed in Section 5 of this administrative regulation.

(5) Owners of private inholdings or their guests may hunt on the owner's lands without application but shall follow all other requirements for the WMA which surrounds the inholding.

(6) Persons shall not hunt on private inholdings when deer hunting is not allowed on the surrounding WMA.

(7) Except to travel through a WMA on established public roads or to use areas designated open by signs, persons without a valid quota hunt permit shall not enter a WMA during quota hunts on that area.

(8) Persons hunting any species or persons accompanying them

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shall wear hunter orange:

- (a) Meeting the requirements specified in 301 KAR 2:271.
- (b) On WMAs when firearms are permitted for deer hunting.
- (9) Persons shall not:
 - (a) Enter portions of WMAs marked by signs as closed to public access; or
 - (b) Hunt in portions of WMAs marked by signs as closed to hunting.

Section 3. Quota Hunt Applications. (1) Persons whose names are not drawn shall not hunt during quota hunts.

- (2) Persons wishing to participate in quota hunts shall apply on forms furnished by the department.
- (3) More than one (1) hunter shall not apply per form.
- (4) Four (4) or fewer persons may apply as a party by stapling their applications together and mailing them in the same envelope.
- (5) Hunters over sixteen (16) years old shall not apply to more than one (1) quota hunt.
- (6) Persons at least ten (10) but not yet sixteen (16) years old by the scheduled hunt date may apply for:
 - (a) One (1) quota hunt;
 - (b) One (1) Ballard WMA youth hunt; and
 - (c) One (1) other youth hunt.
- (7) Applicants who submit multiple applications or fail to meet application requirements shall be disqualified.
- (8) Applicants shall stamp and self-address applications.
- (9) Applications shall be postmarked no later than August 31.
- (10) The commissioner may extend the application deadline if the production or distribution of forms is delayed.

Section 4. Quota Hunt Procedures. (1) Persons shall hunt on assigned dates and in assigned areas.

- (2) Hunters may use firearms, archery equipment or crossbows during quota hunts.
- (3) Hunters shall check in before, and check out at the completion of, the quota hunt.
- (4) When checking in, persons required to possess hunting licenses and deer permits shall show:
 - (a) A hunting license;
 - (b) A valid quota hunt permit;
 - (c) Proof of identity, including Social Security number; and
 - (d) A current deer permit; or
 - (e) A completed hunter's portion of a current deer season game check card.
- (5) A person whose name does not appear on a quota hunt permit shall not use that permit.
- (6) The youth hunt permit shall admit the person whose name appears on the permit and one (1) adult. The adult shall not be required to:

- (a) Possess a hunting license or deer permit; or
- (b) Apply in advance.
- (7) Quota hunt participants shall tag deer with WMA tags issued when they check in.
- (8) Deer taken during quota hunts do not count toward season limits specified in statewide deer requirements.
- (9) Persons drawn for quota hunts on Ballard, Higginson-Henry, Kleber, Taylorsville Lake and Yellowbank WMAs shall not apply to the same area quota hunt for the next three (3) seasons.

Section 5. WMA Hunting Dates and Requirements. (1) Ballard WMA.

- (a) Quota youth hunts, antlered or antlerless deer as specified on permit: two (2) consecutive Saturdays and Sundays beginning the third Saturday in October.
- (b) Statewide deer requirements apply to the 300 acre tract south of Terrell Landing Road.
 - (2) Beaver Creek WMA.

(a) Archery hunt, antlered deer: ~~[4-] October 1 through [the day before the modern gun season-]~~

2. The day after the quota hunt through] December 31, except during the quota hunt.

(b) Quota hunt, antlered deer: two (2) consecutive days beginning the first Saturday in November ~~[December]~~.

(3) Cane Creek WMA.

(a) Archery hunt, antlered deer: October 1 through December 31.

(b) Gun hunt, antlered deer: the second Saturday in November.

(4) Central Kentucky WMA.

(a) Archery hunt, any deer: December 18 through January 15.

(b) Deer hunters shall check in and check out.

(5) Clay WMA.

(a) Archery hunt, antlered deer: October 15 through the day before the modern gun season.

(b) Deer hunters shall check in and check out.

(6) Cyprus AMAX-Robinson Forest WMA.

(a) Persons shall not hunt deer:

1. On the main block of Robinson Forest.

2. With firearms during the modern gun season.

(b) Archery and muzzle-loader seasons correspond to statewide requirements, except no archery hunting during the youth quota hunt.

(c) Youth quota hunt, antlered deer only: two (2) consecutive days beginning the fourth Saturday in October.

1. Hunters and the adults who will accompany them during the hunt shall participate in a training and safety seminar.

2. The department shall notify successful applicants of the time and place of the training and safety seminar.

~~(d) [e-]~~ Deer hunters shall check in and out.

(7) Daviess County WMA: closed to deer hunting.

(8) Dewey Lake WMA.

(a) Archery hunts: any ~~[4- Antlered]~~ deer, October 1 through ~~[October 14-]~~

2. Any deer, October 15 through October 31-

3. Antlered deer, November 1 through] December 31, except persons shall not archery hunt during:

1. [a-] The youth quota hunt; or

2. [b-] The modern gun deer season.

(b) Youth quota hunt, ~~[antlered or]~~ antlerless deer ~~[as specified on permit]:~~ two (2) consecutive days beginning the first Saturday in November.

(c) Deer hunters shall check in and check out.

(9) Fishtrap Lake WMA.

(a) Archery hunt, antlered deer, October 1 through December 31, except during the quota hunt.

(b) Quota hunt, antlered deer: two (2) consecutive days beginning the ~~fourth [second]~~ Saturday in November ~~[December]~~.

(10) Grayson Lake WMA.

(a) Youth quota hunts, any deer:

1. Two (2) consecutive days beginning the first Saturday in November.

2. Two (2) consecutive days beginning the first Saturday in December.

(b) Archery and crossbow hunt, any deer: October 1 through December 31.

(c) The portion of the area west of Route 1496 and east of Bruin Creek, the Bruin Creek fork of Grayson Lake, and Grayson Lake north of the Bruin Creek Fork is open to youth quota hunting and closed to archery and crossbow hunting.

(d) Deer hunters shall check in and shall check out before 6 p.m.

(11) Green River Lake WMA.

(a) Quota hunt, antlered deer: two (2) consecutive days beginning the first Saturday in December.

(b) Archery hunt, any deer: October 1 through December 31, except during the quota hunt.

(12) Higginson-Henry WMA.

(a) Quota hunt, antlered or antlerless deer as specified on permit:

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two (2) consecutive days beginning the first Saturday in December.

(b) Archery hunts.

1. Antlerless deer, October 1 through 15.

2. Any deer, October 16 through December 31.

(c) Deer hunters shall check in and check out.

(13) Kleber WMA.

(a) Quota hunt, any deer: two (2) consecutive days beginning the first Saturday in December.

(b) Archery hunt, any deer: the third Saturday in October through December 31, except during the quota hunt.

(c) Deer hunters shall check in and check out.

(14) Kentucky River WMA. Statewide deer requirements apply, except that persons shall not hunt deer on Saturdays or Sundays during the modern gun deer season.

(15) Lapland WMA (including the Indiana Hardwoods Tract). Statewide seasons apply, except that persons shall not hunt deer on Saturdays or Sundays during the modern gun deer season.

(16) Lloyd and Mullins WMAs. Statewide seasons apply, except that persons shall not hunt deer on Saturdays or Sundays during the modern gun deer season.

(17) Mill Creek WMA.

(a) Archery hunt, antlered deer: October 15 through the day before the modern gun season, and the day after the quota hunt through December 31.

(b) Quota hunt, antlered deer: two (2) consecutive days beginning the first Saturday in December.

(18) Obion Creek WMA.

(a) Quota hunt, any deer: three (3) consecutive days beginning the first Friday in November.

(b) Archery hunt, any deer: October 1 through December 31, except during the quota hunt.

(19) Paintsville Lake WMA.

(a) Quota hunt, antlered deer: two (2) consecutive days beginning the first Saturday in November.

(b) Archery hunt, any deer: October 1 through December 31, except no archery hunting during the quota hunt or the modern gun deer season.

(c) Deer hunters shall check in and check out.

(20) Peabody WMA.

(a) Quota hunts, any deer.

1. Five (5) consecutive days beginning the second Saturday in November.

2. Five (5) consecutive days beginning the third Thursday in November.

(b) Muzzleloader hunt, any deer: two (2) consecutive days beginning the third Saturday in October.

(c) Archery hunt, any deer: October 1 through January 15, except during quota hunts.

(21) Pennyryle WMA.

(a) Quota hunt, any [antlered] deer: two (2) consecutive days beginning the first Saturday in November [December].

(b) Archery hunt, any [antlered] deer: October 1 through January 15, except during quota hunts.

(c) Hunters shall check out by 6 p.m. daily.

(22) Pioneer Weapons WMA. Statewide requirements apply except:

(a) Hunters shall not use modern guns.

(b) Crossbows may be used during the entire archery season.

(23) Redbird WMA.

(a) Archery hunt, antlered deer.

1. October 1 through the day before the modern gun season.

2. The third Thursday in November through December 31.

(b) Gun hunt, antlered deer: two (2) consecutive days beginning the second Saturday in November.

(c) Deer hunters shall check deer at the Redbird Ranger District Office [check in and check out].

(24) Stewart Island WMA.

(a) Quota hunt, any deer: two (2) consecutive days beginning on the last Saturday in October.

(b) Quota hunt applicants shall be present at 10 a.m. central daylight time on the third Saturday of September in downtown Smithland to participate in a public drawing.

(25) Swan Lake WMA: closed to deer hunting.

(26) Taylorsville Lake WMA.

(a) Archery hunt, any deer: October 1 through December 31, except during the quota hunts.

(b) Quota hunt, any deer:

1. Two (2) consecutive days beginning the first Saturday in November.

2. Two (2) consecutive days beginning the first Saturday in December.

(c) Hunters shall check in and check out daily.

(27) Tradewater WMA.

(a) Quota hunt, any [antlered] deer: two (2) consecutive days beginning the first Saturday in November [December].

(b) Archery hunt, any [antlered] deer: October 1 through January 15, except during the quota hunt.

(c) Hunters shall check out by 6 p.m. daily.

(28) Twin Knobs Campground. ~~[(a)]~~ Quota ~~[gun]~~ hunt, any deer: two (2) consecutive days beginning the second Saturday in December for persons with a disability which impairs their mobility. ~~[License issued under the provisions of KRS 150.170 (7) or (8).~~

~~[(b) Persons drawn for the quota hunt shall show their disability license when they check in.]~~

(29) West Kentucky National Guard Training Unit.

(a) Shotgun quota hunt any deer: two (2) consecutive days beginning the first Saturday in December.

(b) Bow and muzzle-loader quota hunt, any deer: five (5) consecutive days beginning the third Monday of December.

(30) West Kentucky WMA.

(a) Archery hunts, any deer, except that persons shall not archery hunt for eight (8) consecutive days beginning the Saturday following Thanksgiving, or the day before and during quota hunts:

1. October 1 through December 12 on tracts one (1) through seven (7).

[1. October 1 through January 15 in unposted zones.]

2. December 16 [12] through January 15 on tract seven (7) and in designated posted zones.

[3. Persons shall not archery hunt.

a. For eight (8) consecutive days beginning the Saturday following Thanksgiving.

b. The day before and during quota hunts.]

(b) Quota hunts, any deer.

1. Two (2) consecutive days beginning the third Saturday in November.

2. Two (2) consecutive days beginning the second Saturday in December.

(c) Youth hunt, any deer: two (2) consecutive days beginning the first Saturday in November.

(d) Crossbow hunt, any deer: the day following the quota youth hunt for fourteen (14) consecutive days.

(e) Gun hunters shall not use rifles or handguns.

(f) Persons shall not carry firearms in posted zones.

(g) A person shall not take more than two (2) deer from this WMA.

1. One (1) deer shall be antlerless and shall be tagged with the statewide tag.

2. The other deer may be antlered or antlerless and shall be tagged with a WMA tag issued on the area.

3. One (1) deer may be taken by gun; it shall be tagged with the WMA tag.

4. The department shall not issue more than one (1) WMA tag to an individual.

(h) Deer hunters shall check in and check out.

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~~(31) [(30)]~~ Westvaco public hunting areas. Statewide deer requirements apply; in addition, persons hunting on Westvaco property:

- (a) Shall possess a Westvaco Hunting Permit.
- (b) Shall not hunt from or place a tree stand within fifty (50) yards of the property line.

~~(32) [(31)]~~ White City WMA.

- (a) Archery hunt, any deer: October 1 through December 31.
- (b) Quota hunts, any deer:

1. Five (5) consecutive days beginning the second Saturday in November.

2. Five (5) consecutive days immediately following the first quota hunt.

~~(33) [(32)]~~ Yatesville WMA. Statewide deer requirements apply except that:

- ~~(a)~~ deer hunters shall check in and check out.

~~[(b) Persons shall not take antlerless deer during the last two (2) days of the modern gun deer season.]~~

~~(34) [(33)]~~ Yellowbank WMA.

(a) Quota youth hunt, antlered or antlerless deer as specified on permit: two (2) consecutive days beginning the first Saturday in November.

- (b) Archery hunts.

1. Antlered deer: October 1 through 14.

2. Any deer: October 15 through December 31.

- (c) Deer hunters shall check in and check out.

~~(35) [(34)]~~ Zilpo Campground. ~~[(a)]~~ Quota hunt, any deer: two (2) consecutive days beginning the second Saturday in December for persons with a disability which impairs their mobility. ~~[(license issued under the provisions of KRS 150.170(7) or (8).)]~~

~~[(b) Persons drawn for the quota hunt shall show their disability license when checking in.]~~

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

MIKE BOATWRIGHT, Chairman

APPROVED BY AGENCY: March 1, 1996

FILED WITH LRC: March 14, 1996 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 29, 1996 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 24, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: John Wilson, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4406.

REGULATORY IMPACT ANALYSIS

Contact Person: John Wilson

(1) Type and number of entities affected: An estimated 212,000 hunters will participate in white-tailed deer seasons provided for by this 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: No public comments received. This administrative regulation continues deer seasons in

effect on wildlife management areas for many years and should have no impact on costs of living or employment.

(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 received. This administrative regulation will have no impact on the costs 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: This administrative regulation will impose no new reporting or paperwork requirements. As in past years, deer hunters will be required to check in and out at an official check station on most wildlife management areas, as well as submit applications for quota hunts.

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: This administrative regulation will not cause the agency to incur additional costs or realize any additional savings.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None have been identified.

(b) Reporting and paperwork requirements: The department must collect, tabulate and analyze data from deer check stations. This is a continuing requirement which will impose no additional reporting or paperwork requirements on the agency.

(4) Assessment of anticipated effect on state and local revenues: State and local revenues will be positively affected by this activity, and by the purchase of required licenses and permits.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The sale of hunting licenses and deer permits.

(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: This administrative regulation applies to all geographical areas of the Commonwealth.

(b) Kentucky: Deer hunters expend money for equipment, transportation, food and lodging. These expenditures average approximately \$25 per hunter, for a positive direct economic impact of \$5,300,000.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative to regulated hunting is closing the season. This alternative was rejected because white-tailed deer are a renewable natural resource and their numbers are at levels which can sustain regulated harvest by hunters.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Regulated hunting controls deer populations and prevents the environmental damage to the landscape caused by deer overpopulation. Deer hunting provides outdoor recreation for over 200,000 Kentuckians annually.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: Without hunting, deer populations grow unchecked, creating increasing levels of deer-vehicle collisions, crop depredations, and destruction of habitat.

(9) Identify and 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: This regulation

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contains the substance of portions of 301 KAR 2:171. Substantive changes are listed in the "Necessity and Function" section of this administrative regulation. 301 KAR 2:171 is being repealed and replaced by three regulations to better meet the drafting, formatting and language requirements of KRS Chapter 13A.

(11) TIERING: Is tiering applied? Tiering is applied in this administrative regulation to the extent that each wildlife management area was examined for hunter density, deer population levels and other biological or social factors before applying specific season dates or other hunter requirements on these areas.

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, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to adopt, amend or rescind administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. 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 March ~~(February)~~ 14, 1996 and hereafter should be referred to as Department of Corrections 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.

1.1	Legal Assistance for Corrections Staff	9.19	Found Lost or Abandoned Property
1.2	News Media	10.2	Special Management Inmates [(Amended 2/14/96)]
01-04-01	The operation of Contracted Adult Correctional Facilities	10.3	Safekeepers
1.6	Extraordinary Occurrence Reports	10.4	Special Needs Inmates
1.9	Institutional Duty Officer	11.2	Nutritional Adequacy of the Diet for Inmates
1.11	Population Counts and Reporting Procedures	11.3	Special Diet Procedures
1.12	Operation of Motor Vehicles by Department of Corrections Employees	13.1	Pharmacy Policy and Formulary
2.1	Inmate Canteen	13.2	Health Maintenance Services
2.2	Warden's Fund	13.3	Medical Alert System
2.10	Surplus Property	13.4	Health Program Audits <u>(Amended 3/14/96)</u>
3.12	Institutional Staff Housing	13.5	Acquired Immune Deficiency Syndrome
4.2	Staff Training and Development	13.6	Sex Offender Treatment Program
4.3	Firearms and Chemical Agents Training	13.7	Involuntary Psychotropic Medication Policy
6.1	Open Records Law	13.9	Dental Services
7.2	Asbestos Abatement	14.2	Personal Hygiene Items
8.1	Occupational Exposure to Bloodborne Pathogens	14.3	Marriage of Inmates
8.4	Emergency Preparedness [(Amended 2/14/96)]	14.4	Legal Services Program
9.1	Use of Force	14.6	Inmate Grievance Procedures
9.4	Transportation of Inmates to Funerals or Bedside Visits	15.1	Hair and Grooming Standards
9.5	Execution	15.2	Offenses and Penalties
9.6	Contraband	15.3	Meritorious Good Time [(Amended 2/14/96)]
9.7	Storage, Issue and Use of Weapons Including Chemical Agents	15-05-01	Restoration of Forfeited Good Time
9.8	Search Policy	15.6	Adjustment Procedures and Programs
9.9	Transportation of Inmates [(Amended 2/14/96)]	15.7	Inmate Account Restriction
9.10	Security Inspections	15.8	Unauthorized Substance Abuse Testing [(Added 2/14/96)]
9.11	Tool Control	16.1	Inmate Visits
9.18	Informants	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	Parole 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 [(Amended 2/14/96)]
		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
		25.1	Gratuities
		25.2	Public Official Notification of Release of an Inmate

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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
 27-01-01 Probation and Parole Procedures
 27-02-01 Duties of Probation and Parole Officers
 27-03-01 Workload Formula Supervisor/Staff Ratio
 27-05-01 Testimony, Court Demeanor and Availability of Legal Services
 27-06-01 Availability of Supervision Services
 27-06-02 Equal Access to Services
 27-07-01 Cooperation with Law Enforcement Agencies
 27-08-01 Use of Force
 27-09-01 Kentucky Community Resources Directory
 27-10-01 Advanced Supervision
 27-11-01 Intensive Supervision
 27-12-01 Supervision: Case Classification
 27-12-02 Risk/Needs Assessment
 27-12-03 Initial Interview
 27-12-04 Conditions of Regular Supervision/Request for Modification
 27-12-05 Releasee's Report
 27-12-06 Grievance Procedures for Offenders
 27-12-07 Employment, Education/Vocational Referral
 27-12-08 Supervision Plan
 27-12-09 Casebook
 27-12-10 Guidelines for Monitoring Supervision Fee
 27-12-11 Guidelines for Monitoring Financial Obligations Ordered by the Releasing Authority
 27-12-12 Other Financial Obligations (Not Ordered by Releasing Authority)
 27-12-13 Community Service Work
 27-12-14 Client Travel Restrictions
 27-13-01 Drug and Alcohol Testing of Offenders
 27-13-02 Alcohol Detection
 27-14-01 Interstate Compact Transfers
 27-14-02 Interstate Compact Out-of-state Probation and Parole Violation
 27-15-01 Supervision Report; Violations, Unusual Incidents
 27-16-01 Search; Seizure; Chain of Custody; Disposal of Evidence
 27-17-01 Absconder Procedures
 27-18-01 Probation and Parole Issuance of Detainer/Warrant
 27-19-01 Preliminary Revocation Hearing
 27-20-01 Division of Probation and Parole Controlled Intake Program
 27-20-02 Prisoner Intake Notification
 27-20-03 Prisoner Status Change
 27-21-01 Apprehension and Transportation of Probation and Parole Violators
 27-22-01 Fugitive Unit - Apprehensions
 27-22-02 Fugitive Unit - Transportation of Fugitives
 27-23-01 In-state Transfer
 27-24-01 Closing Supervision Report
 27-24-02 Reinstatement of Clients to Active Supervision
 27-25-01 Application for Final Discharge from Parole
 27-26-01 Assistance to Former Clients and Dischargees
 27-27-01 Restoration of Civil Rights
 27-28-01 Firearms/Explosives: Application for Relief from Disability
 27-29-01 Parole Review Dates Modification
 28-01-01 Probation and Parole Investigation Reports (Introduction, Definitions, Confidentiality, Timing, and General Comments)
 28-01-02 Probation and Parole Investigation Reports (Administrative Responsibilities)

28-01-03 Probation and Parole Investigation Reports (Presentence/Postsentence Investigation Interview Procedure)
 28-01-04 Probation and Parole Investigation Reports (Presentence/Postsentence Verification, Composition, Case Material and Submission Schedules)
 28-01-05 Probation and Parole Investigation Reports (Computation of Jail Custody Credit)
 28-01-06 Probation and Parole Investigation Reports (Misdemeanant Presentence Investigation Reports for the Circuit and District Courts)
 28-01-07 Probation and Parole Investigation Reports (Supplemental Postsentence Investigation Report, Case Material, and Submission Schedule)
 28-01-08 Probation Parole Investigation Reports (Partial Investigation Reports and Submission Schedule)
 28-01-09 Release of Information of Factual Content on Presentence/Postsentence Investigation Reports
 28-02-01 Expedient Release Program
 28-03-01 Parole Plans/Halfway Houses/Extended Furlough/Sponsorship/Gradual Release
 28-04-01 Furlough Verifications
 28-05-01 Out-of-state Investigations.

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: March 14, 1996

FILED WITH LRC: March 15, 1996 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation has been scheduled for April 23, 1996 at 9 a.m., in the 5th Floor Conference Room of the State Office Building. Those interested in attending this hearing shall notify in writing: Tamela Biggs, Kentucky Department of Corrections, Office of General Counsel, 2nd Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Tamela Biggs

(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

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(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.

DEPARTMENT OF CORRECTIONS (Amendment)

501 KAR 6:030. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

Section 1. (1)(a) Kentucky State Reformatory policies and procedures March 13, 1996 [~~October 12, 1996~~], 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) Kentucky State Reformatory policies and procedures include:

KSR 01-00-09 Public Information and News Media Relations [~~(Amended 10/12/96)~~]
KSR 01-00-10 Entry Authorization for All Cameras and Tape Recorders Brought into the Institution [~~(Amended 10/12/96)~~]
KSR 01-00-15 Cooperation and Coordination with Oldham County Court
KSR 01-00-19 Personal Service Contract Personnel
KSR 02-00-01 Inmate Canteen
KSR 02-00-03 Screening Disbursements from Inmate Personal Accounts
KSR 02-00-11 Inmate Personal Accounts
KSR 02-00-12 Institutional Funds and Issuance of Checks
KSR 04-00-02 Staff Training and Development
KSR 05-00-01 Officers' Daily Housing Security and Safety Log
KSR 05-00-02 Research Activities
KSR 05-00-03 Management Information Systems
KSR 06-00-01 Inmate Master File [~~(Amended 10/12/96)~~]
KSR 06-00-03 Kentucky Open Records Law and Release of

Psychological/ Psychiatric Information [~~(Amended 10/12/96)~~]
KSR 07-00-02 Institutional Tower Room Regulations
KSR 07-00-04 Handling of PCB Articles and Containers
KSR 07-00-05 Proper Removal of Transformers
KSR 07-00-06 Asbestos Abatement
KSR 07-00-07 Discharge Monitoring Report (DMR)
KSR 07-00-08 Control of Hazardous Energy (Lockout or Tagout)
KSR 07-00-09 Inventory Control of Underground Storage Tanks
KSR 08-00-07 Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family
KSR 08-00-08 Death of an Inmate/Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery or Death
KSR 08-00-10 Hazardous Chemicals and Material Safety Data Sheet
KSR 09-00-04 Horizontal Gates/Box 1 Entry and Exit Procedure
KSR 09-00-05 Gate I Entrance and Exit Procedure Limited Issue
KSR 09-00-09 Contraband, Dangerous Contraband and Search Policy
KSR 09-00-21 Crime Scene Camera
KSR 09-00-22 Collection, Preservation, and Identification of Physical Evidence
KSR 09-00-23 Drug Abuse Testing
KSR 09-00-26 Contraband Outside Institutional Perimeter
KSR 09-00-27 Construction Crew Entry/Exit
KSR 09-00-28 Restricted Areas
KSR 09-00-29 Transportation of Inmates
KSR 09-00-30 Parole Board
KSR 09-00-31 Forced Cell Move in Medium or Maximum Area
KSR 10-00-10 Segregation - Special Management Inmate Legal Access
KSR 10-00-11 Unit D - Behavior Problem Control
KSR 10-01-13 Unit D - Property Room Access
KSR 10-01-01 Segregation Unit - Staffing Pattern, Staff Allocation, Position Description, Staff Selection, Training and Evaluation
KSR 10-01-02 Segregation - General Operational Procedures
KSR 10-01-03 Segregation - Inmate Tracking System and Records System
KSR 10-01-04 Segregation - Administrative Segregation
KSR 10-01-05 Segregation - Disciplinary Segregation
KSR 10-01-06 Segregation - Protective Custody
KSR 10-01-07 Segregation - Convalescent Care Unit
KSR 10-01-08 Unit D - Safekeepers and Pretrial Contract Hold Status Inmates
KSR 10-01-09 Unit D - Hold Ticket Residents
KSR 10-01-11 Segregation Unit - Behavior Problem Control
KSR 10-01-13 Segregation Unit - Property Room Access
KSR 10-02-01 Department of Corrections Division of Mental Health's Intensive Services Transitional Program: Staffing Pattern, Staff Allocation, Position Description, Staff Selection, Training, Time and Attendance
KSR 10-02-02 Unit E Designated Staff Visits
KSR 10-02-03 Unit E-1 Convalescent Care
KRS 10-02-04 Department of Corrections Division of Mental Health's Intensive Services Transitional Program: General Operating Procedures
KSR 11-00-01 Meal Planning for the General Population
KSR 11-00-02 Special Diets
KSR 11-00-03 Food Service Inspections
KSR 11-00-04 Dining Room Rules and Dress Code for Inmates
KSR 11-00-06 Health Standards/Regulations for Food Service Employees
KSR 11-00-07 Early Chow Line Passes for Medically Designated Inmates
KSR 12-00-01 Inmate Summer Dress Regulations

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KSR 12-00-03 State Items Issued to Inmates
 KSR 12-00-05 Sanitation Policy and Standards
 KSR 12-00-07 Regulations for Inmate Barbershop
 KSR 12-00-09 Treatment of Inmates with Body Lice
 KSR 13-00-02 Hospital Operations, Rules and Regulations
 KSR 13-00-03 Medication for Inmates Leaving Institution Grounds
 KSR 13-00-04 Medical and Dental Care
 KSR 13-00-05 Medical Records
 KSR 13-00-08 Institutional Laboratory Procedures
 KSR 13-00-09 Institutional Pharmacy Procedures
 KSR 13-00-10 Requirements for Medical Personnel
 KSR 13-00-11 Health Evaluation
 KSR 13-00-12 Vision Care/Optomety Services
 KSR 13-00-14 Periodic Health Examinations for Inmates
 KSR 13-00-15 Medical Alert System
 KSR 13-00-16 Suicide Prevention and Intervention Program
 KSR 13-00-17 Special Care
 KSR 13-02-01 Mental Health Services
 KSR 13-02-02 Mentally Retarded Inmates
 KSR 13-02-03 Suicide Prevention and Intervention Program
 KSR 13-02-04 Department of Corrections Division of Mental Health's Intensive Services Transitional Program: Program Description
 KSR 13-02-05 Access to Intensive Services Programs Operated at Kentucky State Reformatory by the Division of Mental Health
 KSR 14-00-01 Inmate Rights
 KSR 14-00-02 Americans with Disabilities Act Inmate Program Access ~~[(Added 10/12/95)]~~
 KSR 14-00-04 Inmate Grievance Procedure ~~[(Amended 10/12/95)]~~
 KSR 15-00-02 Regulations Prohibiting Inmate Control or Authority Over Other Inmate(s)
 KSR 15-00-06 Inmate I.D. Cards
 KSR 15-00-07 Inmate Rules and Discipline - Adjustment Committee Procedures
 KSR 15-00-08 Firehouse Living Area
 KSR 15-00-09 Smoking and No Smoking Areas for Inmates and Staff
 KSR 15-00-10 Program Services for Special Housing Placement
 KSR 15-01-01 Operational Procedures and Rules and Regulations for Unit A, B & C: Functions of Assigned Personnel
 KSR 15-01-02 Operational Procedures and Rules and Regulations for Unit A, B, & C: Staff Operational Procedures
 KSR 15-01-03 Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate Rules and Regulations
 KSR 15-01-04 Operational Procedures and Rules and Regulations for Unit A, B & C: Institutional Medical and Fire Safety Service: Unit Application
 KSR 15-01-05 Operational Procedures Rules and Regulations for Unit A, B, & C: Institutional Inmate Services
 KSR 15-01-06 Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate Honor Housing Criteria and Regulations
 KSR 16-00-02 Inmate Correspondence and Mailroom Operations ~~[(Amended 10/12/95)]~~
 KSR 16-00-03 Inmate Access to Telephones
 KSR 16-01-01 Visiting Regulations (Amended 3/13/96)
 KSR 16-01-02 Lawn Visit Procedure and Regulations (Amended 3/13/96)
 KSR 16-01-03 Night Visit Regulations
 KSR 17-00-05 Assessment and Orientation, Consent Decree Notification to Inmates
 KSR 17-00-07 Inmate Personal Property
 KSR 17-00-08 Repair of Inmate Owned Appliances by Outside Dealers
 KSR 18-00-04 Intratransfers, Identification Department, Departure - Admission and Discharge

KSR 18-00-05 Transfer of Residents to Kentucky Correctional Psychiatric Center, and Referral Procedure for Residents Adjudicated Guilty but Mentally Ill
 KSR 18-00-06 Classification
 KSR 18-00-07 Kentucky State Reformatory Placement Committee
 KSR 19-00-01 Inmate Work Incentives
 KSR 19-00-02 On-the-job Training Program
 KSR 19-00-03 Safety Inspections of Inmate Work Assignment Locations
 KSR 20-00-01 Technical and Adult Basic Level Learning Center Programs
 KSR 20-00-04 Criteria for Participation in A College Program
 KSR 20-00-06 English as a Second Language
 KSR 21-00-01 Legal Aide Office and Inmate Law Library Services and Supervision
 KSR 21-00-02 Inmate Library Services
 KSR 21-00-03 Library Services for Unit D
 KSR 22-00-03 Inmate Organizations
 KSR 22-00-07 Inmate Magazine
 KSR 22-00-08 Privilege Trips
 KSR 23-00-02 Chaplain's Responsibility and Inmate Access to Religious Representatives
 KSR 23-00-03 Religious Programming
 KSR 24-00-02 Substance Abuse and Chemical Dependency Program ~~[(Added 10/12/95)]~~
 KSR 25-00-01 Discharge of Inmates to Hospital or Nursing Home
~~KSR 25-00-02 Violations of Law or Code of Conduct by Inmates on Parole-Furlough (Deleted 3/13/96)]~~
~~KSR 25-00-03 Prepare Progress Report (Deleted 3/13/96)]~~
 KSR 26-00-01 Volunteer Services Program ~~[(Added 10/12/95)]~~

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: March 13, 1996

FILED WITH LRC: March 14, 1996 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation has been scheduled for April 23, 1996 at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack Damron, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact person: Kenneth Vaughan, Procedures Officer

(1) Type and number of entities affected: 533 employees of the correctional institutions, 1451 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.

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(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 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 6:040. Kentucky State Penitentiary.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the commissioner to promulgate 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.

Section 1. (1)(a) Kentucky State Penitentiary policies and procedures, March 13 [January 14], 1996 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) Kentucky State Penitentiary policies and procedures include:

KSP 000000-06	Administrative Regulations (Deleted 3/13/96)
KSP 01-02-01	Public Information and Media Communications
KSP 020000-15	Legal Assistance
KSP 02-01-01	Inmate Commissary Program
KSP 02-08-01	Inventory Records and Control
KSP 02-11-01	Requisition and Purchase of Supplies and Equipment
KSP 02-12-01	Inmate Personal Funds (Amended 3/13/96)
KSP 05-02-01	Management Information System
KSP 06-01-01	Inmate Records
KSP 09-08-01	Searches and Preservation of Evidence
KSP 10-02-01	Special Management Units: Assignment, Classifi-

KSP 10-02-05	cation Review and Release
KSP 10-04-01	Special Security Unit
KSP 100000-03	Special Needs Inmates (Amended 3/13/96)
KSP 100000-08	Disposition of Unauthorized Property
KSP 100000-20	Behavioral Counseling Record
KSP 100000-21	Legal Services Program
	Photocopies for Nonindigent Inmates with Special Court Deadlines
KSP 11-03-01	Therapeutic Diets
KSP 11-06-01	Food Service Inspections
KSP 120000-11	Religious Services - Staffing
KSP 120000-18	Religious Services - Religious Programming
KSP 120000-20	Marriage of Inmates
KSP 13-01-01	Pharmacy Procedures
KSP 13-02-01	Hospital Services
KSP 13-02-02	Sick Call
KSP 13-02-03	Health Evaluations
KSP 13-02-04	Emergency Medical Procedure
KSP 13-02-05	Consultations
KSP 13-02-08	Medical Records
KSP 13-02-09	Psychiatric and Psychological Services
KSP 13-02-11	Psychological and Psychiatric Treatment Upon Release
KSP 13-02-12	Dental Services for Special Management Units
KSP 13-02-13	Optometric Services
KSP 130000-10	Execution Plan (Deleted 3/13/96)
KSP 14-03-01	Marriage of Inmates
KSP 14-06-01	Inmate Grievance Procedure
KSP 15-01-01	Inmate Grooming and Dress Code (Amended 4/11/96)
KSP 15-03-01	Award of Meritorious Good Time
KSP 15-06-01	Due Process/Disciplinary Procedures
KSP 15-10-01	Discharge of Inmates by Shock Probation
KSP 16-01-01	Visiting Program (Amended 4/11/96)
KSP 16-02-01	Inmate Correspondence
KSP 16-03-02	Inmate Telephone Access
KSP 16-04-01	Inmate Packages
KSP 17-01-01	Inmate Personal Property
KSP 17-01-03	Procedures for Providing Clothing, Linens and Other Personal Items
KSP 17-01-04	Property Room, Clothing Storage and Property Inventory Control
KSP 18-01-01	General Guidelines and Functions of the Classification Document
KSP 18-01-02	Functions of the Classification Committee
KSP 18-06-01	Classification Document
KSP 18-10-01	Parole Progress Report
KSP 18-11-01	Transfers to Kentucky Correctional Psychiatric Center (KCPC)
KSP 18-15-01	Protective Custody Unit
KSP 19-04-01	Inmate Work Programs: Safety Inspections of Inmate Work Locations
KSP 19-04-02	Unit Classification Committee: Inmate Work Assignments
KSP 19-05-01	Correctional Industries
KSP 20-04-01	Educational Programs
KSP 22-04-01	Arts and Crafts Program
KSP 25-04-01	Inmate Furloughs
KSP 25-08-01	Extended Furloughs

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: March 13, 1996

FILED WITH LRC: March 14, 1996 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation has been scheduled for April 23, 1996 at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack Damron, Department of Correc-

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tions, 2nd Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact person: Jack Damron

(1) Type and number of entities affected: 318 employees of the correctional institutions, 821 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

(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.

DEPARTMENT OF CORRECTIONS (Amendment)

501 KAR 6:060. Northpoint Training Center.

RELATES TO: KRS Chapters 196, 197, 439 .

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470,

439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

Section 1. (1)(a) Northpoint Training Center policies and procedures, March 13 ~~February 13~~, 1996, are incorporated by reference.

(b) It 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) Northpoint Training Center policies and procedures include:

NTC 01-05-01	Extraordinary Occurrence Reports
NTC 01-10-01	Legal Assistance for Corrections Staff
NTC 01-11-01	Political Activities of Merit Employees
NTC 01-15-01	Establishment of the Warden as Chief Executive Officer [(Amended 2/13/96)]
NTC 01-17-01	Relationships with Public, Media and Other Agencies
NTC 02-02-02	Warden's Participation in the Agency Budgeting Process
NTC 02-03-01	<u>Accounting for Appropriations and Expenditures of Funds</u> [(Fiscal Management: Audits (Amended 2/13/96))]
NTC 02-04-01	Internal Control and Monitoring of Accounting Procedures
NTC 02-07-02	Chapel Fund
NTC 02-08-01	Inmate Canteen
NTC 02-10-01	Insurance Coverage
NTC 02-12-01	Inmate Accounts
NTC 04-01-01	Training and Staff Development
NTC 04-04-01	Firearms and Chemical Agents Training [(Amended 2/13/96)]
NTC 06-01-01	Offender Records
NTC 06-01-02	Records - Release of Information
NTC 06-01-03	Taking Offender Record Folders onto the Yard
NTC 08-05-01	The Fire and Safety Officer [(Amended 2/13/96)]
NTC 08-05-02	Fire Procedures [(Amended 2/13/96)]
NTC 08-05-03	Fire Prevention [(Amended 2/13/96)]
NTC 08-05-04	Storage of Flammables and Dangerous Chemicals and Their Use <u>(Amended 3/13/96)</u>
NTC 08-07-01	Safety Standards <u>(Amended 3/13/96)</u>
NTC 10-01-01	Special Management Unit [(Amended 2/13/96)]
NTC 10-03-01	Protective Custody [(Amended 2/13/96)]
NTC 11-03-01	Food Services: General Guidelines [(Amended 2/13/96)]
NTC 11-04-01	Food Service: Meals
NTC 11-04-02	Menu, Nutrition and Special Diets [(Amended 2/13/96)]
NTC 11-05-02	Health Standards and Regulations for Food Service Employees
NTC 11-06-01	Inspection and Sanitation [(Amended 2/13/96)]
NTC 11-07-01	Purchasing and Storage of Food Products
NTC 12-01-01	Institutional Inspection <u>(Amended 3/13/96)</u>
NTC 12-02-01	Personal Hygiene for Inmates; Clothing and Linens <u>(Amended 3/13/96)</u>
NTC 12-02-02	Issuance of Personal Hygiene Products <u>(Amended 3/13/96)</u>
NTC 12-07-01	<u>Grooming and Hair Care Standards (Added 3/13/96)</u>
NTC 13-01-01	Emergency Medical Care Plan <u>(Amended 3/13/96)</u>
NTC 13-01-02	Emergency and Specialized Health Services <u>(Amended 3/13/96)</u>
NTC 13-02-01	Administration and Authority for Health Services <u>(Amended 3/13/96)</u>

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NTC 13-03-01	Sick Call and Pill Call	NTC 24-05-01	Unit Management
NTC 13-04-01	Utilization of Pharmaceutical Products	NTC 25-01-01	Release Preparation Program
NTC 13-05-01	Dental Services	NTC 25-01-02	Temporary Release/Community Center Release
NTC 13-05-03	Dental Radiation Levels	NTC 25-01-03	Graduated Release
NTC 13-05-04	Attest Steam Incubator	NTC 25-02-01	Funeral Trips and Bedside Visits
NTC 13-06-01	Licensure and Training Standards	NTC 25-03-01	Inmate Release Procedure
NTC 13-07-01	Provisions for Health Care Delivery	NTC 26-01-01	Citizen Involvement and Volunteer Services Program
NTC 13-08-01	Medical and Dental Records		
NTC 13-09-01	Special Diets		
NTC 13-11-01	Inmate Health Screening and Evaluation		
NTC 13-12-01	Special Health Care Programs		
NTC 13-17-01	Inmates Assigned to Health Services		
NTC 13-19-01	Mental Health Care Program		
NTC 13-19-03	Suicide Prevention and Intervention Program		
NTC 13-20-01	Infectious Disease		
NTC 13-20-02	Infection Control		
NTC 13-20-03	Disposal of Biohazard Waste		
NTC 13-21-01	Vision Care and Optometry Services		
NTC 13-22-01	Informed Consent		
NTC 13-23-01	Special Needs Inmates		
NTC 14-01-01	Legal Services Program		
NTC 14-01-02	Receiving, Viewing, Handling and Storage of Video Tapes		
NTC 14-02-01	Inmate Grievance Procedure		
NTC 14-03-01	Inmate Rights and Responsibilities		
NTC 14-03-02	Board of Claims		
NTC 15-01-01	Restoration of Forfeited Good Time		
NTC 15-02-01	Due Process/Disciplinary Procedures		
NTC 15-02-02	Extra Duty Assignments		
NTC 15-02-03	Hearing Officer		
NTC 15-03-01	Rules for Inmates Assigned to Outside Detail		
NTC 15-03-02	Rules and Regulations for General Population Dormitories		
NTC 15-04-01	Inmate Identification		
NTC 16-01-01	Mail Regulations		
NTC 16-02-01	Visiting		
NTC 16-02-02	Extended and Special Visits		
NTC 16-02-03	Honor Dorm and Outside Detail Dorm Visiting		
NTC 16-02-04	Controlled Visitation		
NTC 16-03-01	Inmate Furloughs		
NTC 16-05-01	Telephone Use and Control		
NTC 17-01-01	Personal Property Control		
NTC 17-01-02	Authorized Inmate Personal Property		
NTC 17-01-03	Unauthorized Inmate Property		
NTC 17-01-04	Disposition of Unauthorized Property		
NTC 17-01-05	State Issue and Required Inmate Clothing		
NTC 17-03-01	Assessment and [A] Orientation (<u>Amended 3/13/96</u>)		
NTC 18-01-01	Parole Progress Report		
NTC 18-02-01	Classification		
NTC 18-02-02	Classification - 48 Hour Notification		
NTC 18-03-01	Special Notice Form		
NTC 18-05-01	Transfers of Inmates		
NTC 18-05-02	Transfer of Inmates to Kentucky Correctional Psychiatric Center		
NTC 19-01-01	Inmate Work Program		
NTC 19-01-03	Temporary Leave from Job Assignment		
NTC 19-02-01	Correctional Industries		
NTC 19-02-02	Guidelines for Correctional Industries		
NTC 20-01-01	Educational Programs		
NTC 20-02-02	Live Work Projects in Vocational School Classes (<u>Amended 3/13/96</u>)		
NTC 21-01-01	Library Services (<u>Amended 3/13/96</u>)		
NTC 22-03-01	Conducting Inmate Organizational Meetings and Programs		
NTC 23-01-01	Religious Services		
NTC 23-03-01	Marriage of Inmates		
NTC 24-04-01	Honor Status		

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: March 13, 1996

FILED WITH LRC: March 14, 1996 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation has been scheduled for April 23, 1996, at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack T. Damron, Office of General Counsel, 2nd Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack Damron

(1) Type and number of entities affected: 284 employees of the correctional institutions, 939 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

(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

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applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

DEPARTMENT OF CORRECTIONS (Amendment)

501 KAR 6:120. Blackburn 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 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 by the American Correctional Association.

Section 1. (1)(a) "Blackburn Correctional Complex Policies and Procedures", March 13, 1996 [~~November 14, 1995~~], is incorporated by reference.

(b) It 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) Blackburn Correctional Complex Policies and Procedures:

BCC 01-07-01 Extraordinary Occurrence Reports
BCC 01-09-01 Legal Assistance for Staff
BCC 01-11-01 Roles of Consultants, Contract Employees, Volunteers and Employees of Other Agencies
BCC 01-13-01 Relationships with Public, Media, and Other Agencies
BCC 01-13-02 Public Information and News Media Access
BCC 01-15-01 Internal Affairs Office
BCC 01-16-01 Tours of Blackburn Correctional Complex
BCC 01-19-01 Inmate Access to BCC Staff
BCC 02-01-01 Inmate Canteen
BCC 02-02-01 Fiscal Responsibility
BCC 02-02-02 Fiscal Management: Accounting Procedures
BCC 02-02-03 Fiscal Management: Checks
BCC 02-02-04 Fiscal Management: Budget
BCC 02-02-05 Fiscal Management: Insurance
BCC 02-02-06 Fiscal Management: Audits
BCC 02-04-01 Billing Method for Health Services Staff Paid by Personal Service Contract
BCC 02-05-01 Property Inventory
BCC 02-06-01 Purchasing
BCC 02-07-01 Inmate Personal Accounts
BCC 04-02-01 Firearms Training
BCC 04-03-01 Educational Assistance Program
BCC 05-01-01 Inmate Participation in Authorized Research
BCC 06-02-01 Records - Release of Information
BCC 06-02-02 Offender Records
BCC 06-03-01 Reporting Inmate Misconduct Following Favorable Recommendation by the Parole Board
BCC 08-02-01 Natural Disaster Plan (Tornado)
BCC 08-03-01 Emergency Preparedness Plan Manual
BCC 08-04-01 Fire Safety Plan, Drills and Related Staff Duties
BCC 08-04-02 Immediate Release of Inmates from Locked Areas
BCC 08-05-01 Duties of Fire Safety Officer

BCC 08-06-01 Storage Control and Accountability of Flammable, Toxic, Caustic and Other Hazardous Materials
BCC 08-07-01 Facility Furnishings: Exit and Emergency Lights and Noncombustible Containers
BCC 09-01-01 Inclement Weather/Emergency Condition Operation [~~(Amended 11/14/95)~~]
BCC 09-02-01 Restricted Areas [~~(Amended 11/14/95)~~]
BCC 09-02-02 Inmate Pass System to Restricted Areas [~~(Amended 11/14/95)~~]
BCC 09-02-03 Regulation of Inmate Movement [~~(Amended 11/14/95)~~]
BCC 09-02-04 Radio Escorted Yard Movement During Daylight Savings Time (November 1 - April 30) [~~(Amended 11/14/95)~~]
BCC 09-03-01 Inmate Identification
BCC 09-04-02 Complex Entry & Exit [~~(Amended 11/14/95)~~]
BCC 09-05-01 Key Control [~~(Amended 11/14/95)~~]
BCC 09-06-02 Transportation to Courts [~~(Amended 11/14/95)~~]
BCC 09-07-01 Drug Abuse and Intoxicants Testing [~~(Amended 11/14/95)~~]
BCC 09-08-02 Use of Restraints [~~(Amended 11/14/95)~~]
BCC 09-09-01 Population Counts and Count Documentation [~~(Amended 11/14/95)~~]
BCC 09-10-03 Development of Institutional Post Orders [~~(Amended 11/14/95)~~]
BCC 09-14-01 Prohibiting Inmate Authority Over Other Inmates [~~(Amended 11/14/95)~~]
BCC 09-15-01 Search Policy/Disposition of Contraband [~~(Amended 11/14/95)~~]
BCC 09-16-01 Security Activity Logs [~~(Amended 11/14/95)~~]
BCC 09-17-01 Institutional Supervisor Inspections [~~(Amended 11/14/95)~~]
BCC 09-18-01 Use of State Vehicles and Staff Owned Vehicles [~~(Amended 11/14/95)~~]
BCC 09-19-01 Duties and Responsibilities of the Institutional Captain
BCC 09-20-01 Inmate Death [~~(Amended 11/14/95)~~]
BCC 09-21-01 Tool Control (Amended 3/13/96)
BCC 09-22-01 Emergency Communication System [~~(Amended 11/14/95)~~]
BCC 10-01-01 Special Management Inmates
BCC 10-01-02 Short-Term Administrative Segregation Holding Area
BCC 11-01-01 Menu and Special Diets
BCC 11-02-01 Food Service: Inspection, Health Protection and Sanitation
BCC 11-03-01 Food Service: Meals
BCC 11-04-01 Dining Room Guidelines
BCC 11-05-01 Food Service Security: Knife & Other Sharp Instrument and Utensil Control
BCC 11-06-01 Purchasing, Storage and Farm Products
BCC 11-07-01 Food Service Operations Manual
BCC 12-02-01 Personal Hygiene Items
BCC 12-02-02 Personal Hygiene for Inmates: Clothing, Linens and Shower Facilities (Amended 3/13/96)
BCC 12-05-01 Barber Shop Services
BCC 12-06-01 BCC Housekeeping Plan
BCC 13-01-01 Sick Call and Pill Call
BCC 13-02-01 Administration and Authority for Health Services
BCC 13-03-01 Provisions of Health Care Delivery
BCC 13-04-01 Licensure and Training Standards [~~(Amended 11/14/95)~~]
BCC 13-05-01 Medical Alert System
BCC 13-06-01 Health Care Practices [~~(Amended 11/14/95)~~]
BCC 13-07-01 Emergency Medical Care Plan [~~(Amended 11/14/95)~~]
BCC 13-07-02 Emergency and Specialized Health Services

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BCC 13-07-03	Immediate Medical Treatment for Person's Injured by Weapon or Chemical Agent	BCC 24-03-01	Social Services
BCC 13-08-01	Inmate Health Screening and Evaluation	BCC 25-01-01	Inmate Check Out Procedure
BCC 13-09-01	Prohibition on Medical Experimentation	BCC 25-02-02	Temporary Release and Community Center Release
BCC 13-10-01	Dental Services	BCC 25-05-01	Supplemental Parole Progress Reports
BCC 13-11-01	Suicide Prevention and Intervention Program	BCC 26-01-01	Citizen Involvement and Volunteer Service Program
BCC 13-12-01	Use of Pharmaceutical Products		
BCC 13-12-02	Parenteral Administration of Medications and Use of Psychotropic Drugs (Amended 11/14/95)	JACK C. LEWIS, Commissioner	
BCC 13-13-01	Inmate Health Education (Amended 11/14/95)	APPROVED BY AGENCY: March 13, 1996	
BCC 13-14-01	Management of Serious and Infectious Diseases	FILED WITH LRC: March 14, 1996 at 4 p.m.	
BCC 13-15-01	Informed Consent	PUBLIC HEARING: A public hearing on this administrative regulation has been scheduled for April 23, 1995 at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack Damron, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601.	
BCC 13-16-01	Health Records	REGULATORY IMPACT ANALYSIS	
BCC 13-17-01	Notification of Inmate Family in the Event of Serious Illness, Injury or Surgery (Amended 11/14/95)	Contact person: Betty Ann Walker, Procedures Officer	
BCC 13-19-01	Physicians Referrals/Continuity of Care	(1) Type and number of entities affected: 92 employees of the correctional institutions, 403 inmates, and all visitors to state correctional institutions.	
BCC 13-20-01	Chronic and Convalescent Care (Amended 11/14/95)	(2) Direct and indirect costs or savings on the:	
BCC 13-22-01	Psychiatric and Psychological Services, Handling of Mentally Retarded Inmates and Transfers	(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: None	
BCC 13-23-01	First Aid Kits	(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: None	
BCC 14-01-01	Office of Public Advocacy Attorney Visits	(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:	
BCC 14-02-01	Law Library	1. First year following implementation: None	
BCC 14-04-01	Inmate Rights and Responsibilities (Amended 11/14/95)	2. Second and subsequent years: None	
BCC 14-06-01	Legal and Support Services for Inmates	(3) Effects on the promulgating administrative body:	
BCC 15-02-02	Room Assignment (<u>Amended 3/13/96</u>)	(a) Direct and indirect costs or savings:	
BCC 15-03-01	Rules and Regulations for Dormitories	1. First year: None	
BCC 15-05-01	Extra Duty Assignments	2. Continuing costs or savings: None	
BCC 16-01-01	Inmate Furloughs	3. Additional factors increasing or decreasing costs: None	
BCC 16-02-01	Inmate Visiting	(b) Reporting and paperwork requirements: Policy revisions.	
BCC 16-03-02	Outgoing Inmate Packages (<u>Amended 3/13/96</u>)	(4) Assessment of anticipated effect on state and local revenues:	
BCC 16-03-03	Inmate Correspondence	None	
BCC 17-02-01	Authorized Inmate Personal Property	(5) Source of revenue to be used for implementation and enforcement of administrative regulation is the funds budgeted for this 1994-1996 biennium.	
BCC 17-03-01	Processing of New Inmates From Local Jails	(6) Economic impact, including effects of economic activities arising from administrative regulation, on:	
BCC 18-01-01	Classification: Institutional Classification and Re-classification	(a) Geographical area in which administrative regulation will be implemented: None	
BCC 18-02-01	Racial Balance in Living Areas	(b) Kentucky: None	
BCC 19-01-01	Inmate Work Programs	(7) Assessment of alternative methods; reasons why alternatives were rejected: None	
BCC 19-02-01	Classification of Inmates to Governmental Service Program (<u>Amended 3/13/96</u>)	(8) Assessment of expected benefits:	
BCC 19-03-01	Correctional Industries	(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None	
BCC 20-01-01	Academic and Vocational School	(b) State whether a detrimental effect on environment and public health would result if not implemented: None	
BCC 20-04-01	Educational Program Evaluation	(c) If detrimental effect would result, explain detrimental effect:	
BCC 20-05-01	Educational Program Planning	N/A	
BCC 20-06-01	Academic and Vocational Curriculum	(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None	
BCC 21-01-01	Library Services	(a) Necessity of proposed administrative regulation if in conflict:	
BCC 21-01-02	Audio or Video Tape Court Transcripts	N/A	
BCC 22-01-01	Arts and Crafts/Production and Sale of Items	(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A	
BCC 22-02-01	Privileged Trips	(10) Any additional information or comments: None	
BCC 22-03-01	Recreational Employees	(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.	
BCC 22-04-01	Recreation and Inmate Activities		
BCC 22-04-02	Inmate Clubs and Organizations (<u>Amended 3/13/96</u>)		
BCC 22-04-03	Conducting Inmate Organizational Meetings and Programs		
BCC 22-04-04	Recreation Program Availability		
BCC 22-04-05	Supervision of Leisure-time Craft Club Activities and Materials		
BCC 22-06-01	Music Club		
BCC 22-08-01	Unit Recreation Program		
BCC 22-09-01	Use of Inmates in Recreation Programs		
BCC 23-01-01	Religious Services		
BCC 24-01-01	Duties and Responsibilities of Classification and Treatment Officers		
BCC 24-02-01	Duties and Responsibilities of the Unit Director and Assistant to the Unit Director		

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Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

DEPARTMENT OF CORRECTIONS (Amendment)

501 KAR 6:170. Green River Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: 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 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.

Section 1. (1)(a) Green River Correctional Complex Policies and Procedures, March 13, 1996 [~~October 12, 1995~~], is incorporated by reference.

(b) It 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) Green River Correctional Complex Policies and Procedures include:

GRCC 01-05-01 Procedures Officer
GRCC 01-09-01 Duty Officer Responsibilities
GRCC 01-10-01 Smoking: GRCC Facility (Amended 3/13/96)
GRCC 02-01-02 Fiscal Management Accounting Procedures [~~(Added 10/12/95)~~]
GRCC 02-01-03 Fiscal Management Agency Funds [~~(Added 10/12/95)~~]
GRCC 02-02-01 Fiscal Management: Budget [~~(Added 10/12/95)~~]
GRCC 02-03-01 Fiscal Management: Audits [~~(Added 10/12/95)~~]
GRCC 02-06-01 Inmate Canteen [~~(Added 10/12/95)~~]
GRCC 04-01-01 Employee Training and Staff Development [~~(Added 10/12/95)~~]
GRCC 05-01-01 Information System (Amended 3/13/96)
GRCC 06-01-01 Offender Records [~~(Added 10/12/95)~~]
GRCC 10-01-01 Special Management Unit
GRCC 11-01-01 Good Service Guidelines
GRCC 11-02-01 Food Service: Security
GRCC 11-03-01 Dining Room Guidelines
GRCC 11-04-01 Food Service: Meals
GRCC 11-04-02 Food Service: Menu, Nutrition and Special Diets
GRCC 11-06-01 Health Requirements of Food Handlers
GRCC 11-07-01 Food Service: Inspections and Sanitation
GRCC 11-08-01 Food Service Purchasing, Storage and Farm Products
GRCC 12-01-01 Clothing, Bedding Hygiene Supplies and Barber Services (Added 3/13/96)
GRCC 13-01-01 Organization of Medical Services (Added 3/13/96)
GRCC 13-02-01 Medical Services: Sick Call, Physician's Clinics and Pill Call (Added 3/13/96)
GRCC 13-02-02 Medical Services Copayment (Added 3/13/96)
GRCC 13-03-01 Use of Pharmaceutical Products (Added 3/13/96)
GRCC 13-04-01 Health Records (Added 3/13/96)
GRCC 13-04-02 Psychological and Psychiatric Reports (Added 3/13/96)

GRCC 13-05-01 Management of Serious and Infectious Diseases (Added 3/13/96)
GRCC 14-01-01 Inmate Rights and Responsibilities [~~(Added 10/12/95)~~]
GRCC 14-02-01 Legal Services Program [~~(Added 10/12/95)~~]
GRCC 15-01-01 GRCC Adjustment Program and Procedures [~~(Added 10/12/95)~~]
GRCC 16-01-01 Inmate Visiting (Added 3/13/96)
GRCC 16-02-01 Inmate Correspondence and Privilege Mail (Amended 3/13/96)
GRCC 16-03-01 Inmate Telephone Communications (Amended 3/13/96)
GRCC 16-04-01 Inmate Packages (Added 3/13/96)
GRCC 17-01-01 GRCC Inmate Property Control (Added 3/13/96)
GRCC 17-02-01 GRCC Inmate Receiving and Orientation Process (Added 3/13/96)
GRCC 17-03-01 Procedure for Sending Televisions to Outside Dealer for Repair (Added 3/13/96)
GRCC 18-01-01 Inmate Classification [~~and Assessment~~] (Amended 3/13/96)
GRCC 18-02-01 Meritorious Housing
GRCC 18-02-02 Meritorious Visitation Program (Added 3/13/96)
GRCC 19-01-01 Inmate Work Programs (Amended 3/13/96)
GRCC 20-01-01 Educational Programs
GRCC 21-01-01 Library Services [~~(Added 10/12/95)~~]
GRCC 22-01-01 Recreation Programs [~~(Added 10/12/95)~~]
GRCC 22-02-01 Inmate Organizations [~~(Added 10/12/95)~~]
GRCC 23-02-01 Death or Hospitalization of an Inmate's Family Member and Notification of Inmates (Added 3/13/96)
GRCC 24-01-01 Social Services and Counseling Program [~~(Added 10/12/95)~~]
GRCC 25-01-01 Prerelease Program (Added 3/13/96)

JACK C. LEWIS, Commissioner

APPROVED BY AGENCY: March 13, 1996

FILED WITH LRC: March 14, 1996 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation has been scheduled for April 23, 1996, at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack Damron, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact person: Debra Judd

(1) Type and number of entities affected: 209 employees of the correctional institutions, 614 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

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(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 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

EDUCATION, ARTS, AND HUMANITIES CABINET Education Professional Standards Board (Amendment)

704 KAR 20:084. Interdisciplinary early childhood education, birth to primary.

RELATES TO: KRS 157.3175, 161.020, 161.030

STATUTORY AUTHORITY: KRS 161.028

NECESSITY AND FUNCTION: KRS 161.020 requires that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. Additionally, the statute requires teacher education institutions to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established by the Education Professional Standards Board. This administrative regulation establishes the professional certificate for interdisciplinary early childhood education, birth to primary; the teacher standards; and the standards for approval of programs leading to such a certificate.

Section 1. Definitions. The following definitions shall apply for purposes of this administrative regulation:

(1) "Interdisciplinary" means a preparation program that includes child development, family studies, early childhood education, and early childhood special education.

(2) "Teacher performance standard" means a set of teaching and managing tasks that an early childhood educator shall be able to demonstrate in early childhood programs. Each teacher standard statement describes the general set of teaching or managing tasks that an early childhood educator shall perform and the contexts for performance of these tasks.

(3) "Cultural diversity" means the wide range of differences among individuals that result from cultural and ethnic backgrounds, socio-economic status, gender, personality traits, physical abilities and disabilities, and the interaction of factors of variability.

Section 2. (1) The professional certificate for interdisciplinary early childhood education, birth to primary, shall be issued in accordance with the pertinent Kentucky statutes and administrative regulations of the Education Professional Standards Board to an applicant who has completed a bachelor's degree and the approved program of preparation for this certificate as described in Sections 7, 8, and 9 of this administrative regulation at a teacher education institution approved by the Education Professional Standards Board. In addition, the applicant shall complete the written tests and a one (1) year internship as provided in this administrative regulation.

(2)(a) In order to satisfy the testing prerequisites for teacher certification as required by KRS 161.030, the applicant shall score at least the following minimum passing scores on the tests identified below:

1. The NTE Core Battery tests:

a. Communication skills, 646;

b. General knowledge, 643; and

c. Professional knowledge, 644.

2. ~~Kentucky [Applicants shall successfully complete a] test of [knowledge specific to] interdisciplinary early childhood 150 [teaching which shall be identified by the Education Professional Standards Board pursuant to KRS 161.030].~~

(b) The tests may be waived for out-of-state teachers who have two (2) or more years of successful experience in a position teaching children from birth to entry into the primary program on at least a half-time basis and whose preparation corresponds to the interdisciplinary early childhood education outlined in this administrative regulation.

(3) Upon successful completion of an approved program of preparation and testing, the Education Professional Standards Board shall issue a statement of eligibility in accordance with KRS 161.030.

(4) The Education Professional Standards Board shall issue the one (1) year certificate for the beginning teacher internship as provided in KRS 161.030 and 704 KAR 20:320 upon applicant's confirmation of employment in a position teaching children from birth to entry into a primary program on at least a half-time basis in a school which meets the criteria identified in KRS 161.030.

(5)(a) The beginning teacher internship may be waived for out-of-state applicants who have completed two (2) or more years of successful experience in a position teaching children from birth to entry into the primary program.

(b) The beginning teacher internship may be waived for applicants who have completed two (2) or more years of successful experience in a position teaching children from birth to entry into a primary program on at least a half-time basis in Kentucky while holding one (1) of the following credentials:

1. Baccalaureate or higher degree in child development or early childhood education or early childhood special education;

2. Certification valid for kindergarten; or

3. Special education certification valid for primary grades.

Section 3. The professional certificate for interdisciplinary early childhood education, birth to primary, shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

Section 4. The professional certificate for interdisciplinary early childhood education, birth to primary, shall be valid for teaching children from birth to entry into the primary program. This includes teaching children in kindergarten or other programs for five (5) year old children where these programs are operated separately from the primary program. Persons holding this certificate shall serve as primary developers and implementers of individual programs for children with and without disabilities including individual education

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plans (IEP's) and individual family service plans (IFSP's) with consultation and support from specialists according to the needs of the child (e.g., speech-language pathologists, occupational and physical therapists, nurses, educators of the hearing impaired or vision impaired, and others).

Section 5. Teachers serving in positions identified in Section 4 of this administrative regulation as early childhood teachers during the 1994-95 school year in districts with approved preschool programs shall be eligible to continue serving in the same position without any additional certification. Upon application to the Education Professional Standards Board, these teachers shall receive letters certifying eligibility.

Section 6. All teacher preparation institutions offering approved programs of preparation leading to the professional certificate for interdisciplinary early childhood education, birth to primary, shall establish an assessment system to judge the performance of candidates on the teacher performance standards identified for this certificate.

Section 7. Standards for Program of Preparation. In order to receive approval of the Education Professional Standards Board, a program of preparation leading to the professional certificate for interdisciplinary early childhood education, birth to primary, shall meet the following standards:

(1) The program shall be designed to prepare candidates to teach and manage tasks as identified in the teacher standards listed in Section 9 of this administrative regulation.

(2) The program shall include a system of continuous assessment to evaluate the candidate's progress and level of attainment on the teacher standards. The assessments shall include performance on authentic teaching and managing tasks in settings that are inclusive of children across abilities and contexts. Candidates shall be evaluated by paper and pencil tests and authentic assessments of performance.

(3) The program of preparation shall ensure that candidates from culturally diverse backgrounds are recruited and retained in the program.

(4) The program of preparation shall provide the candidate with knowledge and experiences to perform teaching and managing tasks identified in the teacher standards with children from culturally diverse backgrounds.

(5) Student teaching experiences shall be supervised by a teacher who has a letter certifying eligibility to continue teaching in an interdisciplinary early childhood position, or a teacher holding a master's degree with emphasis in early childhood and three (3) years of teaching experience.

Section 8. Application for Program Approval. (1) A teacher education institution which proposes to offer a program of preparation leading to the professional certificate for interdisciplinary early childhood education, birth to primary, shall make application for approval to the Education Professional Standards Board. The application for approval shall include a program description which includes the following:

(a) Program outcomes: include teacher standards for interdisciplinary early childhood education.

(b) Program components: provide list of coursework, clinical and field experiences, and student teaching related to general education, interdisciplinary specialty studies, and professional studies.

(c) Faculty: provide list of faculty responsible for and involved with the conduct of the specific program and their qualifications.

(d) Students: describe admission and retention policies and procedures that are specific to this program.

(e) Plan for assessment: description of the system of continuous assessment of teacher standards.

(2) Institutions may receive interim program approval for a one (1) year period which may be extended for one (1) additional year while the institution develops the assessments identified in Section 7(2) of this administrative regulation. At the end of the period of interim approval the institution shall apply for full approval to the Education Professional Standards Board.

Section 9. Teacher Standards. (1) Teacher Standard I. The early childhood educator shall design and organize learning environments, experiences, and instruction that address the developmental needs of infants, toddlers, preschool children, and kindergarten children and goals established by KRS 158.6451. The early childhood educator shall develop plans for:

(a) Implementation in a classroom setting;

(b) Implementation in a home or other settings;

(c) Implementation by teaching assistants and other staff in a variety of settings; and

(d) Training teaching assistants, other staff, and parents.

These plans shall include individual family service plans (IFSP's), individual education programs (IEP's), and transition plans for children across disabilities developed in partnership with family members.

(2) Teacher Standard II. The early childhood educator shall create appropriate learning environments for infants, toddlers, preschool children, and kindergarten children that are supportive of developmental needs of the age group and goals established by KRS 158.6451. The early childhood educator shall provide developmental and learning activities in classroom and home settings, and in other settings, such as other preschools, child care programs, and hospitals. Within these settings, the learning context may include individual child activities, parent-child activities, small groups, and large groups. The early childhood educator shall create appropriate learning environments for children with diverse abilities including children with and without disabilities.

(3) Teacher Standard III. The early childhood educator shall introduce, implement, facilitate, and manage development and learning for infants, toddlers, preschool children, and kindergarten children to promote growth toward developmental needs of the age group and goals established by KRS 158.6451. The early childhood educator shall implement instruction in classroom and home settings, through itinerant services, and in other settings such as day care, other preschools, and hospitals. The early childhood educator shall implement instruction for young children with diverse abilities including children with and without disabilities.

(4) Teacher Standard IV. The early childhood educator shall assess children's cognitive, emotional, social, communicative, adaptive, and physical development; organize assessment information; and communicate the results appropriate to the purpose of the assessment. Assessment purposes shall include:

(a) Determining learning results;

(b) Developmental screening;

(c) Program planning;

(d) Eligibility for disability services;

(e) Program evaluation;

(f) Progress on IFSP's and IEP's; and

(g) Needs for transition to the next educational setting or program.

(5) Teacher Standard V. The early childhood educator shall reflect on and evaluate teaching and learning situations, learning environments, and programs for infants, toddlers, preschool children, kindergarten children, and their families. This shall include learning situations and programs that are provided in relation to an IFSP or an IEP and by the early childhood educator, a teaching assistant or other staff member, the family, or other caregiver.

(6) Teacher Standard VI. The early childhood educator shall collaborate and consult with the following to design, implement, and support learning programs for children:

(a) Staff in a team effort;

(b) Volunteers;

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- (c) Families and primary caregivers;
- (d) Other educational, child care, health and social services providers in an interagency and interdisciplinary team; and
- (e) Local, state, and federal agencies.

(7) Teacher Standard VII. The early childhood educator shall engage in self-evaluation of teaching and management skills and participate in professional development to improve performance. This shall include the following performance areas:

- (a) Designing and planning developmental and learning activities;
 - (b) Creating learning environments;
 - (c) Implementing and managing activities;
 - (d) Assessing children's learning development;
 - (e) Evaluating learning situations and environmental programs;
- and

(f) Collaborating with colleagues, parents, and others.

(8) Teacher Standard VIII. The early childhood educator shall support and promote the self-sufficiency of families as they care for and provide safe, healthy, stimulating, and nurturing environments for young children.

DANIEL GREENE, Chair

APPROVED BY AGENCY: February 26, 1996

FILED WITH LRC: March 5, 1996 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on April 29, 1996, at 10 a.m. in the First Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 24, 1996, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulations. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Dr. Betty Lindsey, Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606.

REGULATORY IMPACT ANALYSIS

Contact Person: Ronda Tamme

(1) Type and number of entities affected: Candidates for this certificate will be required to meet certification standards outlined in this regulation. Institutions of higher education which offer teacher preparation programs leading to early childhood certification will have to meet program approval standards.

(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 additional cost.

(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: Candidates must file appropriate applications and local school district maintain records on personnel qualifications. Institutions of higher education must seek approval for offering certification programs.

2. Second and subsequent years: Same as above.

(3) Effects on promulgating administrative body: Office of Teacher Education and Certification must approve certification programs being offered by Institution of Higher Education and Division of Certification

must review applications, issue or deny certificates, and maintain records on all transactions. Individuals teaching in early childhood assignments for the 1994-95 school year must apply for approval to be exempt from certification requirements.

(a) Direct and indirect costs or savings:

1. First year: Costs associated with disseminating program requirements, approving programs, issuing certificates, and maintaining records.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Office of Teacher Education and Certification must maintain records on all approved programs of preparation, maintain records, and issue certificates.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State General Fund.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on: None

(a) Geographical area in which administrative regulation will be implemented:

(b) Kentucky:

(7) Assessment of alternative methods; reasons why alternatives were rejected: Qualified instructional personnel are required for the educational well being of public school children.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical areas 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. Certification requirements are uniformly applicable to all individuals, except individuals in early childhood teaching positions for 1994-95 school year who will not be required to meet new certification requirements.

EDUCATION, ARTS, AND HUMANITIES CABINET Education Professional Standards Board (Amendment)

704 KAR 20:260. Junior Reserve Officers Training Corps Certification [~~ROTC personnel~~].

RELATES TO: KRS 161.020, 161.028 [~~161.025~~], 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030 [~~156.070, 156.160~~]

NECESSITY AND FUNCTION: KRS 161.020[~~161.025~~] and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board [~~Kentucky Council on Teacher Education and Certification and approved by the State Board of Education~~]. This administrative regulation establishes the Kentucky certification for instructor of the Junior Reserve Officers Training Corps. [~~an appropriate certificate for a specific professional position.~~]

Section 1. (1) The certificate for [~~specialized professional school services endorsed for the position of~~] senior instructor, Junior Reserve

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Officers Training Corps, shall be issued initially for a two (2) year period to an applicant upon completion of the following:

(a) ~~[who has completed]~~ A bachelor's degree ~~from a standard college or university as defined in KRS 161.010;~~

(b) ~~Official recommendation [who has been officially recommended for the position of senior instructor, Junior Reserve Officers Training Corps,] by the appropriate branch of military service;~~

(c) ~~Contract [upon criteria which includes twenty (20) years military service; and who has been contracted] for this employment by a local school district; and~~

(d) ~~Recommendation [who is recommended] for certification by the local school superintendent.~~

(2) ~~[Section 2.]~~ The certificate ~~[endorsement]~~ for senior instructor, Junior Reserve Officers Training Corp, may be renewed for a five (5) year period ~~[continuing service]~~ upon recommendation by the local school superintendent and upon completion of nine (9) semester hours to include the following [curriculum]:

(a) Human growth and development and learning theory;

(b) Foundations of education;

(c) Career development and vocational planning. [general psychology, three (3) semester hours; human growth and development, three (3) semester hours; basic concepts concerning education, two (2) semester hours; English composition, six (6) semester hours; communications (such as speech, creative writing, advanced grammar, journalism) or guidance (such as vocational guidance, guidance and counseling, career orientation), three (3) semester hours.]

(3) Each five (5) year renewal thereafter shall require the completion of two (2) years of experience teaching in the Junior Reserve Officers Training Corps.

Section 2. ~~[3.]~~ The certificate for ~~[specialized professional school services endorsed for the position of]~~ junior instructor, Junior Reserve Officers Training Corps, shall be issued initially for a two (2) year period to an applicant upon completion of the following:

(a) ~~[who has completed]~~ High school graduation, or its equivalence as determined by an acceptable score on the General Education Development Test;

(b) ~~Official recommendation [who has been officially recommended for the position of junior instructor, Junior Reserve Officers Training Corps,] by the appropriate branch of military service [upon criteria which includes twenty (20) year military service];~~

(c) ~~Contract [who has been contracted] for this employment by a local school district; and~~

(d) ~~Recommendation [who is recommended] for certification by the local school superintendent.~~

(2) ~~[Section 4.]~~ The certificate ~~[endorsement]~~ for junior instructor, Junior Reserve Officers Training Corps, may be renewed for a two (2) year period [continuing service] upon recommendation by the local school superintendent and upon completion of fifteen (15) semester hours to include the following curriculum:

(a) Human growth and development and learning theory;

(b) Foundations of education;

(c) Career development and vocational planning. [general psychology, three (3) semester hours; human growth and development, three (3) semester hours; basic concepts concerning education, two (2) semester hours; English composition, six (6) semester hours; communications (such as speech, creative writing, advanced grammar, journalism) or guidance (such as vocational guidance, guidance and counseling, career orientation), three (3) semester hours.]

(3) Each two (2) year renewal thereafter shall require completion by September 1 of the year of expiration of fifteen (15) semester hours selected from an associate degree program from a standard college or university as defined in KRS 161.010.

(4) Upon completion of the associate degree with a 2.5 grade point standing, the certificate for junior instructor, Junior Reserve

Officers Training Corps, shall be renewed for a five (5) year period. Each five (5) year renewal thereafter shall require completion of two (2) years of experience teaching in the Junior Reserve Officers Training Corps.

Section 3. The ranking of qualifications for applicants who are issued the certificate for senior instructor, Junior Reserve Officers Training Corps, and the certificate for junior instructor, Junior Reserve Officers Training Corps, shall be consistent with 704 KAR 20:025.

[Section 5. This administrative regulation shall become effective for all Junior Reserve Officers Training Corps personnel employed for the 1976-77 school term and thereafter.]

DANIEL GREENE, Chair

APPROVED BY AGENCY: February 26, 1996

FILED WITH LRC: March 5, 1996 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on April 29, 1996, at 10 a.m. in the First Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 24, 1996, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Dr. Betty Lindsey, Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606.

REGULATORY IMPACT ANALYSIS

Contact Person: Ronda Tamme

(1) Type and number of entities affected: Candidates for this certificate will be required to meet certification standards outlined in this 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: No additional cost.

(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: Candidates must file appropriate applications and local districts must maintain appropriate records of personnel qualifications. Official recommendation by the appropriate branch of military service must be secured.

2. Second and subsequent years: Same as above.

(3) Effects on promulgating administrative body: The Division of Certification must review applications, issue or deny certificates and maintain records of all transactions. Local districts must secure and maintain military service involvement in this program. Individuals must apply for certification to teach Junior ROTC.

(a) Direct and indirect costs or savings:

1. First year: Costs associate with disseminating program requirements, issuing certificates, and maintaining records.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Office of Teacher

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Education and Certification must maintain records and issue certificates.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State General Fund.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on: None

(a) Geographical area in which administrative regulation will be implemented:

(b) Kentucky:

(7) Assessment of alternative methods; reasons why alternatives were rejected: Qualified instructional personnel are required for the instruction of public school students.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical areas 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? No. Certification requirements are uniformly applicable to all individuals.

EDUCATION, ARTS, AND HUMANITIES CABINET Education Professional Standards Board (Amendment)

704 KAR 20:540. Professional certificate for administrator of pupil personnel services.

RELATES TO: KRS 161.020, 161.028 ~~[461.025]~~, 161.030

STATUTORY AUTHORITY: KRS 161.028 ~~[466.070, 161.030]~~

NECESSITY AND FUNCTION: KRS 161.020~~[-161.025, and 161.030]~~ requires that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. Additionally, ~~[Kentucky Council on Teacher Education and Certification and approved by the State Board for Elementary and Secondary Education; furthermore, the]~~ teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established by the Education Professional Standards Board ~~[recommended by the council and approved by the state board]~~. This administrative regulation establishes the preparation and certification ~~[an appropriate certificate]~~ for administrator of pupil personnel services, establishes the requirements for a probationary certificate when a person holding certificate for administrator of pupil personnel services is not available, and provides for repeal of 704 KAR 20:100. ~~[and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation Certification of Professional School Personnel.]~~

Section 1. (1) The Professional Certificate for Administrator of Pupil Personnel Services shall be issued in accordance with the pertinent Kentucky statutes and this [State Board for Elementary and Secondary Education] administrative regulation[s] to an applicant who has completed the approved program of preparation ~~[which corre-~~

~~sponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 113.0].~~

(2) ~~[A]~~ Prerequisites for the program of preparation for the initial professional certificate for Administrator of Pupil Personnel Services, ~~[the candidate]~~ shall include:

(a) Admission ~~[Have been admitted]~~ to the preparation program on the basis of criteria developed by the teacher education institution. Program admission criteria shall include formal recommendations, grade point average, scores on standardized tests, and consideration by an admissions review committee [pursuant to TEC 113.0];

(b) ~~[Have completed]~~ Three (3) years of full-time teaching experience;

(c) ~~A [Have completed the]~~ master's degree as required by 704 KAR 20:020; and

(d) Hold a Kentucky teaching certificate. ~~[Have been issued any one of the following standard teaching certificates: standard elementary certificate grades 1-8; standard certificate for teaching in the early elementary grades K-4; standard certificate for teaching in the middle grades 5-8; standard high school certificate grades 7-12; standard certificate for teaching in the secondary grades 9-12; standard certificate for teaching music grades K-12; or standard certificate for teachers of exceptional children (except those having speech and communications disorders as the specialty area).]~~

(3) The professional certificate for Administrator of Pupil Personnel Services shall be issued for a duration period of five (5) years. Each five (5) year renewal shall require the completion of two (2) years of experience as an administrator of pupil personnel services, three (3) semester hours of additional graduate credit related to the position of administrator of pupil personnel services, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Leadership Training Program provided in KRS 156.101.

Section 2. The approved program of preparation for the professional certificate for administrator of pupil personnel services shall consist of a fifteen (15) semester hour graduate program designed to prepare an administrator of pupil personnel services in the following performance standards:

(1) Performance Standard I. Leadership. The administrator of pupil personnel services guides, facilitates, and supports the removal of barriers to the instructional program;

(2) Performance Standard II. Legal. The administrator of pupil personnel services applies legal concepts, practices, administrative regulations, and resolves compliance issues for school operation;

(3) Performance Standard III. Pupil Accounting. The administrator of pupil personnel services complies with pupil accounting procedures prescribed by statute and administrative regulations; and

(4) Performance Standard IV. Networking and Related Support Services. The administrator of pupil personnel services identifies and utilizes appropriate school support programs, community agencies, and available resources.

Section 3. (1) If a person holding certification for administrator of pupil personnel services is not available as attested by the local school superintendent, the superintendent, on behalf of the local board of education, may request a one-year probationary certificate for an administrator of pupil personnel services who meets the following qualifications:

(a) A valid Kentucky classroom teaching certificate;

(b) A master's degree as required by 704 KAR 20:021;

(c) Three (3) years of successful teaching experience; and

(d) Admission to the preparation program for the professional certificate for administrator of Pupil Personnel services.

(2) Each annual renewal of the probationary certificate for administrator of pupil personnel services shall require completion of

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an additional nine (9) semester hours selected from the approved program.

Section 4. 704 KAR 20:100, Administrators and supervisors, is hereby repealed.

DANIEL GREENE, Chair

APPROVED BY AGENCY: February 26, 1996

FILED WITH LRC: February 29, 1996 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on April 29, 1996, at 10 a.m. in the First Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 24, 1996, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Betty Lindsey, Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606.

REGULATORY IMPACT ANALYSIS

Contact Person: Ronda Tamme

(1) Type and number of entities affected: Approximately 12 individuals per year seek certification as Administrator Pupil Personnel services and three institutions of higher education offer the certification program.

(2) Direct and indirect costs or savings on the: 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: Preparing institutions must have revised program submitted for approval. Individuals completing certification programs must file applications for certification.

1. First year following implementation:

2. Second and subsequent years:

(3) Effects on promulgating administrative body: Review and approve revised curricula. Review and process applications for certification.

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

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(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: State General Fund.

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

(a) Geographical area in which administrative regulation will be implemented:

(b) Kentucky:

(7) Assessment of alternative methods; reasons why alternatives

were rejected: School pupil personnel administrators have special duties that require prescribed training in order that these duties be performed effectively. Appropriate certification for such positions is required under KRS 159.080.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical areas in which implemented and on Kentucky: No direct impact on public and health environment.

(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: None

(11) TIERING: Is tiering applied? No. Certificate requirements are applied uniformly to all applicants.

EDUCATION, ARTS, AND HUMANITIES CABINET Education Professional Standards Board (Amendment)

704 KAR 20:670. Kentucky teaching certificates.

RELATES TO: KRS 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY AND FUNCTION: KRS 161.020 requires that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board. Additionally, KRS 161.028, requires teacher education institutions be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures established by the Education Professional Standards Board. This administrative regulation establishes the Kentucky certification to be issued for classroom teaching positions.

Section 1. Definitions. (1) "New teacher standards for preparation and certification" means the standards that describe what first-year teachers shall know and be able to do in authentic teaching situations.

(2) "Experienced teacher standards" means the standards set forth in 704 KAR 20:021 that identify what effective experienced teachers shall know and do.

(3) "Approved program of preparation" means one (1) which has been approved by the Education Professional Standards Board for a specific certification or which has been approved for certification by the state education agency of another state.

(4) "Statement of eligibility" means the document issued to an applicant upon completion of an approved program of preparation and successful completion of the assessments.

(5) "Assessments" mean the tests of knowledge and skills authorized by KRS 161.030.

(6) "Provisional teaching certificate" means the document issued to individuals for the duration of the beginning teacher internship program.

(7) "Beginning teacher internship" means one (1) year of supervision, assistance, and assessment required by KRS 161.030.

(8) "Professional teaching certificate" means the document issued to individuals upon successful completion of the beginning teacher internship and to applicants for whom the testing and internship are waived under KRS 161.030 based on preparation and experience completed outside Kentucky.

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Section 2. Certificate Issuance. (1) A statement of eligibility for a provisional teaching certificate shall be issued to an applicant who has successfully completed an approved preparation program and assessments corresponding to the certificate identified in Section 6 [2] of this administrative regulation for which application is being made.

(2) Upon confirmation of employment in an assignment for the grade level and specialization identified on a valid statement of eligibility, a Provisional Teaching Certificate shall be issued for the duration of the beginning teacher internship established under KRS 161.030.

(3) Upon successful completion of the internship, a Professional Teaching Certificate shall be issued, valid for a four (4) year period.

~~[(4) Each subsequent five (5) year renewal shall require completion of requirements outlined in 704 KAR 20:020 and 704 KAR 20:045.]~~

Section 3. Certificate Renewal. (1) The renewal shall require completion of a fifth-year program of preparation which is consistent with the experienced teacher standards or with standards adopted by the Education Professional Standards Board for a particular professional education specialty as defined in 704 KAR 20:021.

(2) The first five (5) year renewal shall require completion of a minimum of fifteen (15) semester hours of credit applicable to the fifth-year program as defined in 704 KAR 20:021 by September 1 of the year of expiration.

(3) The second five (5) year renewal shall require completion of the fifth-year program as defined in 704 KAR 20:021 by September 1 of the year of expiration.

(4) Each subsequent five (5) year renewal shall require completion of three (3) years of successful teaching experience or completion of at least six (6) semester hours of credit related to the profession of teaching by September 1 of the year of expiration.

Section 4. [2.] Grade Levels and Specializations. Preparation for all certificates shall ensure that teachers have the knowledge and skills for the instruction of all children including intellectually gifted and talented children and those with disabilities; are proficient in the use of technology and in the instruction for multiage and multiability grouping; and have knowledge and skills to implement the goals for the schools of the Commonwealth specified in KRS 158.6451. Teaching certificates shall be issued specifying one (1) or more of the following grade level and specialization authorizations:

(1) Interdisciplinary early childhood education, birth to primary, 704 KAR 20:084;

(2) Elementary school: primary through grade five (5) to include preparation in the academic disciplines taught in the elementary school;

(3)(a) Middle school: grades five (5) through nine (9) with two (2) middle school teaching fields to be selected from:

1. English and communications;
2. Mathematics;
3. Science; or
4. Social studies;

(b) Candidates who choose to simultaneously prepare for teaching in the middle school and for teaching exceptional children as provided in subsection (7) of this section shall be required to complete only one (1) middle school teaching field;

(4) Secondary school: grades eight (8) through twelve (12) with one (1) or more of the following specializations:

- (a) English;
- (b) Mathematics;
- (c) Social studies;
- (d) Biological science; or
- (e) Physical science;

(5) Grades five (5) through twelve (12) with one (1) or more of the following specializations:

- (a) Agriculture;

- (b) Business and marketing education;
- (c) Home economics; or
- (d) Industrial technology;
- (6) All grade levels with one (1) or more of the following specialties:

- (a) Art;
- (b) A foreign language;
- (c) Health;
- (d) Physical education;
- (e) Music; or
- (f) School media librarian;

(7) Grades primary through twelve (12) for teaching exceptional children and for collaborating with teachers to design and deliver programs for preprimary children, for one (1) or more of the following disabilities:

- (a) Learning and behavior disorders;
- (b) Moderate and severe disabilities, 704 KAR 20:251;
- (c) Hearing impaired;
- (d) Visually impaired; or
- (e) Communication disorders; and
- (8) Endorsements to certificates identified in subsections (1)

through (7) of this section for the following:

- (a) Computer science;
- (b) English as second language;
- (c) Gifted education;
- (d) Driver education; or
- (e) Reading and writing;

~~[(9) Candidates who hold one (1) of the certificates listed above may qualify for additional certification by successfully completing the corresponding assessments].~~

Section 5. Additional Certification. Candidates who hold a certification valid for classroom teaching may qualify for additional certification upon recommendation by an institution of higher education which shall include consideration of the performance standards and the assessments applicable to the additional certification sought.

Section 6. [3.] New Teacher Standards for Preparation and Certification. The approved program of preparation for each certification shall be designed to prepare candidates to teach children, including children from culturally diverse backgrounds, and manage tasks identified in the following teacher performance standards:

(1) New Teacher Standard I, designs and plans instruction. The teacher designs and plans instruction and learning climates that develop student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(2) New Teacher Standard II, creates and maintains learning climates. The teacher creates a learning climate that supports the development of student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(3) New Teacher Standard III, implements and manages instruction. The teacher introduces, implements, and manages instruction that develops student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(4) New Teacher Standard IV, assesses and communicates learning results. The teacher assesses learning and communicates results to students and others with respect to student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(5) New Teacher Standard V, reflects and evaluates teaching and learning. The teacher reflects on and evaluates specific teaching and learning situations and programs;

(6) New Teacher Standard VI, collaborates with colleagues,

parents, and others. The teacher collaborates with colleagues, parents, and other community agencies to design, implement, and support learning programs that develop student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge; ~~and~~

(7) New Teacher Standard VII, engages in professional development. The teacher evaluates his overall performance with respect to modeling and teaching Kentucky's learning goals established in KRS 158.6451, refines the skills and processes necessary, and implements a professional development plan; and

(8) New Teacher Standard VIII, Content Knowledge. The teacher demonstrates a current and sufficient academic knowledge of certified content areas to develop student knowledge and performance in those areas.

Section 7. Effective Dates. [4-] (1) The provisions for the issuance of teaching certificates for each grade level and for each specialization identified in this administrative regulation shall become effective for all students admitted to the specific program of preparation beginning January 1, 1998. ~~[with the academic year following the establishment of the assessments for the particular certification by the Education Professional Standards Board.]~~

(2) Candidates admitted prior to January 1, 1998, under one (1) or more of the following administrative regulations shall complete the program by January 1, 2000: 704 KAR 20:057, 20:070, 20:075, 20:076, 20:078, 20:080, 20:095, 20:105, 20:115, 20:135, 20:145, 20:146, 20:159, 20:160, 20:161, 20:175, 20:180, 20:229, 20:230, 20:235, 20:255, 20:275, 20:280, 20:290, 20:340, 20:500, 20:520, and 20:570. ~~[the effective date of admission to the new program shall complete the program by September 1 of the fourth year of the effective date of the new program.]~~

(3) Candidates who fail to complete the program by January 1, 2000, ~~[the announced deadline date]~~ and do not apply for the certification by September 1, 2000 ~~[of the following academic year]~~ shall be required to qualify for the certification identified in this administrative regulation.

(4) The Education Professional Standards Board shall communicate to the Kentucky colleges and universities approved for these ~~[such]~~ programs the effective date for admission to each new program identified in this administrative regulation and the date by which a candidate shall complete the former program. Colleges and universities shall take adequate steps to inform candidates in these programs regarding the deadline dates.

DANIEL GREENE, Chair

APPROVED BY AGENCY: February 26, 1996

FILED WITH LRC: February 29, 1996 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on April 29, 1996, at 10 a.m. in the First Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 24, 1996, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Betty Lindsey, Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606.

REGULATORY IMPACT ANALYSIS

Contact Person: Ronda Tamme

(1) Type and number of entities affected: Approximately 5,000 individuals apply for initial certification annually; 178 school districts and 25 institutions of higher education.

(2) Direct and indirect costs or savings on the: 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: Institutions of higher education must file revised programs for Education Professional Standards Board approval under the new standards. Candidates for certification must file applications and accompanying documentation.

1. First year following implementation:

2. Second and subsequent years:

(3) Effects on promulgating administrative body: Office of Teacher Education and Certification (OTEC) will have the responsibility for communicating the new certification categories, requirements, and standards to institutions of higher education, individuals and local school districts. Also, OTEC will be responsible for administering, issuing and keeping records on programs, certificates issued and assignments in schools.

(a) Direct and indirect costs or savings:

1. First year: Costs associated in communicating and administering new system and changes in reviewing applications and accompanying data and record keeping.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Office of Teacher Education and Certification will receive and process applications for program approval and certification, communicate their disposition and maintain data and records on programs and certificates approved and issued.

(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 General Fund.

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

(a) Geographical area in which administrative regulation will be implemented:

(b) Kentucky:

(7) Assessment of alternative methods; reasons why alternatives were rejected: This regulation establishes new categories of teaching certificates and achieves a considerable reduction in the total number of categories. This is pursuant to KRS 161.028 which directs the Education Professional Standards Board to reduce and streamline the certification system.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical areas in which implemented and on Kentucky: No direct impact on public and health environment.

(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

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administrative regulation with conflicting provisions:

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Certification requirements are uniformly applicable to all individuals.

CABINET FOR HEALTH SERVICES Department for Health Services (Amendment)

902 KAR 55:030. Schedule IV substances.

RELATES TO: KRS 218A.010 to 218A.030, 218A.100 to 218A.110, 21 CFR 1308.14

STATUTORY AUTHORITY: KRS 194.050, 211.090, 218A.020, 218A.100, 218A.250

NECESSITY AND FUNCTION: KRS 218A.100 authorizes the Cabinet for Human Resources to place a substance in Schedule IV if it finds that: (1) the substance has a low potential for abuse relative to substances in Schedule III; (2) the substance has currently accepted medical use in treatment in the United States; and (3) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III. In addition, KRS 218A.020(3) provides that if any substance is designated, rescheduled, or deleted as a controlled substance under a federal law and notice of the designation, rescheduling or deletion is given to the cabinet, the cabinet may similarly control the substance by administrative regulation. The Cabinet for Human Resources, after considering the criteria, designates the substances set forth in this administrative regulation as Schedule IV controlled substances.

Section 1. Stimulants. The Cabinet for Human Resources designates as "Schedule IV" controlled substances, in addition to those specified by KRS 218A.110, any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers (whether optical position or geometric), and salts of the isomers, if the existence of the salts, isomers, and salts of isomers is possible:

- (1) Cathine ((+)-norpseudoephedrine);
- (2) Diethylpropion;
- (3) Fencamfamin;
- (4) Fenfluramine;
- (5) Fenproporex;
- (6) Mazindol;
- (7) Mefenorex;
- (8) Pemoline (including organometallic complexes and chelates);
- (9) Phentermine;
- (10) Pipradrol; and
- (11) SPA ((-)-1-dimethylamino-1,2-diphenyl ethane).

Section 2. Depressants. The Cabinet for Human Resources designates as "Schedule IV" controlled substances, in addition to those specified by KRS 218A.110, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Alprazolam;
- (2) Bromazepam;
- (3) Camazepam;
- (4) Carisoprodol;
- (5) Chlordiazepoxide;
- (6) Clobazam;
- (7) Clonazepam;
- (8) Clorazepate;
- (9) Clotiazepam;
- (10) Cloxazolam;

- (11) Delorazepam;
- (12) Diazepam;
- (13) Estazolam;
- (14) Ethyl loflazepate;
- (15) Fludiazepam;
- (16) Flunitrazepam;
- (17) Flurazepam;
- (18) Halazepam;
- (19) Haloxazolam;
- (20) Ketazolam;
- (21) Loprazolam;
- (22) Lorazepam;
- (23) Lormetazepam;
- (24) Mebutamate;
- (25) Medazepam;
- (26) Methohexital;
- (27) Midazolam;
- (28) Nimetazepam;
- (29) Nitrazepam;
- (30) Nordiazepam;
- (31) Oxazepam;
- (32) Oxazolam;
- (33) Pinazepam;
- (34) Prazepam;
- (35) Quazepam;
- (36) Temazepam;
- (37) Tetrazepam;
- (38) Triazolam; and
- (39) Zolpidem.

Section 3. Narcotics. The Cabinet for Human Resources designates as "Schedule IV" controlled substances, in addition to those specified by KRS 218A.110, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (1) Butorphanol;
- (2) Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane); [and]
- (3) [(2)] Not more than one (1) milligram of difenoxin and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit; and
- (4) Nalbuphine.

RICE C. LEACH, MD, Commissioner

JOHN MORSE, Secretary

APPROVED BY AGENCY: February 5, 1996

FILED WITH LRC: February 22, 1996 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held April 22, 1996 at 9 a.m. in the Health Services Auditorium, 1st Floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending shall notify this agency in writing by April 17, 1996. 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. 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 to: William K. Moore, Deputy Counsel, Office of the Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, (502) 564-7900.

REGULATORY IMPACT ANALYSIS

Contact person: Edward Crews

(1) Type and number of entities affected: Approximately 30,000 health care professionals including pharmacists, physicians, dentists,

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veterinarians and nurses in the Commonwealth are affected by this 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: No public comments were received on this issue.

(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 were received on this issue.

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

1. First year following implementation: There is no compliance, reporting or paperwork required by this regulation that is not already required for other substances in schedule IV.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no anticipated costs or savings to the administrative agency because the only change is to add two drugs to the list of substances in schedule IV.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: There is no reporting or paperwork required by this administrative regulation.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The administration of drug regulations is financed by the general fund.

(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 comments were received related to this issue.

(b) Kentucky: No comments were received related to this issue.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternatives were rejected because they have already failed.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Scheduling these two drugs will allow law enforcement agencies to address their diversion or misuse.

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

(c) If detrimental effect would result, explain detrimental effect: If the administrative regulation is not implemented, the abuse and diversion of these drugs will continue to escalate.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy conflicts, overlaps or duplicates this administrative regulation.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not applied because the provisions of KRS Chapter 218A apply to all health care professionals regardless of specialty, location or type of practice.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The comparable federal laws and regulations are 84 Stat. 1242; 21

USC 801 and 1308.14.

2. State compliance standards. The criteria for substances in schedule IV are set forth in KRS 218A.100.

3. Minimum or uniform standards contained in the federal mandate. The criteria for substances in schedule IV are set forth in 21 USC 812.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The state regulation applies requirements identical to those in the federal regulations, with the exception of carisoprodol (already listed in schedule IV), butorphanol and nalbuphine (proposed for listing in schedule IV).

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The drugs butorphanol and nalbuphine are being abused and diverted in Kentucky. Patterns of use and prescription forgeries indicate misuse and addiction to these substances. The stricter standard will not impose any hardship or difficulty for legitimate use by physicians and patients but will allow for monitoring by the administrative agency.

CABINET FOR FAMILIES AND CHILDREN

Department for Social Insurance

Division of Management and Development

(Amendment)

904 KAR 3:020. Financial requirements.

RELATES TO: KRS 194.050, 7 CFR 273.1, 273.2, 273.8, 273.9, 273.10, 273.11, 7 USC 2014 [PL 403-66]

STATUTORY AUTHORITY: KRS 194.050, 7 CFR 271.4, EO 95-79

NECESSITY AND FUNCTION: The Cabinet for Families and Children [Human Resources] has responsibility 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 financial eligibility requirements used by the cabinet in the administration of the Food Stamp Program.

Section 1. Financial Eligibility Requirements. (1) In accordance with regulations promulgated by the Food and Consumer Service, of the United States Department of Agriculture, national uniform standards of financial eligibility for the Food Stamp Program shall be composed of the following criteria:

(a) Income limitations; and

(b) Resource limitations.

(2) Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet.

(3) The income eligibility standards shall be derived from the Office of Management and Budget's nonfarm income poverty guidelines.

Section 2. Countable Income. All income from any source shall be counted, except income specifically excluded in Section 3 of this administrative regulation, including:

(1) Wages earned by a household member, including all wages received by a striker in accordance with the provision at 904 KAR 3:035, Section 6(9).

(2) The gross income of a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the cost of doing business;

(3) Training allowance from vocational and rehabilitative programs recognized by federal, state or local governments, to the extent that they are not reimbursements;

(4) Payments under 42 USC 1451 shall be considered earned

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income unless specifically excluded in Section 3 of this administrative regulation;

(5) The earned or unearned income of an eligible household member or nonhousehold member as set forth in 904 KAR 3:035, Section 6(3) and 4;

(6) Assistance payments from federal or federally aided public assistance including:

- (a) Supplemental security income;
- (b) Aid to families with dependent children;
- (c) General assistance programs; or
- (d) Other assistance programs based on need;
- (7) Annuities;
- (8) Pensions;
- (9) Retirement, veteran's or disability benefits;
- (10) Worker's or unemployment compensation;
- (11) Strike pay;
- (12) Old-age survivors or Social Security benefits;
- (13) Foster care payments for children or adults, except as excluded in Section 3(16) of this administrative regulation;

(14) Gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least twenty (20) hours a week;

(15) Wages earned by a household member which are garnished or diverted by an employer and paid to a third party for a household expense;

(16) Support or alimony payments made directly to the household from nonhousehold members. This includes any portion of such payments returned to the household by the cabinet;

(17) The portion of scholarships, educational grants, fellowships, deferred payment loans for education, and veterans educational benefits which are not excludable under Section 3(6) of this administrative regulation;

(18) Payments from government sponsored programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit;

(19) Monies withdrawn or dividends which are or could be received from a trust fund;

(20) That amount of monthly income of an alien's sponsor and the sponsor's spouse (if living with the sponsor) that has been deemed to be that of the alien as set forth in 904 KAR 3:035, Section 6(12);

(21) The portion of means tested Assistance monies from a federal, state, or local welfare program which are withheld for purposes of recouping an overpayment which resulted from the household's intentional failure to comply with that program's requirements;

(22) Earnings to an individual who is participating in on-the-job training programs under 29 USC 1501 unless the individual is under nineteen (19) years of age and under the parental control of another adult member; and

(23) Portions of Indian Per Capita payments made pursuant to 25 USC 459, 25 USC 1261, and 25 USC 1401 in excess of \$2,000 per payment per individual, effective September 1, 1989; ~~and~~

~~(24) Payments from the Department of Housing and Urban Development which are paid directly to the household or utility provider as a utility subsidy].~~

Section 3. Income Exclusions. The following payments shall not be considered as income:

(1) Money withheld from an assistance payment, earned income or other income source, or monies received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, except in Section 2 (14) of this administrative regulation;

(2) Child support income shall be considered as follows:

(a) Child support payments received by recipients of Aid to Families with Dependent Children which must be transferred to the Division of Child Support Enforcement to maintain eligibility for Aid to

Families with Dependent Children benefits, shall be excluded;

(b) Any portion of child support monies returned to the household receiving Aid to Families with Dependent Children by the cabinet shall not be excluded;

(3) Any gain or benefit which is not in the form of money payable directly to the household.

(4) Money payments that are not legally obligated and otherwise payable directly to a household, but are paid to a third party for a household expense;

(5) Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of thirty (30) dollars in a quarter.

(6) Educational income shall be excluded as follows:

(a) Educational income, including:

1. Educational loans on which payment is deferred;
2. Grants;
3. Scholarships;
4. Fellowships;
5. Veteran educational benefits;
6. And the like;

(b) Awarded to a household member enrolled at one (1) of the following recognized institutions as defined by 904 KAR 3:010, Section 1(22):

1. Institution of postsecondary education;
2. School for persons with a disability;
3. Vocational education program; or
4. A program that provides for completion of a secondary school diploma or the equivalent thereof;

(c) Is excluded to the extent that it does not exceed the amount used for or made available as an allowance determined by such:

1. School;
2. Institution;
3. Program; or
4. Other grantor; for

(d) Expenses of the student, including:

1. Tuition;
2. Mandatory fees related to the pursuit of the course of study involved, including the rental or purchase of any:
 - a. Equipment;
 - b. Material; and
 - c. Supplies;
3. Books;
4. Supplies;
5. Transportation;
6. Other miscellaneous personal expenses (other than living expenses);
7. Origination fees for such loans; and
8. Insurance premiums for such loans.

(7) All loans from private individuals or commercial institutions, other than educational loans on which repayment is deferred;

(8) Reimbursements for past or future expenses, other than normal living expenses, to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household;

(9) Money received and used for the care and maintenance of a third party beneficiary who is not a household member;

(10) The earned income of a child who is:

- (a) A member of the household;
- (b) An elementary or secondary school student; and
- (c) Age twenty-one (21) years or younger;

(11) Money received in the form of a nonrecurring lump-sum payment;

(12) The cost of producing self-employment income. If the cost of producing farm self-employment income exceeds the income derived from self-employment farming, such losses shall be offset against any other countable income in the household;

(13) Any income specifically excluded by any other federal statute from consideration as income for the purpose of determining eligibility

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for the Food Stamp Program;

(14) Energy assistance payments made under:

- (a) Any federal law, including utility reimbursements made by:
 1. The Department of Housing and Urban Development; and
 2. Rural and Economic Community and Development; or
- (b) A state or local law if certified as excludable energy payments

by the Food and Consumer Service;

(15) Cash donations based on need received from nonprofit charitable organizations, not to exceed \$300 in a federal fiscal year quarter;

(16) Foster care payments for foster children when the household requests that the foster children be excluded from the household in determining eligibility;

(17) Up to \$12,000 to Aleuts and \$20,000 to individuals of Japanese ancestry for payments made by the U.S. to compensate for hardships experienced during World War II;

(18) Monies received under Section 3507 of the Internal Revenue Code (advanced payment of earned income credit).

(19) Indian Per Capita payments made pursuant to 25 USC 459, 25 USC 1261 and 25 USC 1401, as distribution from judgment awards and trust funds of \$2,000 or less per individual per payment.

(20) Any amount of income necessary for the fulfillment of an approved plan for achieving self-support of a household member as provided under 42 USC 1382a(b)(4)(B)(iv).

Section 4. Income Eligibility Standards. Participation in the Food Stamp Program shall be limited to those households whose incomes fall at or below the applicable standards as established by the Food and Consumer Service and which are set forth below:

(1) Households which contain a member who is elderly or has a disability as defined in 904 KAR 3:010, Section 1(9) or (11) shall have their net income compared to 100 percent of the federal income poverty guidelines.

(2) Households in which all members are recipients of Aid to Families with Dependent Children or Supplemental Security Income shall be categorically eligible and shall not be required to meet either the gross or net income eligibility standards.

(3) All other households shall have their gross income (total income after excluded income has been disregarded but before any deductions have been made) compared to 130 percent of the federal income poverty guidelines and their net income compared to 100 percent of the federal income poverty guidelines.

Section 5. Income Deductions. The following shall be allowable income deductions:

(1) A standard deduction per household per month which shall be periodically adjusted by the Food and Consumer Service to reflect changes in the cost of living for a prior period of time as determined by the Food and Consumer Service;

(2) Twenty (20) percent of gross earned income;

(3) Payments for the actual cost for the care of:

- (a) A child; or
- (b) Other dependent;
- (c) Not to exceed:

1. \$200 per month per dependent child under age two (2); and
2. \$175 per month for each other dependent;

(d) When necessary for a household member to:

1. Seek, accept or continue employment;
2. Attend training; or
3. Pursue education preparatory to employment;

(4) The monthly shelter cost deduction shall be determined as follows:

(a) Monthly shelter cost in excess of fifty (50) percent of the household's income after all other allowable deductions have been made.

(b) The shelter deduction shall not exceed the excess shelter maximum established by the Food and Consumer Service, except

that households containing an elderly or disabled member shall not be subject to the maximum.

(c) The excess shelter maximum shall be adjusted periodically by the Food and Consumer Service to reflect changes in the cost of living for a prior period of time.

(d) Allowable monthly shelter expenses shall include the following expenses:

1. Continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on the payments;

2. Property taxes, state and local assessments, and insurance on the structure itself, but no separate cost of insuring furniture or personal belongings;

3. The cost of:

- a. Heating and cooking fuel;
- b. Cooling;
- c. Electricity;
- d. Water and sewage;
- e. Garbage and trash collection fees;
- f. The telephone standard deduction; and
- g. Fees charged by the utility provider for the initial installation of the utility;

4. The shelter costs for the home if temporarily not occupied by the household because of:

- a. Employment or training away from home;
- b. Illness; or
- c. Abandonment caused by a natural disaster or casualty loss;

and

d. If the household intends to return to the home;

e. The current occupants of the home are not claiming the shelter costs for food stamp purposes; and

f. The home is not leased or rented during the absence of the household; and

5. Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood, unless such costs are reimbursed by:

- a. Private or public relief agencies;
- b. Insurance companies; or
- c. From any other source.

(e) The cabinet shall develop a standard utility allowance for use in calculating shelter cost for those households which receive Low Income Home Energy Assistance Program benefits or which incur heating or cooling (by air conditioning units only) costs separate and apart from their rent or mortgage payments.

(f) If the household is not entitled to the utility standard or the homeless shelter standard, the household will be given the option of choosing between actual utility expenses and the basic utility allowance.

1. The basic utility allowance shall be adjusted annually; and

2. Shall be allowed as an option to a household that is billed for:

a. Electricity (nonheating and noncooling);

b. Water or sewage;

c. Garbage or trash; or

d. Cooking fuel. [does not choose to use the utility standard, it may claim actual utility expenses for any utility which it does pay separately.]

(g) The standard utility allowance shall be adjusted at least annually to reflect changes in the cost of utilities.

(h) The cabinet shall use a homeless shelter standard of shelter expenses for households in which all members are homeless and are not receiving free shelter throughout the calendar month, unless that household verifies higher expenses.

(5) Allowable medical expenses, excluding special diets, in excess of thirty-five (35) dollars per month incurred by any household member who meets the definition of being elderly or having a disability as specified by 904 KAR 3:010, Section 1(10), including, but

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not limited to:

- (a) Medical and dental care;
- (b) Hospitalization or outpatient treatment and nursing care;
- (c) Medication and medical supplies;
- (d) Health and hospitalization premiums; and
- (e) Dentures, hearing aids, eyeglasses and prosthetics.

(6) Actual child support payments made by a household member shall be allowed as a deduction if:

(a) The household member is legally obligated to pay child support; and

(b) Verification is provided showing payments are currently being made.

Section 6. Resources. (1) Uniform national resource standards of eligibility shall be utilized.

(2) Eligibility shall be denied or terminated if the total value of a household's liquid and nonliquid resources, not exempt under Section 7 of this administrative regulation exceed:

(a) \$3000 for all households with one (1) or more members, when at least one (1) member is sixty (60) years or older; or

(b) \$2000 for any other household.

(3) A household which is categorically eligible as specified in Section 4(2) of this administrative regulation shall be considered as having met the food stamp resource requirement.

(4) A household member who receives benefits from Aid to Families with Dependent Children or Supplemental Security Income shall be considered categorically eligible and to have satisfied the Food Stamp Program's resource limits as specified in subsection (2) of this section.

Section 7. Exempt Resources. The following resources shall not be considered in determining eligibility:

(1) The home and surrounding property which is not separated from the home by intervening property owned by others.

(2) Household goods;

(3) Personal effects including one (1) burial plot per household member;

(4) The cash value of life insurance policies; and

(5) Pension funds (except that Keogh plans which involve no contractual relationship with individuals who are not household members and Individual Retirement Accounts shall not be exempt);

(6) Prepaid burial plans if a contractual agreement for repayment must be signed in order to withdraw any funds;

(7) Licensed or unlicensed vehicles as specified in Section 8 of this administrative regulation;

(8) Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis;

(9) Property which is essential to the employment or self-employment of a household member;

(10) Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value;

(11) Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to legal sanction if funds are not used as intended;

(12) Resources whose cash value is not accessible to the household;

(13) Resources which have been prorated as income;

(14) Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs;

(15) Resources which are excluded for food stamp purposes by express provision of federal statute;

(16) Up to \$12,000 to Aleuts and \$20,000 to individuals of Japanese ancestry for payments made by the U.S. to compensate for hardships experienced during World War II;

(17) Income which is withheld by the employer to pay certain

expenses directly to a third party as a vendor payment to the extent that the remainder of the withheld income is not accessible to the household at the end of the year;

(18) Indian Per Capita payments made pursuant to 25 USC 459, 25 USC 1261, and 25 USC 1401, as distribution from judgment awards and trust funds, of \$2,000 or less per individual per payment.

(19) Purchases of \$2,000 or less which are made solely with Indian Per Capita payments after December 31, 1981 but prior to January 12, 1983;

(20) The earned income tax credit income received by any member of the household for a period of twelve (12) months from receipt if the member was:

(a) Participating in the Food Stamp Program at the time the credits were received; and

(b) Participated in the program continuously during the twelve (12) month period of exclusion; and

(21) A resource, except a vehicle, which cannot be sold for a significant amount of funds for the support of the household.

Section 8. Vehicles. (1) The entire value of any licensed vehicle shall be excluded if the vehicle is:

(a) Used over fifty (50) percent of the time for income producing purposes;

(b) Annually producing income consistent with its fair market value, even if used only on a seasonal basis;

(c) Necessary for long distance travel, other than daily commuting, that is essential to the employment of a:

1. Household member; or

2. Ineligible alien; or

3. Disqualified person; if:

4. The resources of the individual are being considered available to the household.

(d) Used as the household's home;

(e) Necessary to transport a:

1. Household member with a physical disability, ineligible alien, or disqualified person, if:

a. The resources of the individual are being considered available to the household; and

b. Regardless of the purpose of the transportation.

2. The exclusion is limited to one (1) vehicle per physically disabled household member.

3. A vehicle shall be considered necessary for the transportation of a household member with a physical disability if:

a. The vehicle is specially equipped to meet the specific needs of the person with a disability; or

b. The vehicle is a special type of vehicle that makes it possible to transport the disabled person; however

c. The vehicle need not have special equipment or be used primarily by or for the transportation of the household member with a physical disability to be excluded.

(f) The value of a vehicle that a household depends upon to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household;

(2) The exclusion in subsection (1)(a) through (d) of this section shall apply when the vehicle is not in use because of temporary unemployment.

(3) A licensed vehicle not excluded under subsection (1) of this section shall:

(a) Individually be evaluated for fair market value; and

(b) That portion of the value which exceeds \$4550 shall be attributed in full toward the household's resource level, regardless of any encumbrances on the vehicles.

(4) A licensed vehicle shall also be evaluated for its equity value, except for:

(a) A vehicle excluded in subsection (1) of this section;

(b) One (1) licensed vehicle per household, regardless of the use of the vehicle; and

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(c) Any other vehicle used to transport:

1. A household member; or
- a. An ineligible alien; or
- b. A disqualified household member; whose
- c. Resources are being considered available to the household;
2. To and from:
- a. Employment; or
- b. Training; or
- c. Education which is preparatory to employment; or
- d. To seek employment in compliance with the Food Stamp

Employment and Training Program as specified in 904 KAR 3:041.

(5) A vehicle customarily used to commute to and from employment shall be covered by this equity exclusion during a temporary period of unemployment.

(6) The equity value of a licensed vehicle not covered by this exclusion, and of an unlicensed vehicle not excluded by Section 7(7), (8) and (9) of this administrative regulation shall be attributed toward the household's resource level.

(7) In the event a licensed vehicle is assigned both a fair market value in excess of \$4,550 and an equity value, only the greater of the two (2) amounts shall be counted as a resource.

Section 9. Transfer of Resources. A household which has transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamps shall be disqualified from participation in the program for up to one (1) year from the date of the discovery of the transfer.

JOHN L. CLAYTON, Commissioner

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: March 5, 1996

FILED WITH LRC: March 11, 1996 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 22, 1996, at 9 a.m. at the Health Services Auditorium, 1st Floor, CHR Building. Individuals interested attending this hearing shall notify this agency in writing by April 17, 1996, five days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation on or before the date for hearing. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person: William K. Moore, Deputy Counsel for Administrative Law, Cabinet for Families and Children, 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: The agency anticipates minimal fiscal and personnel impact as a result of these amendments. In terms of the nonheating/noncooling utility standard, there are approximately 18,000 food stamp households that currently allowed an actual utility expense. These households would be potentially eligible to use the nonheating/ noncooling standard rather than actual expense currently being considered. The agency has no way of determining how many current food stamp households include a member that is legally obligated to pay child support. This information is not currently captured by the state's food stamp issuance system.

(2) Direct and indirect cost or savings to those affected: There should be no direct cost or savings to those affected for either provision to be added. The provision to add the new standard will aid recipients by allowing an alternative to their verifying actual expenses

by using a standard and the child support deduction will permit a more accurate amount of income to be considered in calculating the correct amount of food stamp benefits a households is eligible to receive.

(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 public 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 public 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: The compliance, reporting and paperwork requirements should decrease with the provision involving the nonheating/noncooling utility standard. The provision regarding the nonheating/noncooling standard will reduce the amount of verification households are required to provide. Verification from the individual paying obligated child support will have to be verified but the agency does not anticipate additional paperwork other than what is currently required. The difference is that previously we could not allow a deduction for the child support paid.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body: The nonheating/noncooling utility standard will have a positive effect on the administrative body in that it will reduce the amount of time caseworkers have to spend verifying actual utility costs and will assist the agency in maintaining an error rate of less than 6 percent which can lead to enhanced federal funding.

(a) Direct and indirect cost or savings: It is difficult to determine the exact cost of savings of the nonheating/noncooling standard provision since each case situation varies but it is believed that this change will have a minimal fiscal impact. The federal mandate requiring states to allow a deduction for legally obligated child support will increase food stamp benefits in some instances but since the agency has no way of capturing how many current households have an individual affected by this mandate, there is no way to determined how much of a fiscal impact the provision will have.

1. First year: See direct and indirect cost or savings.

2. Continuing cost or savings: May be some variances when the nonheating/noncooling is refigured each year based on actually expenditures.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Additional verification will be required to allow legally obligated child support deductions.

(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 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 public hearing was requested as a result of the Notice of Intent being published and no comments were received.

(b) Kentucky: No public 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: No other alternatives were discussed. Child support deduction is a 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: The

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option of using a nonheating/noncooling utility standard will not only allow a reduction in the amount of time caseworkers have to spend verifying actual utility costs but will also reduce the amount of verification households are required to provide and will assist the agency in maintaining an error rate of less than 6 percent which can lead to enhanced federal funding. The mandate that allow food stamp households a deduction for legally obligated child support will allow a more accurate amount of income available to the household to be considered. Previously, this deduction was not permitted by federal regulations.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The provisions in this amendment could have a detrimental effect if not implemented.

(c) If detrimental effect would result, explain detrimental effect: Households might not be allowed an accurate deduction for nonheating/noncooling utilities and the state would be in noncompliance with the federal regulations if the provision regarding child support deductions is not implemented which could lead to loss of federal dollars.

(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? The federal statute at 7 USC 2014(b) requires that the Secretary of the United States Department of Agriculture establish uniform national standards of eligibility for participation by households in the Food Stamp Program. The provision at 7 CFR 272.2(b) requires the state agency to enter into an agreement with the federal government, thereby agreeing to administer the program in accordance with the provisions contained in 7 USC 2011 through 2021, and 7 CFR 270 through 285. Therefore, the Food Stamp Program is administered in a like manner on a statewide basis, thereby prohibiting tiering.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 103-66 mandates the deduction for legally obligated child support payments in the food stamp calculations.

2. State compliance standards. The state received approval on a waiver to federal regulation 7 CFR 273.9(d)(6) for the nonheating/noncooling utility standard.

3. Minimum or uniform standards contained in the federal mandate. Any individual who receives food stamp benefits and is legally obligated to pay child support to a child living outside of the home shall be allowed a deduction when calculating the amount of food stamp benefits the household is entitled to receive.

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. None

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? No

CABINET FOR HEALTH SERVICES Department for Medicaid Services (Amendment)

907 KAR 1:505. Psychiatric residential treatment facility services.

RELATES TO: KRS 205.520, 216B.450, 216B.455, 216B.459

STATUTORY AUTHORITY: KRS 194.050, 42 CFR 440.160, 447.325, 42 USC 1396a-d, EO 95-79

NECESSITY AND FUNCTION: The Cabinet for Health Services, Department for Medicaid Services, (Human Resources) has responsibility to administer the Medicaid program. Executive Order 95-79, effective December 28, 1995, reorganizes the Cabinet for Human Resources and places the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. 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 coverage of psychiatric residential treatment facility services. ~~[Additional requirements relating to this program are shown in 907 KAR 1:512, incorporation by reference of the psychiatric residential treatment facility services manual.]~~

Section 1. Definition. (1) "Medicaid payment status" means the person is eligible for and receiving Medicaid, meets patient status criteria for psychiatric residential treatment facility (PRTF) services, and the facility is billing the Medicaid Program for services provided to the person.

(2) "Psychiatric residential treatment facility" (PRTF) means an appropriately licensed PRTF participating in the Medicaid Program.

Section 2. Material Incorporated by Reference. (1) The "Medicaid Psychiatric Residential Treatment Facility Services Manual", dated November 1995 is incorporated by reference in this administrative regulation.

(2) The manual shall be on file in the Office of the Commissioner, Department for Medicaid Services, Cabinet for Health Services, 275 East Main Street, Third Floor East, Frankfort, Kentucky, 40621.

(3) The manual is available for review during the normal business week, Monday through Friday from 8 a.m. through 4:30 p.m. (eastern standard time), excluding state holidays.

(4) Each participating in-state provider shall be provided one (1) copy of the manual and appropriate manual upgrades following their incorporation by reference. Additional copies may be obtained from the Department for Medicaid Services upon payment of an appropriate fee which approximates cost in accordance with KRS 61.872.

Section 3. [2-] Covered Admissions. (1) Covered admissions shall be preauthorized and shall be limited to those for children age six (6) through twenty (20) years of age meeting patient status criteria. Coverage may continue, based on medical necessity, for an individual in a PRTF on his 21st birthday so long as he has not reached his 22nd birthday.

(2) Services shall not be covered if appropriate alternative services are available in the community.

Section 4. [3-] Durational Limitations. Patient stays shall be [are] subject to utilization review by the cabinet.

Section 5. [4-] Determining Patient Status. (1) The cabinet or its designated agent shall review and evaluate the health status and care needs of the recipient in need of inpatient psychiatric care using the same standards as set forth for inpatient psychiatric hospital care in 907 KAR 1:016.

(2) The care needs of the patient shall meet PRTF patient status

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criteria only when the individual meeting the patient status criteria in 907 KAR 1:016 requires long-term inpatient psychiatric care or crisis stabilization more suitably provided in the PRTF rather than a psychiatric hospital; the individual shall require PRTF services on a continuous basis as a result of a severe mental or psychiatric illness, including severe emotional disturbances.

Section 6. ~~[6.]~~ Reevaluation of Need for Services. Patient status shall be reevaluated for PRTF patients at thirty (30) day intervals. If a reevaluation reveals the patient no longer requires PRTF care, payment shall continue only through the last day for which the stay is certified.

~~[Section 6. Reconsideration and Appeals. Reconsiderations and appeals shall be handled in the same manner as specified in 907 KAR 1:016, Section 6.]~~

Section 7. Exclusions from Coverage. Chemical dependency treatment services shall be excluded from coverage when the need for the services is the primary diagnosis of the patient. Chemical dependency treatment services shall be covered as incidental treatment ~~[related to the primary diagnosis]~~ if minimal chemical dependency treatment is necessary for successful treatment of the primary diagnosis.

Section 8. Reserved Bed Days. The cabinet shall cover reserved bed days in accordance with the following specified upper limits and criteria:

(1) The following upper limits, applied per provider, shall be applicable for reserved bed days:

(a) A maximum of fourteen (14) days per admission for an acute care hospital stay;

(b) A maximum of fourteen (14) days per calendar year for admissions to a mental hospital or a psychiatric bed of an acute care hospital;

(c) A maximum of twenty-one (21) days per six (6) months during a calendar year for other leaves of absence; and

(d) A maximum of thirty (30) consecutive days for hospital and other leaves of absence combined.

(2) The following criteria shall be met for reserved bed days to be covered:

(a) The person is in Medicaid payment status in the PRTF and has been a resident of the facility at least overnight;

(b) The person may ~~can~~ be reasonably expected to return to the PRTF ~~[same]~~ level of care;

(c) Due to the demand at the facility for PRTF care, there is likelihood the bed would be occupied by some other patient, if it had [were it] not been reserved;

(d) Hospitalization shall be in Medicaid participating hospitals with the admission appropriately approved by the cabinet or its designated agency; and

(e) For leaves of absence other than for hospitalization, the patient's physician orders and plan of care shall provide for such leaves; leaves of absence include visits with relatives and friends.

Section 9. Reconsideration and Appeals. (1) Reconsiderations and appeals of patient status issues shall be handled in the same manner as specified in 907 KAR 1:016, Section 6.

(2) Negative actions regarding provider participation may be appealed in accordance with 907 KAR 1:671.

JOHN H. MORSE, Commissioner, Secretary

APPROVED BY AGENCY: February 15, 1996

FILED WITH LRC: March 8, 1996 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 22, 1996, 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 April 17, 1996 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. 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: William K. Moore, Jr., Acting General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, (502) 564-7900.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ked Fitzpatrick or Anita Moore

(1) Type and number of entities affected: All psychiatric residential treatment facilities participating in the Medicaid Program.

(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: *Cost impact reflected in companion regulation 907 KAR 1:510.

2. Continuing costs or savings: *Cost impact reflected in companion regulation 907 KAR 1:510.

3. Additional factors increasing or decreasing costs: Number of beds used by Medicaid recipients.

(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: To be implemented statewide.

(b) Kentucky: Increased revenues for participating providers reflected in companion regulation 907 KAR 1:510.

(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: To ensure that medically necessary psychiatric residential treatment facility services are available for Medicaid recipients.

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

(c) If detrimental effect would result, explain detrimental effect: May lead to reduced access to psychiatric residential treatment facilities services for Medicaid recipients.

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

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- (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? 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.

CABINET FOR HEALTH SERVICES Department for Medicaid Services (Amendment)

907 KAR 1:510. Payments for psychiatric residential treatment facility services.

RELATES TO: KRS 205.520, 216B.450, 216B.455, 216B.459
STATUTORY AUTHORITY: KRS 194.050, 42 CFR 440.160, 42 USC 1396a-d, EO 95-79

NECESSITY AND FUNCTION: The Cabinet for Health Services, Department for Medicaid Services [~~Human Resources~~] has responsibility to administer the Medicaid Program [~~of Medical Assistance~~]. Executive Order 95-79, effective December 28, 1995, reorganizes the Cabinet for Human Resources and places Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. 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 payments for psychiatric residential treatment facility services.

Section 1. Definition. "Psychiatric residential treatment facility" (PRTF) means an appropriately licensed PRTF participating in the Medicaid Program.

Section 2. Payment Rates. Covered inpatient psychiatric facility services for individuals under twenty-two (22) years of age provided in PRTFs of sixteen (16) beds or less shall be paid for in accordance with the following:

- (1) The PRTFs shall be paid a fixed rate of \$230 [~~225~~] per diem

which shall be adjusted upward each biennium by 2.22 percent, or usual and customary charge if less; however, the payment shall not exceed prevailing charges in the locality for comparable services provided under comparable circumstances.

(2) The fixed rate, ~~{[or usual and customary charge-] if less, [}]~~ covers total facility costs for covered PRTF services, excluding [~~(except for)~~ the cost of drugs~~}]~~, as follows: [~~(including specifically the following:)~~]

- (a) All care and treatment costs;
(b) Costs for all ancillary services, excluding [~~(except for)~~ the cost of drugs which shall be reimbursed through the pharmacy program~~}]~~;
(c) Capital costs; and
(d) Room and board costs.

Section 3. Cost Reports and Audits. PRTFs shall file a cost report annually using a uniform cost report form prescribed by the Department for Medicaid Services [~~single state agency~~]. The cabinet may audit the cost reports as it deems [~~determined~~] necessary [~~by the cabinet~~].

Section 4. Access to PRTF Fiscal and Services Records. [~~The cabinet shall have~~] Access shall be granted to PRTF fiscal and services records to the extent determined necessary by the cabinet, as follows:

(1) To assure accuracy of the cost report, that services are provided in accordance with the standards shown in this administrative regulation and in 907 KAR 1:505; and

(2) [~~that~~] The PRTF is complying with all terms and conditions of the provider agreement between the cabinet and PRTF.

(3) Representatives of the United States Department of Health and Human Services, Inspector General's Office, and Attorney General's Office shall have access to PRTF records to the extent necessary to perform their functions which relate to the Medicaid Program.

Section 5. Implementation Date. The provisions of this administrative regulation shall be applicable for services provided on or after November 1, 1995 [~~July 1, 1994~~].

JOHN H. MORSE, Secretary/Commissioner

APPROVED BY AGENCY: February 16, 1996

FILED WITH LRC: March 8, 1996 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 22, 1996 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 April 17, 1996, 1996 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. 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: William K. Moore, Jr., Acting General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, (502) 564-7900.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ked Fitzpatrick, or Anita Moore (564-5020)

(1) Type and number of entities affected: All psychiatric residential treatment facilities participating in the Medicaid Program.

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

(a) Cost of living and employment in the geographical area in

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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: \$100,000 (cost)

2. Continuing costs or savings: \$100,000 (cost)

3. Additional factors increasing or decreasing costs: Number of beds used by Medicaid recipients.

(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: To be implemented statewide.

(b) Kentucky: Increased revenues for participating Medicaid providers.

(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: To ensure that medically necessary psychiatric residential treatment facilities services are available for Medicaid recipients.

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

(c) If detrimental effect would result, explain detrimental effect: May lead to reduced access to psychiatric residential treatment facilities services for Medicaid recipients.

(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? (Explain why tiering was or was not used) 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.

CABINET FOR HEALTH SERVICES Department for Mental Health and Mental Retardation Services (Amendment)

908 KAR 2:060. Mental health and mental retardation manuals for funding instructions, program policies and standards, and reimbursement guidelines.

RELATES TO: KRS 210.370 to 210.460

STATUTORY AUTHORITY: KRS 210.440 to 210.450, EO 95-79

NECESSITY AND FUNCTION: The cabinet ~~for Human Resources~~ is directed by KRS 210.370 to 210.460 to allocate available funds to mental health/mental retardation boards in accordance with approved plans and budgets. KRS 210.440 and 210.450 authorize the secretary ~~for Human Resources~~ to promulgate policies and administrative regulations as to the operations, budgets and expenditures of community programs and to require reporting management and financial programs as necessary to carry out the purposes of KRS 210.370 to 210.460. Executive Order 95-79, effective 12/28/95, reorganizes the Cabinet for Human Resources and places the Department for Mental Health and Mental Retardation Services and its programs under the Cabinet for Health Services.

Section 1. Request for Funding Instructions Manual. The Cabinet for Health Services ~~(Human Resources)~~ incorporates the Request for Funding Instructions Manual, September 1, 1995, by reference. Community mental health and mental retardation boards shall follow these instructions when preparing and submitting the annual plan and budgets to the cabinet. The manual includes the following: rate and allocation schedules, program plan, fiscal plan, waiver request, and addenda.

Section 2. Program Policies and Standards. Manual. The Cabinet for Health Services ~~(Human Resources)~~ incorporates the September 1, 1995 edition of the Program Policies and Standards Manual by reference. The manual relates to general operating standards and particular service standards for services funded by the department. The standards contained shall be followed by those community mental health and mental retardation boards contracting with the cabinet.

Section 3. Cabinet for Health Services ~~(Human Resources)~~ Community Mental Health and Mental Retardation Reimbursement Manual, December 1, 1995, ~~September 1, 1995~~. The Cabinet for Health Services ~~(Human Resources)~~ incorporates this manual by reference. This manual relates to the following: scope of services, requirements and limitations of participation, method and principles of reimbursement. The manual shall be adhered to by those community mental health and mental retardation boards contracting with the cabinet.

Section 4. Copies of the manuals are on file for inspection in the Division of Administration and Financial Management, Department for Mental Health and Mental Retardation Services, 4th Floor, Leestown

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Square, 100 Fair Oaks Lane, Frankfort, Kentucky 40601.

ELIZABETH REHM WACHTEL, PH.D., Commissioner
JOHN H. MORSE, Secretary

APPROVED BY AGENCY: March 6, 1996

FILED WITH LRC: March 11, 1996 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation has been scheduled for April 22, 1996, at 9 a.m. in the Health Services Auditorium, First Floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky. This hearing will be canceled unless interested persons notify the following office in writing by April 17, 1996, of their desire to appear and testify at the hearing. William K. Moore, Jr., Acting General Counsel, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Elizabeth Rehm Wachtel, Ph.D.,

(1) Type and number of entities affected: All community mental health and mental retardation boards receiving funds from the department to provide mental health, mental retardation, and substance abuse services.

(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 comments received: No hearing was requested as a result of the Notice of Intent being published, and no written 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 comments received: No hearing was requested as a result of the Notice of Intent being published, and no written 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: Minimal

(a) Direct and indirect cost or savings:

1. First year: None

2. Continuing cost or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Minimal

(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 general and 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 written comments were received.

(b) Kentucky: No hearing was requested as a result of the Notice of Intent being published, and no written comments were received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered since provisions are mandated by state and federal law.

(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: None

(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:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied. (Explain why tiering was or was not used). Tiering was not applied since the application of policy is required to be applied in a like manner for all individuals.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal statute or regulation constituting a federal mandate.

2. State compliance standards. None

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 standard, or additional or different responsibilities or requirements. No additional standards or responsibilities are imposed.

PROPOSED ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, MARCH 15, 1996

**GENERAL GOVERNMENT CABINET
Kentucky Board of Certification
of Marriage and Family Therapists
(New Administrative Regulation)**

201 KAR 32:040. Compensation of board members.

RELATES TO: KRS 335.325(1)

STATUTORY AUTHORITY: KRS 335.320(7), 335.325(1)

NECESSITY AND FUNCTION: This administrative regulation is necessitated by KRS 335.325(1) and 335.320(7) and sets forth in detail the compensation of board members.

Section 1. Eligible members of the board shall receive compensation in the amount of \$100 per day for each day of actual board service and travel expenses to the extent authorized by 200 KAR Chapter 2.

JOHN SOHAN, Board Chairman

APPROVED BY AGENCY: February 15, 1996

FILED WITH LRC: March 14, 1996 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 25, 1996, at 9:30 a.m. at the offices of the Division of Occupations and Professions, located at the Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by April 20, 1996, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

REGULATORY IMPACT ANALYSIS

Contact Person: David Nicholas

(1) Type and number of entities affected: There are five members of the board who would be eligible for payment.

(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: Members will sign and file appropriate travel and payment forms. Those will be processed.

2. Second and subsequent years: Members will sign and file appropriate travel and payment forms. Those will be processed.

(3) Effects on the promulgating administrative body: This regulation set the compensation of board members at \$100 per day for meetings, hearings, or other board activities.

(a) Direct and indirect costs or savings:

1. First year: Approximately \$5,000.

2. Continuing costs or savings: Approximately \$5,000.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Members will sign and file appropriate travel and payment forms. Those will be processed.

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

Minimal

(5) Source of revenue to be used for implementation and enforcement of administrative regulation. Trust and agency revolving account in the name of the 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) Geographical area in which administrative regulation will be implemented. Commonwealth of Kentucky.

(b) Kentucky: Entire state.

(7) Assessment of alternative methods; reasons why alternative methods were rejected. No alternative methods 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: The members of the board will be given very modest compensation for their work on the board.

(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: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no known statutes, administrative regulations or government policies which overlap or conflict with this administrative regulation.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering is unnecessary because this administrative regulation applies uniformly to all qualified candidates.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Certification
of Marriage and Family Therapists
(New Administrative Regulation)**

201 KAR 32:050. Code of ethics.

RELATES TO: KRS 335.320

STATUTORY AUTHORITY: KRS 335.320

NECESSITY AND FUNCTION: KRS 335.320 requires the board to adopt a code of ethics for certified marriage and family therapists. This administrative regulation establishes the required code of ethics.

Section 1. Responsibility to Clients. A marriage and family therapist shall seek to advance and protect the welfare of his client. He shall respect the rights of persons seeking his assistance, and make reasonable efforts to ensure that his services are used appropriately. In order to accomplish these goals, a marriage and family therapist shall not:

(1) Discriminate against or refuse professional service to anyone on the basis of race, gender, religion, national origin, or sexual orientation;

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(2) Exploit the trust and dependency of a client;

(3) Engage in dual relationships with a client that may impair professional judgment or increase the risk of exploitation. Examples of such dual relationships include, but are not limited to, business or close personal relationships with a client. When a dual relationship cannot be avoided, a therapist shall take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs;

(4) Engage in a sexual relationship with a current client or with a former client for two (2) years following the termination of therapy;

(5) Use his professional relationship with a client to further his own interests;

(6) Continue therapeutic relationships unless it is reasonably clear that the client is benefiting from the relationship;

(7) Fail to assist a person in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help;

(8) Abandon or neglect a client in treatment without making reasonable arrangements for the continuation of such treatment;

(9) Videotape, record, or permit third party observation of therapy sessions without having first obtained written informed consent from the client;

(10) Engage in sexual or other harassment or exploitation of a client, student, trainee, supervisee, employee, colleague, research subject, or actual or potential witness or complainant in investigations and ethical proceedings; or

(11) Diagnose, treat, or advise on problems outside the recognized boundaries of his competence.

Section 2. Confidentiality. A marriage and family therapist has unique confidentiality concerns because the client in a therapeutic relationship may be more than one (1) person. Therefore, a therapist shall respect and guard the confidences of each individual client.

(1) Marriage and family therapists shall not disclose a client confidence except:

(a) As mandated by law;

(b) To prevent a clear and immediate danger to a person or persons;

(c) Where the therapist is a defendant in a civil, criminal, or disciplinary action arising from the therapy (in which case client confidences may be disclosed only in the course of that action); or

(d) If there is a waiver previously obtained in writing, and then such information may be revealed only in accordance with the terms of the waiver. In circumstances where more than one (1) person in a family receives therapy, each such family member who is legally competent to execute a waiver must agree to the waiver required by this subparagraph. Without such a waiver from each family member legally competent to execute a waiver, a therapist shall not disclose information received from any family member.

(2) A marriage and family therapist may use client or clinical materials in teaching, writing, and public presentations only if a written waiver has been obtained in accordance with subsection (1)(d) of this section, or when appropriate steps have been taken to protect client identity and confidentiality.

(3) A marriage and family therapist shall store or dispose of client records so as to maintain confidentiality.

Section 3. Professional Competence and Integrity. A marriage and family therapist shall maintain high standards of professional competence and integrity and may be subject to disciplinary action if:

(1) Convicted of any felony, or a misdemeanor related to his practice as a marriage and family therapist. Conviction includes all instances in which a plea of no contest or an "Alford Plea" is the basis of the conviction or when the imposition of a sentence is suspended or deferred;

(2) His license or certificate is subject to disciplinary action by other state's regulatory agency;

(3) He is impaired due to mental incapacity or the abuse of alcohol or other substances which negatively impact the practice of marriage and family therapy;

(4) He misrepresented or concealed a material fact in obtaining or seeking reinstatement of a certificate;

(5) He has failed to comply with an order issued by the board; or

(6) He has failed to cooperate with the board by not:

(a) Furnishing in writing a complete explanation to a complaint filed with the board;

(b) Appearing before the board at the time and place designated; or

(c) Properly responding to subpoenas issued by the board.

Section 4. Responsibility to a Student or Supervisee. A marriage and family therapist shall not exploit the trust and dependency of a student or supervisee.

(1) A marriage and family therapist shall be aware of his influential position with respect to a student or supervisee, and he shall avoid exploiting the trust and dependency of these persons.

(a) A therapist shall make every effort to avoid a dual relationship with a student or supervisee that may impair professional judgment or increase the risk of exploitation.

(b) When a dual relationship cannot be avoided, a therapist shall take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs.

(c) Examples of dual relationships include, but are not limited to, business or close personal relationships with a student or supervisee.

(d) Provision of therapy to a student, employee, or supervisee shall be prohibited.

(e) Sexual intimacy or contact with a student or supervisee shall be prohibited.

(2) A marriage and family therapist shall not permit a student or supervisee to perform or to hold himself out as competent to perform professional services beyond his level of training, experience, and competence.

(3) A marriage and family therapist shall not disclose a student's or supervisee's confidence except:

(a) As mandated by law;

(b) To prevent a clear and immediate danger to a person or persons;

(c) Where the therapist is a defendant in a civil, criminal, or disciplinary action arising from the supervision (in which case a student's or supervisee's confidence may be disclosed only in the course of that action);

(d) In educational or training settings where there are multiple supervisors, and then only to other professional colleagues who share responsibility for the training of the supervisee; or

(e) If there is a waiver previously obtained in writing, and then such information may be revealed only in accordance with the terms of the waiver.

Section 5. Financial Arrangements. A marriage and family therapist shall make financial arrangements with a client, third party payor, or supervisee that are reasonably understandable and conform to accepted professional practices. A marriage and family therapist shall:

(1) Not offer or accept payment for referrals;

(2) Not charge excessive fees for services;

(3) Disclose his fees to clients and supervisees at the beginning of services; or

(4) Represent facts truthfully to clients, third party payors, and supervisees regarding services rendered.

Section 6. Advertising. A marriage and family therapist shall:

(1) Accurately represent his education, training, and experience relevant to his practice of marriage and family therapy;

(2) Not use any professional identification, including but not

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limited to a business card, office sign, letterhead, or telephone or association directory listing if it includes a statement or claim that is false, fraudulent, misleading, or deceptive. A statement shall be false, fraudulent, misleading, or deceptive if it:

- (a) Contains a material misrepresentation of fact;
- (b) Fails to state any material fact necessary to make the statement, in light of all circumstances, not misleading; or
- (c) Is intended to or is likely to create an unjustified expectation.

JOHN SOHAN, Board Chairman

APPROVED BY AGENCY: February 15, 1996

FILED WITH LRC: March 14, 1996 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 25, 1996, at 9:30 a.m. at the offices of the Division of Occupations and Professions, located at the Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by April 20, 1996, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

REGULATORY IMPACT ANALYSIS

Contact Person David Nicholas

(1) Type and number of entities affected: All persons certified as marriage and family therapists.

(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: This regulation sets forth a code of ethics for marriage and family therapists.

(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. Trust and agency revolving account in the name of the 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) Geographical area in which administrative regulation will be implemented: Commonwealth of Kentucky.

(b) Kentucky: Entire state.

(7) Assessment of alternative methods; reasons why alternative methods were rejected. No alternative methods 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: The public will be protected from unethical actions on the part of marriage and family therapists.

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

(c) If detrimental effect would result, explain detrimental effect: The public would not be protected from unethical actions on the part of marriage and family therapists.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no known statutes, administrative regulations or government policies which overlap or conflict with this administrative regulation.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering is unnecessary because this administrative regulation applies uniformly to all certified marriage and family therapists.

GENERAL GOVERNMENT CABINET Kentucky Board of Certification for Professional Art Therapists (New Administrative Regulation)

201 KAR 34:010. Definitions.

RELATES TO: KRS 309.1315(11), 309.133

STATUTORY AUTHORITY: KRS 309.1305(2), 309.1315(1), (11)

NECESSITY AND FUNCTION: KRS 309.133 sets forth the requirements for certification as a professional art therapist. The board is required to review the applications of applicants for certification. KRS 309.133 requires applicants to have experience under supervision and hours of sequential coursework in the history, theory, and practice of art therapy. This administrative regulation establishes definitions necessary for the evaluation of experience under supervision and the requirements for the coursework.

Section 1. Definitions. The following terms relate to the evaluation of applications for certification:

(1) "An applicant for certification as a professional art therapist" means a person who is seeking to satisfy the requirements of KRS 309.133. Proof of certification or registration with the Art Therapy Certification Board, Inc. shall be accepted as evidence that the applicant has met both the educational and experiential requirements for certification as set forth in KRS 309.133(1).

(2) "Appropriate supervision" means the process of utilizing individual or group supervision between a supervisee and an approved supervisor aimed at enhancing the professional development of the supervisee in providing professional art therapy services. Supervision shall be equally distributed throughout the period of experience.

(3) "Approved supervisor" means a person who:

(a) Is certified as a professional art therapist in the commonwealth of Kentucky with a minimum of four (4) years of experience in the practice of art therapy; or

(b) Holds a master's degree in another mental health profession whose education and experience demonstrate to the board a level of competence equivalent to that contained in paragraph (a) of this subsection. After July 15, 1999, a supervisor qualifying under this paragraph shall no longer be considered as an approved supervisor.

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(4) "CPAT" means the abbreviation that a certified professional art therapist may use when holding himself out as having the status of certified professional art therapist.

(5) "Group supervision" means face-to-face supervision rendered to not more than six (6) individuals.

(6) "Individual supervision" means face-to-face case consultation between the supervisor and the supervisee related only to the supervisee's cases.

(7) "Internship experience" means an internship in the field of art therapy.

(8) "Postgraduate experience" means engaging in the practice of art therapy after completion of and receipt of the qualifying degree pursuant to KRS 309.133.

(9) "Practice of art therapy" means the rendering to individuals, families, or groups, services that use art media and verbalization as a means of expressions and communication to promote perceptive, intuitive, affective and expressive experiences that alleviate distress, reduce physical, emotional, behavioral, and social impairment and lead to growth or reintegration of one's personality. Art therapy services include, but are not limited to, assessment and evaluation, development of treatment plans, goals and objectives, case management services, and therapeutic verbal and visual treatment.

(10) "Twenty-one (21) semester hours of sequential course work in the history, theory, and practice of art therapy" may include completion of the following:

(a) A minimum of twenty-one (21) semester hours, thirty-one (31) quarter hours, or 315 clock hours in art therapy courses from an accredited institution as defined in KRS 309.130(4);

(b) The required core curriculum which may include the following components:

1. History of art therapy;
2. Theory of art therapy;
3. Techniques of practice in art therapy;
4. The application of art therapy with people in different treatment settings;
5. Psychopathology;
6. Assessment of patients and diagnostic categories;
7. Ethical and legal issues of art therapy practice;
8. Standards of good practice in art therapy; and
9. Matters of cultural diversity bearing on the practice of art therapy.

HELEN HEDDENS, Board Chairman

APPROVED BY AGENCY: February 23, 1996

FILED WITH LRC: March 14, 1996 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 26, 1996, at 1 p.m. at the offices of the Division of Occupations and Professions, located at the Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by April 21, 1996, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, (502) 564-3296.

REGULATORY IMPACT ANALYSIS

Contact Person: David Nicholas

(1) Type and number of entities affected: Those persons applying to become certified as a professional art therapist.

(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: This administrative regulation will create minimal reporting requirements for those individuals applying to become certified as a professional art therapist.

2. Second and subsequent years: This administrative regulation will create minimal reporting requirements for those individuals applying to become certified as a professional art therapist.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Allows the board to appropriately review applications for certification.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: All applications certification as a nutritionist will be reviewed by the board.

(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 by the 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. Commonwealth of Kentucky.

(b) Kentucky: Entire state.

(7) Assessment of alternative methods; reasons why alternative methods were rejected. KRS Chapter requires the board to issue certificates.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The public will be made aware of the persons holding qualifications as a professional art therapist.

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

(c) If detrimental effect would result, explain detrimental effect: Individuals without the proper education would hold themselves out to the public as a professional art therapist.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no known statutes, administrative regulations or government policies which overlap or conflict with this administrative regulation.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering is unnecessary because this administrative regulation applies uniformly to all qualified candidates.

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PUBLIC PROTECTION AND REGULATION CABINET Public Service Commission (New Administrative Regulation)

807 KAR 5:062. Changing primary interexchange carrier; verification procedures.

RELATES TO: KRS Chapter 278

STATUTORY AUTHORITY: KRS 278.040(3), 278.280(2)

NECESSITY AND FUNCTION: KRS 278.040(3) provides that the commission may adopt reasonable administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.280(2) provides that the commission shall prescribe rules for performing any service or furnishing any commodity of the character furnished or supplied by any utility. This administrative regulation establishes procedures by which customer-ordered changes of presubscribed long distance telecommunications carriers shall be confirmed.

Section 1. Definitions. For purposes of this administrative regulation:

(1) "Interexchange carrier" (IXC) means a provider of long distance telecommunications services. Facilities-based carriers of long distance service, resellers of long distance service, and local exchange carriers providing long distance service are included in this definition.

(2) "Letter of agency" means a customer's written statement that authorizes a primary interexchange carrier change and bears the customer's signature.

(3) "Local exchange carrier" means a provider of switched telecommunications service that carries calls originating and terminating within the local calling area.

(4) "Long distance telecommunications service" means service that carries calls to exchanges that are not within the local calling area of the originating number.

(5) "Primary interexchange carrier" (PIC) means a carrier to which a customer has presubscribed for long distance service.

(6) "Two (2) PIC system" means a system which enables a customer to presubscribe to one (1) primary interexchange carrier for interLATA (long haul) long distance service and to another for intraLATA (short haul) long distance service.

Section 2. Verification Procedures. No IXC shall submit to a local exchange carrier a PIC change order, and no local exchange carrier shall change a customer's PIC, unless the customer's authorization to change his PIC has been confirmed by one (1) of the three (3) procedures prescribed in this administrative regulation.

(1) The IXC has obtained a letter of agency from the customer that:

(a) Authorizes the change;

(b) Demonstrates that the customer understands what occurs when a PIC is changed;

(c) States the customer's billing name and address and each telephone number to be covered by the PIC change order;

(d) Demonstrates that the customer understands the PIC change fee; and

(e) If the PIC change order applies to a number in an area with a two (2) PIC system, clearly states whether the customer has authorized the change of his intraLATA PIC, his interLATA PIC, or both; or

(2) The IXC has obtained the customer's electronic authorization, placed from a telephone number on which the customer's PIC is to be changed, to submit a PIC change order. The electronic authorization shall include the information described in subsection (1)(a) through (e) of this section. IXCs electing to confirm sales electronically shall establish one (1) or more toll-free telephone numbers exclusively for that purpose. A call to the number(s) will connect a customer to a voice response unit, or similar mechanism, that records

the required information and automatically records the originating number; or

(3) An appropriately qualified and independent third party operating in a location physically separate from the IXC's telemarketing representative has obtained the customer's electronic authorization to submit the PIC change order. The electronic authorization shall include the information described in subsection (1)(a) through (e) of this section and appropriate verification data such as the customer's date of birth or Social Security number.

Section 3. Prohibition of Additional LEC Verification. Unless a local exchange carrier solicited the PIC change, it shall not seek independent verification of its customers' authorizations of PIC changes. PIC changes properly submitted by IXCs shall be made promptly by the local exchange carrier.

Section 4. Records to be Retained. All written and electronic evidence of PIC change orders shall be retained by the soliciting carrier for one (1) year after the date the PIC has been changed.

Section 5. Letters of Agency. (1) Letters of agency shall be separate or severable from inducements or promotions of any kind, except as provided in subsection (2) of this section.

(2) A letter of agency may be combined with a check which states in bold-face type on its front and near the signature line on its back that the customer is authorizing a long distance carrier change by signing the check. A letter of agency check shall contain only the information prescribed in Section 2(1) of this administrative regulation and the language necessary to make the check a negotiable instrument.

PAUL E. PATTON, Governor

LINDA K. BREATHITT, Chairman

APPROVED BY AGENCY: March 14, 1996

FILED WITH LRC: March 15, 1996 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 26, 1996, at 10 a.m. in Hearing Room 1 of the Commission's Offices at 730 Schenkel Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 21, 1996, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Don Mills, Executive Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602, (502) 564-3940.

REGULATORY IMPACT ANALYSIS

Contact person: Don Mills

(1) Type and number of entities affected: Current PSC records show that 20 local exchange carriers, 170 resellers of long distance service, and 6 facilities-based long distance telecommunications companies will be affected by this 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: No comments were received on this issue.

(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 were received on

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this issue.

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

1. First year following implementation: Compliance, reporting, and paperwork requirements should not increase as a result of this regulation.

2. Second and subsequent years: See answer to (2)(c)1, above.

(3) Effects on the promulgating administrative body: Since this regulation will be enforced within the normal business activities of the commission, there are no expected significant direct or indirect costs or savings.

(a) Direct and indirect costs or savings:

1. First year: See answer to (3) above.

2. Continuing costs or savings: See answer to (3) above.

3. Additional factors increasing or decreasing costs: See answer to (3) above.

(b) Reporting and paperwork requirements: See answer to (3) above.

(4) Assessment of anticipated effect on state and local revenues: There is no anticipated impact on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No additional revenue will be necessary for implementation and enforcement of this 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 comments on this issue were received. However, no economic impact in any particular geographical area is expected.

(b) Kentucky: No comments on this issue were received. However, no economic impact on Kentucky is expected.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative method of verifying PIC changes that was suggested, or advocated, by anyone offering comments was a method whereby a carrier may switch a customer's service 14 days after having mailed an information package. This method authorizes a PIC change absent any sort of objective evidence that the customer actually wanted it. The commission rejected this method for two reasons: (1) detection of fraud on the part of carriers using this option would be difficult, if not impossible, and consumers would thereby be deprived of the very protection the regulation is designed to provide; (2) the lack of objective evidence as to whether the customer authorized the switch would result in insurmountable proof problems in commission proceedings regarding "slamming" complaints.

(8) Assessment of expected benefits: The regulation as proposed is expected to protect consumers and to discourage fraud and misrepresentation on the part of competing long distance carriers. The regulation should also enable honest carriers to defend themselves against frivolous charges of "slamming."

(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: Not applicable.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplicative: The proposed regulation does not conflict with, overlap, or duplicate any current Kentucky statute, administrative regulation, or government policy. It will overlap in part with 47 CFR §64.1100 (verification of PIC change orders generated by telemarketing) and §64.1150 (form and content of letters of agency).

(a) Necessity of proposed regulation if in conflict: No conflict exists.

(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 additional comments.

(11) TIERING: Is tiering applied? Tiering was not used in this regulation because the size of a carrier that "slams" a consumer is immaterial.

CABINET FOR HEALTH SERVICES Department for Medicaid Services (New Administrative Regulation)

907 KAR 1:675. Program integrity

RELATES TO: KRS 205.8453, 42 CFR 455.12, 455.13, 455.16(c)(4)

STATUTORY AUTHORITY: KRS 194.050, 205.6318, 205.8453, 42 CFR 455.12, 455.13, 455.16(c)(4), EO 95-79

NECESSITY AND FUNCTION: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. Executive Order 95-79, effective December 28, 1995, reorganizes the Cabinet for Human Resources and places the Department for Medicaid Services and the Medicaid Program in the Cabinet for Health Services. KRS 205.520 empowers the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. KRS 205.8453(4) directs the Cabinet for Health Services to institute other measures necessary or useful in controlling fraud and abuse. This administrative regulation institutes an administrative process which provides due process prior to disqualification or request for repayment of Medicaid benefits paid on behalf of a responsible party. Action taken under the administrative process shall not relieve the cabinet from pursuing criminal action through law enforcement officials. This administrative regulation sets forth the provisions relating to enhanced program integrity of the Medicaid Program. This administrative regulation applies to non-SSI responsible parties or SSI recipients who have been provided the opportunity of due process through the administrative hearing, following a period of lock-in status.

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services and its designated agents.

(2) "Intentional program violation" means confirmation that a responsible party knowingly made a false or misleading statement, or misrepresented, concealed or withheld a fact or facts or committed a violation of any state or federal law relating to the Medicaid Program. In addition, a financial loss to the department resulted from:

(a) Ineligibility of the recipient after all possible determinations have been made for Medicaid Program eligibility; or

(b) The responsible party knowingly abused the Medicaid Program after full Medicaid benefits were established following a period in lock-in status. Provider abuse shall be handled in accordance with 907 KAR 1:671.

(3) "Lock-in" means the program in which a recipient who has utilized Medicaid services at a frequency or amount that is not medically necessary may be restricted from receiving Medicaid services from anyone other than one (1) physician and one (1) pharmacy except for emergency services furnished to the recipient. A referral shall be required from the lock-in physician for other medical services or equipment.

(4) "Penalty" or "penalties" mean an administrative action taken by the department which restricts or revokes a recipient's participation in the Medicaid Program or requires the repayment of the value of the benefits received, or restricts access to or quantities of services, based on receipt of services for which the recipient was not otherwise entitled.

(5) "Responsible party" means an individual who is either:

(a) A parent or legal guardian of a minor child;

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- (b) A Medicaid recipient;
- (c) Spouse of a Medicaid recipient; or
- (d) An individual who possesses a power of attorney for the recipient.

Section 2. Preliminary Identification. (1) The department shall notify Medicaid Program recipients of changes in Medicaid policy for which they shall be held liable with respect to an intentional program violation in accordance with the criteria specified in this administrative regulation.

(2) In accordance with KRS 205.8453, the department shall annually, at the time of Medicaid approval or when recertified for Medicaid Program benefits, notify Medicaid recipients in writing of:

- (a) Proper use of medical services or supplies; and
- (b) How a recipient of Medicaid benefits may access and utilize Medicaid services in the most cost effective manner.

(3) Medicaid recipients shall be given a toll free number to report any allegation of possible fraud or abuse of the Medicaid Program by recipients or providers.

(4) The department shall identify that a possible intentional program violation occurred as defined in Section 1 of this administrative regulation through:

- (a) Computer matches;
- (b) Collateral contacts;
- (c) Hotline referrals;
- (d) Quality control reviews; and
- (e) Other valid reports or information previously unknown to the department.

(5) The department shall, if information warrants:

(a) Interview the responsible party and request verification of any information previously unknown to the department for the specified period of time that the alleged program loss occurred;

(b) Allow the responsible party the opportunity to review and refute evidence obtained by the department;

(c) Calculate the value of the services rendered based on Medicaid payments made on behalf of the recipient for the time period that the intentional program violation allegedly occurred; and

(d) If the responsible party does not agree with the evidence he reviews, a determination shall be made that the evidence warrants scheduling a disqualification hearing:

1. Provided it has documented evidence indicating that a responsible party appears to have committed an act of intentional program violation, as defined in Section 1 of this administrative regulation; and

2. Regardless of the current eligibility of the recipient.

Section 3. Advance Notice of Disqualification Hearing. (1) The department shall provide written notice in accordance with KRS Chapter 13B to the responsible party suspected of an intentional program violation at least thirty (30) days before the date the administrative disqualification hearing is scheduled.

(2) The advance notice shall indicate an individual or organization who may be available to provide free legal representation.

Section 4. Scheduling the Disqualification Hearing. (1) The time and place of the hearing shall be arranged so that the hearing is accessible to the responsible party accused of intentional program violation.

(2) If the responsible party and any party or witness required to testify under oath or affirmation consents, a telephonic hearing may be conducted.

(3) If the responsible party fails to attend a disqualification hearing and is determined to have committed an intentional program violation, but a hearing official later determines that the responsible party or representative had good cause, as defined in subsection (4) of this section, for not appearing:

- (a) The previous decision shall not remain valid;

(b) The department shall conduct a new administrative disqualification hearing; and

(c) The hearing official who originally ruled on the case may also conduct the new administrative disqualification hearing.

(4) The responsible party shall have ten (10) days after the date of the scheduled hearing to present good cause for failure to appear. Reasons for good cause shall include:

(a) The responsible party was away from home during the entire hearing advance notice time period;

(b) The responsible party is unable to read or to comprehend the hearing notice;

(c) The responsible party moved resulting in inadequate notice;

(d) Serious illness of the responsible party or immediate family member;

(e) The delay was determined to be no fault of the responsible party; or

(f) Failure on the part of the responsible party to receive notification.

(5) A hearing official shall enter a decision for good cause into the record in addition to the date and time of the rescheduled hearing as specified in subsection (3) of this section.

Section 5. Continued Participation in the Medicaid Program while Awaiting a Disqualification Hearing. A pending hearing shall not affect the recipient's right to participate in the Medicaid Program until the hearing official rules that the responsible party committed an intentional program violation and revokes the recipient's eligibility for those individuals currently receiving Medicaid benefits.

Section 6. Hearing Procedures. (1) The department shall conduct administrative disqualification hearings for a responsible party suspected of an intentional program violation in accordance with the requirements of KRS Chapter 13B and 42 CFR Part 431, Subpart E.

(2) If requested by the responsible party, other designated person or its legal counsel, the department shall provide one (1) free copy of the portions of the case file that are relevant to the hearing.

(3) Within ninety (90) days of the date the responsible party is notified in writing that a hearing has been scheduled, the department shall:

(a) Conduct the hearing;

(b) Arrive at a decision; and

(c) Notify the responsible party of the decision.

(4) The responsible party or legal representative shall be entitled to one (1) postponement not to exceed thirty (30) days from the date the administrative disqualification hearing was originally scheduled. The request for postponement shall be made at least ten (10) days in advance of the date of the scheduled hearing.

(5) If the hearing is postponed, the time limits specified in subsection (10) of this section shall be extended for as many days as the hearing is postponed.

(6) The hearing decision shall:

(a) Comply with federal law and regulation and shall be based on the hearing record;

(b) The hearing record shall comply with the requirements of KRS 13B.130; and

1. Be binding on the department in that the department shall bear the burden of proof based on the preponderance of evidence;

2. Summarize the facts of the case;

3. Specify the reasons for the decision; and

4. Identify:

a. The supporting evidence;

b. Kentucky Revised Statutory citations, if applicable;

c. Kentucky administrative regulations; and

d. Corresponding federal law.

(7) The responsible party or legal counsel and the Medicaid caseworker shall each be notified in writing by the department of:

- (a) The administrative disqualification hearing decision;

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(b) The reasons for the decision;

(c) If a current recipient, the continuance or revocation of the Medicaid benefits for the recipient, and the amount of repayment due to the department as determined by the hearing official; and

(d) After notification of a hearing decision which upholds the department's action, the responsible party shall be notified of the right to pursue judicial review of the decision if the department's decision is upheld.

(e) If a judicial review results in the administrative disqualification hearing decision being overturned, the Medicaid benefits of the recipient shall be restored to the date of discontinuance and all repayment collected from the responsible person shall be returned.

(8) The hearing record shall be retained:

(a) For a period of three (3) years from the month of origin of each record, for program records; and

(b) For a period of three (3) years from the date of fiscal or administrative closure, for fiscal records and accountable documents.

(9) This hearing record shall be available to the responsible party, designated person or legal counsel during the normal business week, Monday through Friday, excluding state holidays from 8 a.m. through 4:30 p.m. (eastern standard time) for copying and inspection.

(10) One (1) copy of hearing material shall be provided to the responsible party. If additional copies are required, an appropriate fee which approximates cost shall be paid by the responsible party in accordance with KRS 61.872.

Section 7. Exemptions from Disqualifications. (1) Individuals who shall be exempt from disqualification for an intentional program violation include:

(a) Children under eighteen (18) years of age; and

(b) Pregnant women.

(2) Individuals meeting the criteria for extraordinary circumstances, as specified in KRS 205.8455 and 205.8455(5), shall be permitted to participate in the Medicaid Program on a restricted basis, in accordance with Section 13 of this administrative regulation.

Section 8. Penalties for Intentional Program Violations. (1) If the disqualification hearing determines that the recipient committed an intentional program violation, the department shall:

(a) Provide to the recipient a written notice prior to imposing the disqualification; and

(b) Inform the recipient of the period of time for which he shall be disqualified; and

(c) Advise the recipient when the disqualification shall take effect; and

(d) Inform the recipient of the final value of the benefits received, as calculated at the time of the administrative disqualification hearing, which shall be repaid to the department. (e) Disqualify the recipient from the Medicaid Program, for intentional program violation in accordance with KRS 205.8455, for those persons receiving Medicaid benefits.

(2) If the determination of an intentional program violation is made through either a signature on a disqualification waiver or an administrative disqualification hearing, the department shall refer the case to the appropriate state agency for investigation. At any time that criminal conduct is suspected, cases shall be referred for possible prosecution. In order to facilitate criminal investigative action, the department shall, at the request of the state agency, provide:

(a) Access to, and free copies of, any records or information kept by the department or its contractors;

(b) Computerized data stored by the department or its contractors; and

(c) Access to any information, kept by providers, to which the agency is authorized as specified in 907 KAR 1:671.

(3) If the recipient is no longer receiving Medicaid benefits, the notice shall inform the responsible party that the period of disqualification shall be deferred until the individual:

(a) Reapplies for Medicaid; and

(b) Is determined otherwise eligible for program benefits.

(4) A notice of their rights and eligibility status shall be provided to other Medicaid recipients residing in a household with a responsible party determined to have committed an intentional program violation.

Section 9. Repayment of Medicaid Benefits. (1) A responsible party shall be liable for the repayment of the value of the benefits when a determination is made that an intentional program violation has been committed.

(2) Repayment of the value of benefits shall be accomplished by:

(a) Lump sum payments.

1. If the responsible party states he is financially able to pay the entire amount of the claim at one (1) time, as a cash payment, the department shall collect a lump sum payment; however

2. The responsible party shall not be required to liquidate all of its resources to make this lump sum payment.

(b) Installments.

1. The department shall negotiate a payment schedule with the responsible party for repayment of any amounts of the claim not repaid through a lump sum payment.

2. Payment shall be accepted by the department in regular installments and shall be paid no later than the tenth day of the month.

(c) Civil action for garnishment or liens in a court of competent jurisdiction; or

(d) Estate recovery; or

(e) Tax intercept.

Section 10. Collecting Claims Against the Responsible Party. The department shall upon receipt of the hearing decision, initiate collection action against the responsible party unless the responsible party is unable to be located or has repaid the value of benefits owed to the department.

Section 11. Consideration of Extraordinary Circumstances during the Eligibility Revocation Period. (1) If a recipient, who is the responsible party for the Medicaid case has his eligibility revoked as a result of an intentional program violation, the remaining family members shall have eligibility determined for potential Medicaid benefits, in accordance with eligibility verification in 907 KAR 1:004, 907 KAR 1:006 and 907 KAR 1:011.

(2) The department may reinstate a recipient whose eligibility has been revoked due to an intentional program violation and has reapplied for benefits under extraordinary circumstances in accordance with KRS 205.8455. An individual who is reinstated into the Medicaid Program shall be placed into the lock-in status.

(3) If a recipient's eligibility has been revoked and then reinstated under extraordinary circumstances as specified in subsection (2) of this section, that person shall remain obligated to serve the period of ineligibility at a future time to be determined by the department.

Section 12. Appeal Rights. (1) No further departmental administrative appeal shall exist after an administrative disqualification hearing finds that an intentional program violation was committed;

(2) The responsible party may seek relief in a court of competent jurisdiction in accordance with KRS 13B.140.

(3) The period of disqualification may be subject to legal stay by:

(a) A court of competent jurisdiction; or

(b) Other injunctive remedy.

Section 15. Implementation Date. The provisions of this administrative regulation shall be applicable February 1, 1996.

JOHN H. MORSE, Commissioner, Secretary
APPROVED BY AGENCY: March 14, 1996

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FILED WITH LRC: March 15, 1996 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 22, 1996 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 April 17, 1996, 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. 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: William K. Moore, Jr., Acting General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7900.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ked Fitzpatrick or Anita Moore (564-5020)

(1) Type and number of entities affected: All Medicaid recipients who are identified through the administrative hearing process as having committed fraud or abuse of the Medicaid Program.

(2) Direct and indirect costs or savings on the: The cost of repayment to the responsible parties would be the value of Medicaid benefits paid on their behalf if the administrative hearing process determines that an intentional program violation was committed by that individual.

(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: It is difficult for the agency to determine the direct or indirect cost or savings as a result of this administrative regulation. The agency believes that there will be an additional cost to implement the provisions of this administrative regulation through additional hearings being held but should also experience savings through repayments by those responsible parties, of which some were not eligible to receive benefits as determined through the administrative hearing process. The Medicaid agency will be required to forward the federal share of recouped benefits to the Health Care Financing Administration.

2. Continuing costs or savings: See Item #1.

3. Additional factors increasing or decreasing costs: See item #1.

(b) Reporting and paperwork requirements: There will be additional reporting and paperwork requirements as a result of this amendment which will include calculations for repayment amounts and paperwork leading to an administrative hearing being conducted, as well as notifications of the procedures outlined.

(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: To 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: To ensure that Medicaid benefits are paid on behalf of a recipient who meets both technical and financial eligibility. If payments are found to be erroneous based on inaccurate information provided to the department or because of overutilization of Medicaid benefits, repayment will be requested and a disqualification imposed until the repayment amount is paid in full.

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

(c) If detrimental effect would result, explain detrimental effect: The detrimental effect would be that an ineligible recipient could have erroneous Medicaid benefits paid on their behalf and continued to be paid on their behalf because there is no administrative process to disqualify or control this individual from overutilization of Medicaid benefits.

(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: As stated in the Necessity and Function, only those SSI recipients who go through the administrative hearing process following a period of lock-in will be subject to disqualification procedures. For the most part, the administrative hearing process based on accurate eligibility determinations will be used for a non-SSI recipient.

(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.

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CABINET FOR HEALTH SERVICES Department for Medicaid Services (New Administrative Regulation)

907 KAR 1:677. Medicaid recipient lock-in.

RELATES TO: KRS 205.8453, 42 CFR 431.54, 42 USC 1396(a), 1396 (a)(2)

STATUTORY AUTHORITY: KRS 194.050, 205.520, 205.6318, 42 CFR 431.54, EO 95-79

NECESSITY AND FUNCTION: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. Executive Order 95-79, effective December 28, 1995, reorganizes the Cabinet for Human Resources and places the Department for Medicaid Services and the Medicaid Program in the Cabinet for Health Services. KRS 205.520 empowers the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. KRS 205.8453(4) and 205.6318(6) direct the cabinet to promulgate administrative regulations to identify misutilization of Medicaid services, to institute other measures necessary or useful in controlling fraud and abuse. Based on KRS 205.6318(6), the cabinet reviewed the efficiency and effectiveness of the current fraud and abuse detection and investigation process and determined the current lock-in system for recipients identified as misutilizers was inadequate in controlling or educating recipients who may have unknowingly abused the program. This administrative regulation sets forth the provisions to enhance program integrity through the lock-in program for Medicaid recipients. This administrative regulation sets forth the Medicaid lock-in provisions relating to recipient overutilization of the Medicaid Program.

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services and its designated agents.

(2) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) so that the absence of immediate medical attention may reasonably be expected to result in:

(a) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

(b) Serious impairment to bodily functions; or

(c) Serious dysfunction of any bodily organ or part; or

(d) With respect to a pregnant woman who is having contractions:

1. That there is inadequate time to effect a safe transfer to another hospital before delivery; or

2. That transfer may pose a threat to the health or safety of the woman or the unborn child.

(3) "Immediate grave bodily harm" means the condition that would result from failure to provide emergency medical services for an emergency medical condition.

(4) "Intentional program violation" means confirmation that a responsible party knowingly made a false or misleading statement, or misrepresented, concealed or withheld a fact or facts or committed a violation of any state or federal law relating to the Medicaid Program. In addition, a financial loss to the department resulted from:

(a) Ineligibility of the responsible party after all possible determinations have been made for Medicaid Program eligibility; or

(b) The responsible party knowingly abused the Medicaid Program after full Medicaid benefits were established following a period in lock-in status. Provider abuse shall be handled in accordance with 907 KAR 1:671.

(5) "Lock-in" means the program in which a recipient who has utilized Medicaid services at a frequency or amount that is not medically necessary may be restricted from receiving Medicaid services from anyone other than their one (1) physician and one (1) pharmacy except for emergency services furnished to the recipient.

A referral shall be required from the "lock-in" physician for other medical services or equipment.

(6) "Overutilization" means the use of program benefits clearly in excess of practice norms for the treatment of the beneficiary's medical problem or of that actually required for the severity of the beneficiary's medical problem.

(7) "Penalty" or "penalties" means an administrative action taken by the department which restricts or revokes a recipient's participation in the Medicaid Program or requires the repayment of the value of the benefits received, or restricts access to or quantities of services, based on receipt of services for which the responsible party was not otherwise entitled.

(8) "Responsible party" means a Medicaid recipient;

(9) "Transfer" means the movement (including the discharge) of an individual outside a hospital's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital, but does not include the movement of a individual who:

(a) Has been declared dead; or

(b) Leaves the facility without the permission of any such person.

Section 2. Lock-in Program. (1) All complaints concerning possible recipient abuse or overutilization of Medicaid services by eligible recipients shall be referred for investigation. A potential Medicaid Program abuser or overutilizer may be identified by:

(a) Caseworkers;

(b) Providers, including those that provide services for emergency medical conditions;

(c) The Attorney General's office;

(d) Hotline referrals;

(e) Surveillance and utilization review system reports showing utilization which exceeds a norm by at least a standard deviation; or

(f) Other staff or outside sources.

(2) If a recipient is identified as needing an overutilization review, an analysis is made of that recipient's utilization of Medicaid services. If the review reveals that an individual has utilization that may be warranted in view of the individual's medical diagnosis, complicating conditions and treatment regime, the review shall be closed.

(3) If the review reveals that an individual does not have a medical condition, complicating condition or treatment regime to warrant the individual's higher than normal utilization, a second level review and investigation shall be conducted to determine if the recipient has abused the Medicaid Program.

(4) Recipient abuse of the Medicaid Program may be:

(a) Intentional; or

(b) May result from a lack of knowledge by the recipient regarding the proper use of medical services.

(5) If overutilization is determined to be the result of a lack of recipient knowledge regarding proper use of medical services, a letter shall be sent to the recipient advising of:

(a) The dangers of inappropriate utilization of medical services; and

(b) The importance of having one (1) physician responsible for directing an individual's medical care.

(6) The department shall notify the recipient in writing of the pending lock-in action. The letter shall:

(a) Explain the right to a hearing regarding the proposed lock-in decision in accordance with Section 3 of this administrative regulation; and

(b) Inform recipient of the date their lock-in status shall be implemented, if a hearing is not requested.

(7) A recipient who has previously been identified as abusing or overutilizing the Medicaid Program, whether based on:

(a) An analysis of the recipient's medical history from the Medicaid summary profile; or

(b) A hearing official's decision in accordance with 907 KAR 1:675, be locked into specific Medicaid providers including:

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1. A physician; and
2. A pharmacy.

(8) The lock-in physician and pharmacy shall be selected by the department. The selected providers shall be accessible within normal time and distance standards for the community in which the recipient lives.

(9) A recipient identified as abusing or overutilizing the program shall be locked in for a minimum of six (6) months. After the lock-in period, periodic determinations to be performed every six (6) months or more frequently, as needed, shall be made to:

(a) Determine the effectiveness of the lock-in; and

(b) Determine whether the lock-in payment status shall continue for another six (6) month period.

(10) Lock-in physicians shall serve as case managers for referrals to all health facilities and services, except for emergency services. A case management fee of ten (10) dollars shall be paid to the lock-in physician at the beginning of each month for each assigned lock-in recipient.

(11) Designated lock-in providers shall remain effective for twelve

(12) months. Changes in lock-in providers shall be permitted only upon:

(a) The request of the lock-in provider; or

(b) If the recipient moves out of the lock-in providers area; or

(c) If the recipient can show that it is inappropriate for the recipient to be locked-in to a specific provider; or

(d) For the convenience of the department.

(12) The department shall consider whether or not a physician has contributed to overutilization when determining the selection for a lock-in physician or pharmacist.

(13) No Medicaid payment shall be made on behalf of a lock-in recipient for the following:

(a) Physician services provided by other than the lock-in physician or other medical services or supplies which have not been preauthorized through a referral from the lock-in physician;

(b) Prescription drugs prescribed by other than the lock-in physician or a physician authorized by the lock-in physician;

(c) Pharmacy services provided by other than the lock-in pharmacy;

(d) Except for services for emergency medical conditions shall be provided and Medicaid payment made in accordance with 907 KAR 1:014 and 907 KAR 1:015.

(14) The recipient's Medicaid identification card shall:

(a) Include a code which identifies his lock-in status; and

(b) Specify the designated lock-in providers and lock-in limitations.

Section 3. Appeal Rights. A recipient who receives advance notice of a decision to place him in lock-in status shall have the right to request a hearing in accordance with KRS Chapter 13B prior to lock-in action by the department.

Section 4. Continued Pattern of Program Overutilization. If utilization patterns reflect that a responsible party, who has completed a period of lock-in status in accordance with this administrative regulation, may have committed an intentional program violation, administrative action shall be taken in accordance with 907 KAR 1:675.

Section 5. Fraud Referral. At any point if a determination is made that fraud has likely occurred, the recipient's case shall be referred for investigation in accordance with KRS 205.8453(3).

Section 6. Implementation Date. The provisions of this administrative regulation shall be applicable February 1, 1996.

JOHN H. MORSE, Commissioner, Secretary

APPROVED BY AGENCY: March 14, 1996

FILED WITH LRC: March 15, 1996 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 22, 1996 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 April 17, 1996, 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. 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: William K. Moore, Jr., Acting General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7900.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ked Fitzpatrick or Anita Moore (564-5020)

(1) Type and number of entities affected: All Medicaid recipients who are identified as overutilizing or misutilization of Medicaid benefits through sources outlined in this administrative regulation.

(2) Direct and indirect costs or savings on the: The cost to Medicaid recipients would not include a dollar amount for lock-in but rather would involve a primary care physician managing the recipient placed into lock-in which could reduce Medicaid costs if misutilization is determined to have occurred.

(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: There should be no additional compliance, reporting or paperwork requirements to the Medicaid recipient placed in lock-in status. There would be some sort of a referral from the primary physician required for those individuals placed in lock-in.

2. Second and subsequent years: See item #1.

(3) Effects on the promulgating administrative body: This amendment will have an effect on the administrative body in that there might be an increase in the number of complaints received on Medicaid recipients who are thought to be overutilizing or misutilizing their Medicaid benefits. This could cause an increase in the number of profile summaries required from the surveillance and utilization review system reports. In addition, some educational material will need to be developed and distributed to Medicaid recipients.

(a) Direct and indirect costs or savings:

1. First year: It is difficult for the agency to determine the direct or indirect savings as a result of this amendment. The agency believes that a savings will be experienced due to the fact that medical services for those recipients determined to be overutilizing or misutilizing Medicaid benefits will be curtailed by the lock-in process.

2. Continuing costs or savings: See item #1.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: There will be additional reporting and paperwork requirements as a result of this amendment which will include obtaining summary profiles from the Medicaid payment system to determine whether overutilization or misutilization has occurred.

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

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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: To 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: This administrative regulation should enhance the program integrity of the Medicaid Program through a lock-in process whereby Medicaid recipients who have overutilized or misutilized the Medicaid Program can be locked-in to one physician and one pharmacist. In order to receive Medicaid payments for any other medical services other than those in which an emergency medical condition exists, will require a referral from the primary physician. This process should benefit the recipient and the Medicaid Program by providing medical services in the most cost efficient manner while preventing overutilization or misutilization from occurring.

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

(c) If detrimental effect would result, explain detrimental effect: If no action is taken by the agency, there is no effective mechanism to deter Medicaid recipients from overutilizing or misutilization of the Medicaid Program. Currently, recipients are placed into lock-in but the current process has proven to be ineffective and inefficient. In addition, this administrative regulation brings the cabinet into compliance with KRS 205.8453.

(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: None

(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.

additional or different responsibilities or requirements. No additional standard or responsibilities are imposed.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The lock-in provisions is an option available to states in the federal regulation 42 CFR 431.54. Lock-in procedures are currently in place but this administrative regulation enhances the existing program.

2. State compliance standards. The lock-in provisions is an option available to states in the federal regulation 42 CFR 431.54. Lock-in procedures are currently in place but this administrative regulation enhances the existing program.

3. Minimum or uniform standards contained in the federal mandate. At option, states may lock-in Medicaid recipients if specific criteria is met.

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

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE Minutes of March 4, 1996

The March meeting of the Administrative Regulation Review Subcommittee was held on Monday, March 4, 1996, 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 February 5, 1996 meeting were approved.

Present were:

Members: Representative Jesse Crenshaw, Chairman, Senators Fred Bradley, Nick Kafoglis, John David Preston; Representative Jimmy Lee, James E. Bruce.

LRC Staff: Greg Karambellas, O. Joseph Hood, Tom Troth, Susan Wunderlich, Donna Valencia, Andrew Griffin, Don Hines.

Guests: Earl Mackey, Stephanie Midkiff, Peggy J. Williams, Legislative Ethics Commission; Carol Palmore, Daniel F. Egbers, Personnel Cabinet; Angela Robinson, Finance Cabinet; Janet Creech, Daryl Hyatt, Courtney L. Carter, Revenue Cabinet; Lloyd Vest, Bill Schmidt, Board of Medical Licensure; John Ackman, Chris Alford, Kentucky Real Estate Commission; Michael Denney, Camille Buthurst, Howard B. Kline, Gale M. Vessels, Kentucky Lottery Corporation; Robin Finney, Kentucky Travel Department; Sarah Hernandez, Tourism Cabinet; Tom Bennett, Pete Plieffer, Jeff Sole, Edwin F. Crowell, John Wilson, Roy Grimes, Scott Porter, Department of Fish and Wildlife Resources; Jack Damron, Tamela Biggs, Brenda Priestley, Department of Corrections; Sandra G. Pullen, Transportation Cabinet; Rick Bender, Eugene D. Attkisson, Department of Mines and Minerals; Brian Gilpin, Kentucky Division of Oil and Gas; Bernard J. Hettel, Racing Commission; Karen Doyle, Ked Fitzpatrick, Robert Nelson, Pat Bishop, Barbara Carter, Cabinet for Health Services; Anne Hager, Cookie Whitehouse, Dennis Corrigan, Michael Cheek, Ken Roten, Cabinet for Families and Children; Anna J. Mojsejenko, KFTC; George Binder, CEC-KY; George Karambellas, Kentucky Marina Association; Douglas Shuntich, University of Kentucky - Childrens Review Program; John Nichols, Associated Industries of Kentucky; Teresa Caudill, Kentuckians for the Commonwealth; Don Chasteen, John Cooper, KMA; Bryan R. Reynolds, Greenebaum, Doll & McDonald; Tom Fitzgerald, Kentucky Resources Council; Bonnie Betz Loeb, Byron Nugent, Scenic Kentucky, Inc.; Maurice Royster, Equitable Resources; Jim Carlross, Rhonda Ping; Robert Wildman, Advisory Committee to KBML; Elaine Adland; Anne M. Gibbs; Trudy Van Meter; Mina Darnell Mattone; Pat Wilson.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Legislative Ethics Commission

2 KAR 2:040. Updated registration short forms for employers and legislative agents. Earl Mackey appeared before the Subcommittee representing the Legislative Ethics Commission. He stated that the purpose of this administrative regulation was to establish a one page short form to be used when there were no lobbying expenses. This administrative regulation was amended to correct statutory citations and properly identify material incorporated by reference.

Department of Personnel: Classified

101 KAR 2:100. Leave administrative regulations. This administrative regulation was amended as follows: (1) Section 3, governing family leave, was amended to: (a) delete redundant language relating to: retention of leave when an employee applies for family leave; (b) to permit individual application for family and medical leave by couples because of the administrative problems faced in identification of the couples and their appointing authorities; (c) state that a medical condition shall be deemed serious if it requires the employee to receive, rather than provide, inpatient care or continuing treatment;

and (2) a new section was added to incorporate required forms by reference pursuant to KRS 13A.100, 13A.120, 13A.130, and 13A.2251.

Unclassified

101 KAR 3:010. Leave administrative regulations. This administrative regulation was amended to incorporate required forms by reference pursuant to KRS 13A.100, 13A.120, 13A.130, and 13A.2251.

Finance and Administration Cabinet: Personnel Pilot Programs

200 KAR 22:100 (& E). Comprehensive Employment Manual of the Cabinet for Human Resources, Department for Social Services, Division of Family Services, Jefferson District CPS Ongoing Services and Intake Units for use in the Pilot Personnel Program. Angela Robinson, attorney for the Finance Cabinet, and Barbara Carter, Department for Social Services of the Cabinet for Human Resources, appeared before the Subcommittee. Ms. Carter stated that: (1) 7 changes were being made to the employment manual; (2) 175 staff members would be affected; (3) the pilot program addresses: (a) hiring of employees; (b) training; and (c) retention of experienced staff; (4) the initial probationary period for new employees is extended to 8 months from the usual 6 months; and (5) since new employees in child protective services will be placed in a training program for 2 months prior to being assigned cases, they would receive a salary 5% below the entry level rate during the training phase.

This administrative regulation was amended as follows: The manual incorporated by reference was amended as follows: (1) On pages 3 and 4, and in the POLITICAL ACTIVITIES section, "Chapter" was inserted to clarify that the reference was to KRS Chapter 11A; (2) various amendments were made to comply with KRS 13A.220(4) format and KRS 13A.222(4) drafting requirements; (3) the EMPLOYEE RECORDS AND FILES was amended to clarify that an employee's right to inspect his personnel file under KRS Chapter 18A did not require a specific record request and permitted employee comment on any item in the file; and (4) The Classification Plan section was amended to clarify that an employee could appeal the Commissioner's determination on his request for reconsideration of the reallocation of his position to the Personnel Board.

200 KAR 22:110 (& E). Comprehensive Employment Manual of the Kentucky Revenue Cabinet, Department of Administrative Services, Division of Revenue Operations for use in the Pilot Personnel Program. Angela Robinson, attorney for the Finance Cabinet, and Courtenay Carter, Division of Revenue Operations, Revenue Cabinet, appeared before the Subcommittee. Ms. Carter stated that the amendment: (1) clarified the requirements established by this administrative regulation; (2) redesigned the classification system under the pilot project; (3) would provide financial incentives through the compensation model; and (4) develops the training curriculum.

This administrative regulation was amended as follows: The manual incorporated by reference was amended as follows: (1) The GENERAL INFORMATION section was amended to insert "Chapter" before the statutory citations to clarify that the references were to KRS Chapters 18A, 151B, and 16; (2) The EMPLOYEE RECORDS AND FILES section was amended to clarify that: (a) an employee's right to inspect his personnel file under KRS Chapter 18A did not require a specific record request and permitted employee comment on any item in the file; and (b) was in addition to his right to make a request under the Open Records law; and (3) The Classification Plan section was amended to clarify that an employee could appeal the Commissioner's determination on his request for reconsideration of the reallocation of his position to the Personnel Board.

Kentucky Lottery Corporation

202 KAR 3:040. Internal audit procedures. The following Lottery Corporation personnel appeared before the Subcommittee: (1) Mike Denney, Lottery Corporation attorney; (2) Howard Kline, chief financial officer; and (3) Camille Bathurst, General Counsel. Mr. Denney stated that this administrative regulation: (1) established the system of internal audits required by KRS Chapter 154A; and (2) is being amended to address issues raised by Subcommittee staff.

This administrative regulation was amended as follows: (1) The RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct the citation of statutes; (2) various sections were amended to comply with the format requirements of KRS 13A.220(4) and the drafting requirements of KRS 13A.222(4); (3) the NECESSITY AND FUNCTION paragraph was amended to clarify that it referred to authority to promulgate administrative regulations rather than their adoption as adoption is defined by KRS Chapter 13A; (4) Section 1(1), defining "Audit Committee", was deleted, pursuant to KRS 13A.222(4)(e), because it was unnecessary since Section 2 of this administrative regulation adequately defined the committee by establishing it, its procedures, rights, and duties; and (5) Sections 1 through 6 were amended to: (a) comply with the format requirements of KRS 13A.220(4) and the drafting requirements of KRS 13A.222(4); (b) clearly establish the authority and procedures of the Audit Committee; (c) make it clear that it serves, reports to and makes recommendations to the Board; (d) clarify that closed meetings will comply with KRS 154A.050(7) and the Open Meetings law; (e) delete language that would permit the exercise of authority delegated by statute to the Auditor of Public Accounts; and (f) establish the continuing education requirements for auditors in the Internal Audit Department.

Tourism Cabinet: Department of Travel Development: Travel Development

300 KAR 1:010. Procedure for regional marketing and matching funds program. Robin Finney, the Department's Branch Manager for the Regional Marketing and Matching Funds Program, and Sarah Hernandez, Cabinet legal Counsel, appeared before the Subcommittee. Ms. Finney stated that the: (1) purpose of this administrative regulation is to establish procedures and requirements for groups wishing to receive tourism matching funds; and (2) proposed amendment will: (a) set out all requirements in the body of this administrative regulation; (b) clearly state all requirements; (c) bring the administrative regulation into compliance with the drafting and format requirements of KRS Chapter 13A; and (d) correct the citation of statutes. In response to a question by Senator Preston, Subcommittee staff stated that the proposed amendment would resolve all issues raised in the review of this administrative regulation. In response to a question by Representative Bruce, Ms. Finney stated that the Department and program treated all sections of the state equally.

This administrative regulation was amended as follows: (1) The STATUTORY AUTHORITY paragraph was amended to correct the citation of statutes; (2) The NECESSITY AND FUNCTION paragraph was amended to: (a) comply with the drafting requirements of KRS 13A.222(4); and (b) clearly state the function of this administrative regulation; (3) Sections 1 through 12 were deleted in their entirety, and replaced with new Sections 1 through 15 as follows: (a) Section 1 establishes clear definitions, and excluded definitions that appeared in KRS Chapter 148, pursuant to KRS 13A.222(4)(d); (b) Section 2 establishes that grants are limited to the availability of funds; (c) Section 3 establishes the nine tourism regions; (d) Section 4 establishes the organization and membership of a tourism region; (e) Section 5 establishes the types of promotional projects; (f) Section 6 establishes the: 1. requirements for and types of promotional projects; and 2. allowable costs; (g) Section 7 establishes the: 1. tourism region strategic master plan; 2. types of coordination of efforts organizations promoting tourism; and 3. requirement for compliance

with the Americans with Disabilities Act; (h) Section 8 establishes the formula for the determination of the amount of state matching funds for regional and local tourism promotional projects; (i) Section 9 establishes conditions, deadlines, format, and organizational requirements for applicants; (j) Section 10 establishes the: 1. schedule, deadlines, and procedure for the review and approval of applications and projects; 2. criteria to be used in the allocation of state matching funds determination; and 3. required forms; (k) Section 11 establishes the conditions for reimbursement of local and tourism region projects, including: 1. documentation; 2. deadlines; 3. forms; and 4. exclusions; (l) Section 12 establishes the reasons for which allocated funds shall be forfeited; (m) Section 13 establishes the conditions and deadlines for the second reimbursement phase; (n) Section 14 establishes the right of the Department to audit tourism projects; and (o) Section 15 incorporates forms, maps, checklists and charts.

Justice Cabinet: Department of Corrections: Office of the Secretary

501 KAR 6:040. Kentucky State Penitentiary. Jack Damron appeared before the Subcommittee representing the Department. This administrative regulation was amended to make grammatical corrections and to clarify requirements relating to visitors concerning specifying the names of children that are actually visiting, and specifying outer clothing required to be removed.

Transportation Cabinet: Office of Minority Affairs

600 KAR 4:010. Certification of disadvantaged, minority and women business enterprises. In response to questions from Chairman Crenshaw, Sandra Pullen, Secretary's Office, Transportation Cabinet, stated that: (1) this administrative regulation establishes a Certification Committee to certify Disadvantaged, Minority and Women Business Enterprises for the Cabinet; (2) several industry representatives requested that a committee be formed to look at applications for certification of disadvantaged, minority and women business enterprises; (3) certified businesses are also utilized throughout state government; (4) the Committee consists of five members, all from the Transportation Cabinet, and includes individuals from the Cabinet's: (a) Office of General Counsel; (b) Auditor's Office; and (c) State Highway Engineer's Office; (5) the Committee provides a cross section of individuals to review the application for certification; and (7) a representative from the Federal Highway Administration attends Committee meetings as an ex officio member.

Senator Preston stated that: (1) there had been several publicized situations where individuals were prosecuted for abusing the certification process; and (2) he hoped this committee would be a beginning step to resolving the abuses in the system.

Ms. Pullen stated that: (1) it is hoped the Committee would begin to resolve public concerns about the process; (2) having individuals on the Committee who are familiar with the highway process should: (a) help alleviate past problems; and (b) provide better oversight for the whole certification process.

This administrative regulation was amended to: (1) delete the reference to KRS Chapter 13A in the "RELATES TO" paragraph of the administrative regulation; and (2) moves the material incorporated by reference to the last section of the administrative regulation.

Professional Engineering and Related Services

600 KAR 6:020. Transportation Cabinet employee ethics and responsibilities in the implementation of KRS 45A.800 to 45A.835. In response to questions by Chairman Crenshaw, Ms. Pullen stated that the: (1) administrative regulation as initially filed set out ethical standards to be followed in the implementation of KRS 45A.800; and (2) amendment to this administrative regulation: (a) deletes the reference to "ethics"; and (b) requires compliance with the provisions of this administrative regulation, in addition to KRS Chapter 11A.

In response to questions from Senator Kafoglis, Ms. Pullen stated that: (1) the ethics code implemented by this administrative regulation: (a) does not differ from the Executive Branch ethics code; and (b)

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applies to the negotiation of contracts, which is not provided for in the executive branch ethics code; (2) this administrative regulation establishes requirements for those negotiations, including the requirements for Cabinet personnel to: (a) obtain the maximum amount of value for each state dollar spent; and (b) disclose the identity of any individual who attempts to bribe a Cabinet official; and (3) this administrative regulation: (a) imposes additional restrictions on Cabinet personnel; and (b) is stricter in some respects than KRS Chapter 11A.

Senator Kafoglis stated that perhaps the Executive Branch Ethics Code needs to be strengthened.

In response to questions from Representative Bruce, Ms. Pullen stated that: (1) the Cabinet often uses a sealed bid process in letting contracts; (2) prior to the bids being opened, the Cabinet sets a price for a state contract; (3) if the bids come in much higher than the Cabinet's price for the contract, all the bids are rejected.

This administrative regulation was amended to: (1) correct statutory citations in the "RELATES TO" and "STATUTORY AUTHORITY" paragraphs; and (2) remove "ethics" from the title of the administrative regulation.

600 KAR 6:030. Federal requirements. This administrative regulation was amended to incorporate federal regulations by reference in the last section of the administrative regulation.

600 KAR 6:040. Prequalification of firms for professional engineering or related services. This administrative regulation was amended to incorporate federal regulations by reference in the last section of the administrative regulation.

600 KAR 6:050. Procurement bulletins and advertisement for selection of professional firms for engineering or related services. This administrative regulation was amended to incorporate federal regulations by reference in the last section of the administrative regulation.

600 KAR 6:060. Professional engineering service selection committee. This administrative regulation was amended to incorporate federal regulations by reference in the last section of the administrative regulation.

600 KAR 6:070. Contracting for professional engineering or related services. This administrative regulation was amended to incorporate federal regulations by reference in the last section of the administrative regulation.

600 KAR 6:080. Financial records and audits of firms. This administrative regulation was amended to incorporate federal regulations by reference in the last section of the administrative regulation.

Department of Highways: Maintenance

603 KAR 3:080. Advertising devices. In response to questions from Representative Lee, Ms. Pullen stated that: (1) This administrative regulation continues the practice of the Cabinet not to issue encroachment permits for the cutting of trees for billboard visibility; (2) the Secretary of the Cabinet agreed: (a) to remove trees from fence rows and highway "clear zones"; and (b) not to plant trees in front of billboards; and (3) existing administrative regulations do not authorize the topping of trees that obstruct visibility of billboards.

In response to questions from Chairman Crenshaw, Ms. Pullen stated that: (1) another administrative regulation establishes the Secretary's policies regarding the: (a) clearing of fence rows and "clear zones"; and (b) planting of trees in front of bill boards; (2) this administrative regulation cross references the administrative regulation which contains the policies.

Representative Lee stated that if an administrative regulation prohibits the topping of trees so a billboard can be seen, the effect of the administrative regulation is to prohibit the use of an otherwise legal billboard.

Ms. Pullen stated that: (1) several arborists spoke against allowing the topping of trees to enhance the visibility of billboards; (2) a compromise regarding the topping of trees could not be reached; (3) the current Secretary of Transportation has asked that trees not

be planted in front of billboards, if planting would obliterate the message; (4) only low growing trees are authorized by the Cabinet; (5) the company that owns the billboard can modify the billboard unless it is non-conforming; (6) except for routine maintenance, a non-conforming billboard cannot be altered.

Senator Preston stated that if an administrative regulation prohibits the topping of trees, the owner may sue the cabinet for reverse condemnation because the value of the billboard has been reduced.

Ms. Pullen stated that the issue of reverse condemnation: (1) has been litigated in several states; and (2) the state has always prevailed.

This administrative regulation was amended to move the material incorporated by reference to the last section of the administrative regulation.

Kentucky Racing Commission: Thoroughbred Racing

810 KAR 1:015. Claiming races. In response to a question by Senator Preston, Subcommittee staff stated that the issues raised in the initial review had been resolved. Senator Bradley stated that: (1) the provisions of this administrative regulation was designed to prevent the wholesale claiming of horses by placing a horse in jail for 30 days, and requiring the horse to be run back for a claiming price 25% higher than what you claimed the horse for; (2) the changes to this administrative regulation would: (a) allow more claiming of horses; and (b) benefit Kentucky economically, because of the 6% sales tax paid each time a horse is claimed.

This administrative regulation was amended as follows: (1) The RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct the citation of statutes; (2) Sections 1(1) through 1(9), 1(11) through 1(15); and 1(17) were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222; (3) the unlimited discretion of the steward to determine which claimant shall be required to verify that he has complied with the provisions of this administrative regulation, granted in Section 1(14), was: (a) deleted; and (b) replaced by the addition of a statement in the Claim form that: 1. certified compliance with the provisions of this administrative regulation; and 2. is required for all claimants ; and (4) a new Section, Section 15, was added to incorporate by reference the Claim Form and required envelope for the form.

Cabinet for Families and Children: Department for Social Insurance: Food Stamp Program

904 KAR 3:041. Food Stamp Employment and Training Program. Cookie Whitehouse appeared before the Subcommittee representing the Department. Representative Bruce pointed out that this administrative regulation was found deficient by the Interim Joint Committee on Health and Welfare and that he does not know why it was found deficient. Ms. Whitehouse stated that this proposed administrative regulation does not contain the language that gave rise to the finding of deficiency. The Subcommittee discussed at length the need for and requirements of notification and communication concerning administrative regulations that are found deficient. This administrative regulation was amended to (1) correct the numbering of Section 3; and (2) in Section 3, delete "regardless of age" to comply with the purpose of this administrative regulation to remove an age priority concerning training.

The Subcommittee determined that the following administrative regulations complied with statutory requirements:

Board of Medical Licensure

201 KAR 9:041. Fee schedule. Bill Schmidt, Lloyd Vest, and Robert Wildman appeared before the Subcommittee representing the Board of Medical Licensure. Mr. Schmidt stated that this amendment raises a fee that they inadvertently forgot to raise for the registration

of an inactive license. Representative Lee asked why it is being raised from ninety dollars to one hundred-fifty-dollars on the inactive. Mr. Schmidt said that the annual registration fee is one-hundred dollars and that reregistration of an inactive license requires more clerical work. He pointed out that there is also a late renewal fee, and reregistration should not cost less than renewal of an ongoing license.

Senator Kafoglis asked how many of these licenses would there be each year. Mr. Schmidt said of ten thousand licenses that about two-hundred would incur late fees.

Representative Lee voted no, saying he couldn't justify the fee charge.

201 KAR 9:175. Physician assistants; certification and supervision. Senator Kafoglis asked if there were any limitations on what a physician can delegate to a physician assistant. Mr. Wildman said that it would be limited, for example, to procedures within their training, and by hospital credentialing requirements.

Real Estate Commission

201 KAR 11:400E. Agency disclosure requirements. John Ackman, General Counsel, Kentucky Real Estate Commission, appeared on behalf of the agency.

Mr. Ackman stated that: (1) this is an emergency administrative regulation which contains several format and drafting changes; and (2) sales of real estate at auction are exempted from the provisions of the administrative regulation.

Senator Preston asked why the emergency administrative regulation was necessary.

Mr. Ackman stated that: (1) this administrative regulation: (a) requires real estate brokers to disclose who they are representing in a real estate transaction; and (b) exempts auction sales from the disclosure requirement; and (2) the statute governing the subject matter does not require auctioneers to comply with its provisions.

Senator Preston asked whether this emergency administrative regulation is being promulgated in order to: (1) prevent: (a) an imminent threat to the public health or welfare; or (b) a loss of federal funds; (3) protect human health and the environment; or (3) meet a deadline to promulgate an administrative regulation that is established by law.

Mr. Ackman stated that he was unsure whether the criteria outlined by Senator Preston was met.

Senator Preston stated that this administrative regulation did not appear to meet the definition of an emergency administrative regulation.

Mr. Ackman stated that an ordinary administrative regulation has been filed and is currently being considered.

Senator Preston stated that he did not: (1) have a problem with the administrative regulation; and (2) think an emergency administrative regulation was necessary in this case.

Mr. Ackman responded that: (1) the Commission determined to file this administrative regulation as an emergency because numerous real estate sales at auction may occur prior to an ordinary administrative regulation completing the review process; (2) the paper work requirements are burdensome on both the consumer and the auctioneer; (3) if the administrative regulation was left to complete the ordinary administrative regulation process, an auctioneer would have to prepare for every auction as if he were going to broker the sale; (4) the Commission felt that an emergency did exist and filed an emergency administrative regulation accordingly; and (5) Subcommittee staff had also advised Commission staff that this amendment constituted an emergency.

Subcommittee staff pointed out that: (1) constitutional questions would be raised because, without this emergency administrative regulation, the administrative regulation would immediately apply to a class of individuals that was not intended to be covered by the statute; (2) therefore, the administrative regulation needed to be promulgated immediately; and (3) if an emergency administrative

regulation was not filed there would be questions raised about the validity of auctions without the disclosures.

Senator Preston stated that use of an emergency administrative regulation in this instance seemed like an abuse of KRS 13A.190, governing and limiting the use of emergency administrative regulations.

Tourism Cabinet: Department of Fish and Wildlife Resources: Game

301 KAR 2:251. Hunting and trapping seasons and limits for furbearers and small game.

Justice Cabinet: Department of Corrections: Office of the Secretary

501 KAR 6:020. Corrections policies and procedures.

Transportation Cabinet: Professional Engineering and Related Services

600 KAR 6:010. Definitions. In response to questions by Representative Lee, Ms. Pullen stated that: (1) 600 KAR 1:101, which is almost an inch thick, is being divided into 8 administrative regulations; (2) dividing the administrative regulation into separate administrative regulations governing each topic will: (a) make the review process easier for the Cabinet and the Subcommittee; and (b) bring Cabinet administrative regulations governing the subject matter of these topics into compliance with KRS 13A.221(1) which requires a separate administrative regulation on each topic; (3) 600 KAR 6:010 is only a definitions administrative regulation that applies to the KAR chapter; (4) the "Definitions" administrative regulation has no cost associated with it; (5) the other administrative regulations in this package have no new or additional costs associated with them; (6) the annual \$300 pre-qualification fee in 600 KAR 6:040 is not a new fee and does not increase fees; (7) as a result of the public comment period, the Regulatory Impact Analysis of 600 KAR 6:040 was amended to reflect accurate costs; (8) the \$900,000 annual cost to the Cabinet relates to the whole package of administrative regulations; and (9) since 1992, when the amendments to KRS 45A were promulgated relating to negotiation for engineering contracts, the \$900,000 cost has been consistent.

Cabinet for Health Services: Local Health Departments

902 KAR 8:120. Leave provisions applicable to employees of local health departments.

Cabinet for Families and Children: Department for Social Insurance: Public Assistance

904 KAR 2:016E. Standards for need and amount; AFDC. Ann Hager appeared before the Subcommittee representing the Department. Ms. Hager said that this emergency regulation specifies direct payment to the child care provider, to provide sufficient payment and to make sure the provider is paid. She said this administrative regulation also gives an increase to AFDC recipients of surplus money as provided for in the 1994 budget.

Senator Preston asked if this was a federal mandate, an ongoing increase, and the time frame. Ms. Hager said it is not a federal mandate, that whether it is ongoing is yet to be determined, and the time this applies to is December 1, 1995 through June 30, 1996.

Representative Lee also asked if this would be a reoccurring expense. Ms. Hager said it would be reflected in the budget. Representative Lee commended the Department for the decision to make direct payments to child care providers. Representative Bruce asked if there has ever been a reduction in benefits, and what is the average family benefit. Ms. Hager said not to her knowledge, and the average family benefit, for a family of three, typically a mother and two children, is \$262 a month.

Senator Preston objected to this administrative regulation.

904 KAR 2:116E. Home Energy Assistance Program.

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Department for Social Services: Child Welfare

905 KAR 1:360E. Private child care levels of care. Michael Cheek, Ken Roten, and Dennis Corrigan appeared before the Subcommittee representing the Department.

Representative Bruce asked for an explanation of the administrative regulation. Michael Cheek said it is to establish a four level child care reimbursement system and to establish the procedure to evaluate each child. Representative Bruce asked who will do the evaluation and what is the cost. Mr. Cheek said they were in the process of contracting with the University of Kentucky for state wide evaluation, for \$500,000 per year. Mr. Cheek said that since 1990 the private child care costs have gone from 12 to 33 million dollars. Representative Bruce asked how much this would save. Ken Roten said 26 million is budgeted for this year, 33 million is the annualized spending right now, and the rates they have put in this administrative regulation would help to bring the amount into line with the current budget. Representative Bruce asked how it went up so fast. Mr. Roten said the primary reason was the increased needs of the children. Representative Bruce asked how many children there were, and was told about one thousand (\$33,000 per child).

Chairman Crenshaw asked if this is 24 hours per day care, and was told it is. Representative Lee asked if the gatekeeper makes the decision as to the level of care and was told that the gatekeeper makes the decision. Representative Lee said this was privatizing this program and asked if the department had the statutory authority to do this. Mr. Cheek said the statutory authority for the program was in KRS 199.641. Mr. Corrigan said that if an agency did not have the personnel, it was general protocol to contract work out. He said this arrangement was based on meetings with child care providers. Representative Lee said he could see the value of a third party evaluator and there could be benefit in providing needed information to schools, but that he sees a problem with privatizing a new program. He asked if there were statutory authority and was told there was statutory authority for the program and there is an appeal process concerning placement.

Chairman Crenshaw asked about the amount of the savings. Dennis Corrigan said part of the contract calls for utilization review, and hopefully that will move the children through the system quicker and that will lower the cost of care. Mr. Corrigan said they did not know the savings but the rates would bring them within the 33 million dollars.

Representative Lee asked why U.K. was chosen, if it were the only university capable, about the funding, and if there were duplication of data. Mr. Corrigan said that came out of a cabinet meeting, that other universities might be used later, that U.K. would get \$500,000, and some information would overlap initially.

Representative Lee asked if the department could do this in house. Mr. Corrigan said the department does not have the staffing at this time to have an effective oversight monitoring of this program. He said this mechanism will provide proper placement, data as to whether the appropriate services are being provided, and ongoing review.

Representative Bruce said that he thinks all of this should be looked into.

Chairman Crenshaw asked if the agency had no idea if providers were providing certain services. He was told a caseworker would visit a child, at least quarterly, but the caseworker would be interested primarily in that child.

Senator Preston called for a detailed memorandum concerning statutory authority. Representative Lee agreed, and asked about reclassification. He was told there is a 6 month reclassification review after the original one, and then, if the child is still in the system, review every 3 months. It was pointed out, after further questioning, that it is mainly a paper review by U.K. Representative Lee questioned the incentive for accurate data, and Representative Bruce questioned the contracting procedure followed by the agency.

Representative Lee said he had no problem with the concept, but

questioned how the program will be run and the accuracy of the data.

Chairman Crenshaw asked if they could refine this program. Mr. Cheek indicated they were working on a lot of questions already posed.

Representative Lee again questioned the incentives concerning the data.

The Subcommittee adopted a motion to have staff prepare a detailed memorandum concerning statutory authority when the regular administrative regulation comes through.

Cabinet for Health Services: Department for Medicaid Services

907 KAR 1:140E. Alternative intermediate services for individuals with mental retardation or developmental disabilities (AIS-MR-DD). Subcommittee staff stated that the issues raised by the initial review had been reviewed, and that: (1) the edition date is on the manual, or would be added to the manual incorporated by reference in the ordinary administrative regulation; and (2) with reference to the administrative appeals procedure, "final" should be used to indicate when administrative appeals had ended and an appeal to the courts could be made.

907 KAR 1:505E. Psychiatric residential treatment facility services. Subcommittee staff stated that the issues raised by the initial review had been reviewed, and that: (1) the citation of statutes would be corrected in the ordinary administrative regulation; and (2) the repeal of an administrative regulation containing the manual is correct, because the: (a) manual is incorporated by reference in this administrative regulation; and (b) the repeal of an incorporation by reference administrative regulation does not violate KRS Chapter 13A.

907 KAR 1:510E. Payments for psychiatric residential treatment facility services. Subcommittee staff stated that the issues raised by the initial review had been reviewed, and that: (1) the citation of statutes would be corrected in the ordinary administrative regulation; (2) the "technical problems" cited were not: (a) specified; or (b) found after Subcommittee staff review; and (3) the discretion permitted in Section 4: (a) is limited by the provisions of Section 4; and (b) should, and will be clarified in the ordinary administrative regulation.

907 KAR 1:675E. Program integrity.

907 KAR 1:677E. Medicaid recipient lock-in. Subcommittee staff stated that: (1) the issues raised by the initial review of these administrative regulations: (1) had been reviewed; (2) corrections would be made to the ordinary where appropriate; and (3) the Utilization Review Committee required by statute was not used because the agency and the sponsors of the bill establishing the Committee agreed that: (a) its use violated federal law; and (b) legislation to amend the statute to comply with federal law and permit the procedure established by these administrative regulations had been introduced and it appeared would be enacted.

The following administrative regulations were deferred to the next Subcommittee meeting, unless otherwise noted, upon agreement by the Subcommittee and the promulgating agency:

Tourism Cabinet: Department of Fish and Wildlife Resources: Fish

301 KAR 1:016. Use of public lands and waters at department owned lakes. Commissioner Tom Bennett, Scott Porter, and Pete Pfeiffer, appeared before the Subcommittee representing the Department. Commissioner Bennett stated that this administrative regulation clears up what size boat docks land owners can have, addresses public access, creates uniform sizes of boat docks, contains a grandfather provision, and establishes hearings pursuant to KRS Chapter 13B.

Senator Kafoglis asked if this will clear up the problems concerning these boat docks and especially of those owners who were cited. Commissioner Bennett said yes it would clear up the problems and that of the two hundred seventy-five owners that were cited only

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about twelve will have to modify their boat docks. He added that the administrative regulation will allow either a two foot additional length allowance or an additional thirty-two square foot allowance, and that owners will be given a year to comply. He also pointed out that there is a procedure for requesting a variance. He said that this administrative regulation takes care of about ninety-six percent of the owners.

Representative Lee asked if there was any thought to leaving those not in compliance there, except that they could not rebuild except for minor repair. Commissioner Bennett said that this whole thing started about a year and one half ago at Guist Creek and that people have built all sorts of things on the public right away, and that the lakes are paid for by the public purchasing fish and wildlife licenses.

Representative Lee asked if the original administrative regulation was clear. Pete Pfeiffer responded that the issue was ramps. He stated that the Department started out allowing eighty-four square feet for boat docks and had gone to one hundred twenty-eight square feet, allowing a lot of these to be grandfathered.

Representative Lee asked if the Department felt so strong about this to spend state money in court. The response was that they were, because some of these docks are huge.

Senator Kafoglis asked if these docks require permitting, and was told that they do and the permits are good for five years.

Chairman Crenshaw asked if the twelve affected landowners go to court how much money and how many years would it take. The Department representative said they didn't know the answer to that, but that the other two-hundred-sixty land owners might take the Department to task if we don't.

The Subcommittee requested that this administrative regulation be deferred. The Department agreed.

Education, Arts, and Humanities Cabinet: Kentucky Board of Education: Office of District Support: School Administration and Finance

702 KAR 3:270E. SEEK funding formula.

Labor Cabinet: Occupational Safety and Health

803 KAR 2:317E. Special industries.

803 KAR 2:404E. Personal protective and life saving equipment.

803 KAR 2:412E. Fall protection.

Department of Mines and Minerals: Division of Gas and Oil

805 KAR 1:150. Content of the operations and reclamation proposal; form on which the proposal is filed. The Cabinet agreed to the Subcommittee's request to defer this administrative regulation.

Cabinet for Health Services: Department for Medicaid Services

907 KAR 1:009E. Physicians' services.

907 KAR 1:010E. Payments for physicians' services.

The Subcommittee adjourned at 12:45 p.m. until April 11, 1996 at 10 a.m. in Room 149 of the State Capitol Annex.

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OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES Meeting of February 15, 1996

The following administrative regulations were available for consideration by the House Committee on Agriculture and Small Business during its meeting of February 15, 1996, having been referred to the Committee on February 6, pursuant to KRS 13A.290(6):

U.K. College of Agriculture
12 KAR 1:115
Department of Agriculture
302 KAR 31:025

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 February 15, 1996 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

HOUSE COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENT Meeting of February 27, 1996

The following administrative regulations were available for consideration by the House Committee on Natural Resources and Environment during its meeting of February 27, 1996, having been referred to the Committee on February 6, 1996, pursuant to KRS 13A.290(6):

Department of Fish and Wildlife Resources
301 KAR 5:020E
301 KAR 5:030E
Petroleum Storage Tank Environmental Assurance Fund Commission
415 KAR 1:114&E

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 February 27, 1996 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

HOUSE COMMITTEE ON APPROPRIATIONS AND REVENUE Meeting of February 20, 1996

The following administrative regulation was available for consideration by the House Committee on Appropriations and Revenue during its meeting of Tuesday, February 20, 1996, having been referred to the Committee on February 6, 1996, pursuant to KRS 13A.290(6): 200 KAR 15:010.

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 regulation is reflected in the minutes of the Wednesday, February 14, 1996 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

SENATE COMMITTEE ON APPROPRIATIONS AND REVENUE Meeting of February 14, 1996

The following administrative regulation was available for consideration by the Senate Committee on Appropriations and Revenue during its meeting of Wednesday, February 14, 1996, having been referred to the Committee on February 6, 1996, pursuant to KRS 13A.290(6): 200 KAR 15:010.

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None.

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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 regulation is reflected in the minutes of the Wednesday, February 14, 1996 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates J2

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 J14

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 J22

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.

ADMINISTRATIVE REGISTER - J2

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	22 Ky.R Page No.	Effective Date	Regulation Number	22 Ky.R Page No.	Effective Date
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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 1:130E	1865	12-20-94
Expired		7-21-95
32 KAR 1:150E	2646	3-22-95
Expired		10-15-95
200 KAR 22:030E	2648	3-24-95
Replaced		10-13-95
201 KAR 32:010E	2969	4-27-95
Replaced		10-19-95
201 KAR 32:020E	2970	4-27-95
Replaced		10-19-95
201 KAR 32:030E	2972	4-27-95
Replaced		10-19-95
302 KAR 20:076E	2972	5-12-95
Replaced		10-11-95
401 KAR 42:060E	20 Ky.R.	2-15-94
Replaced		11-14-95
401 KAR 42:070E	20 Ky.R.	2-15-94
Replaced		11-14-95
401 KAR 42:080E	20 Ky.R.	2-15-94
Replaced		11-14-95
416 KAR 1:010E	2657	3-24-95
Replaced		8-24-95
500 KAR 11:001E	2430	3-15-95
Replaced		9-7-95
500 KAR 11:030E	2431	3-15-95
Replaced		10-13-95
500 KAR 11:040E	2434	3-15-95
Replaced		10-13-95
500 KAR 11:050E	2436	2-28-95
Replaced		10-13-95
500 KAR 11:060E	2437	2-28-95
Replaced		10-13-95
500 KAR 11:070E	2438	3-15-95
Replaced		9-7-95
500 KAR 11:080E	2439	2-28-95
Replaced		9-7-95
500 KAR 11:090E	2440	2-28-95
Replaced		9-7-95

500 KAR 11:100E	2441	2-28-95
Replaced		9-7-95
600 KAR 5:010E	2973	5-11-95
Replaced		10-3-95
902 KAR 14:070E	2442	3-1-95
Expired (170 days following publication)		9-18-95
902 KAR 14:080E	2444	3-1-95
Expired		10-18-95
902 KAR 14:090E	2450	3-1-95
Expired		9-18-95
904 KAR 3:050E	2454	2-17-95
Expired (170 days following publication)		9-18-95
904 KAR 3:060E	2458	2-17-95
Expired (170 days following publication)		9-18-95
905 KAR 7:250E	2461	2-17-95
Expired		10-18-95
907 KAR 1:013E	2974	5-12-95
Withdrawn		9-28-95
907 KAR 1:585E	2665	3-21-95
Replaced		10-19-95
909 KAR 1:080E	2667	4-14-95
Replaced		9-20-95
909 KAR 1:090E	2980	5-2-95
Replaced		9-20-95

ORDINARY ADMINISTRATIVE REGULATIONS:

201 KAR 1:064	3088	8-10-95
201 KAR 11:400	3089	(See Volume 22)
201 KAR 30:140		
Amended	2731	8-10-95
501 KAR 6:020		
Amended	3067	8-10-95
501 KAR 6:130		
Amended	3069	8-10-95
704 KAR 20:010		
Repealed	3073	8-3-95
704 KAR 20:020		
Amended	3073	8-3-95
704 KAR 20:021	3100	8-3-95
907 KAR 1:025		
Amended	3079	(See Volume 22)

*Statement of Consideration not filed by deadline (KRS 13A.280)

ADMINISTRATIVE REGISTER - J3

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	22 Ky.R Page No.	Effective Date	Regulation Number	22 Ky.R Page No.	Effective Date
VOLUME 22					
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)			502 KAR 45:055E	708	8-30-95
9 KAR 1:021E	214	7-11-95	Replaced	1305	1-8-96
Expired		1-18-96	502 KAR 45:065E	709	8-30-95
11 KAR 8:030E	215	7-12-95	Replaced	960	1-8-96
Expired		1-18-96	502 KAR 45:075E	710	8-30-95
31 KAR 5:020E	882	10-12-95	Replaced	961	1-8-96
Replaced	1452	2-12-96	502 KAR 45:085E	711	8-30-95
32 KAR 1:160E	694	8-30-95	Replaced	1306	1-8-96
32 KAR 1:170E	883	10-10-95	502 KAR 45:145E	570	8-1-95
101 KAR 2:100E	217	7-14-95	Replaced	1306	1-8-96
Expired		1-18-96	502 KAR 45:150E	712	8-30-95
101 KAR 3:010E	223	7-14-95	Replaced	1307	1-8-96
Expired		1-18-96	702 KAR 3:245E	571	8-15-95
200 KAR 5:021E	1778	3-15-96	Replaced	990	2-12-96
200 KAR 22:060E	20	6-15-95	702 KAR 3:246E	573	8-15-95
Replaced	415	10-13-95	Replaced	1005	2-12-96
200 KAR 22:090E	884	10-13-95	702 KAR 3:270E	1267	12-15-95
Replaced	1452	2-12-96	702 KAR 7:065E	1269	12-15-95
200 KAR 22:100E	1261	11-30-95	704 KAR 20:084E	1271	12-4-95
200 KAR 22:110E	1262	12-11-95	780 KAR 2:140E	227	7-5-94
200 KAR 22:120E	1553	1-12-96	Replaced	730	10-5-95
201 KAR 11:400E	1446	12-22-95	787 KAR 1:010E	229	6-22-95
201 KAR 20:070E	1554	1-25-96	Replaced	452	11-6-95
202 KAR 4:010E	1050	11-6-95	787 KAR 1:020E	230	6-22-95
301 KAR 2:221E	1051	11-3-95	Replaced	454	11-6-95
301 KAR 2:222E	1054	11-3-95	787 KAR 1:030E	230	6-22-95
301 KAR 2:223E	1057	11-3-95	Replaced	908	11-6-95
301 KAR 2:224E	1059	11-3-95	787 KAR 1:040E	230	6-22-95
301 KAR 2:225E	695	8-23-95	Replaced	456	11-6-95
Replaced	1174	2-12-96	787 KAR 1:050E	231	6-22-95
301 KAR 5:001E	697	9-14-95	Replaced	457	11-6-96
Replaced	1456	2-12-96	787 KAR 1:060E	231	6-22-95
301 KAR 5:010E	698	9-14-95	Replaced	908	11-6-95
Replaced	1457	2-12-96	787 KAR 1:070E	232	6-22-95
301 KAR 5:020E	1263	12-11-95	Replaced	909	11-6-95
301 KAR 5:030E	1265	12-11-95	787 KAR 1:080E	232	6-22-95
302 KAR 20:115E	569	7-28-95	Replaced	461	11-6-95
Replaced	1179	2-12-96	787 KAR 1:090E	233	6-22-95
415 KAR 1:114E	700	8-16-95	Replaced	909	11-6-95
Replaced	1596	2-27-96	787 KAR 1:100E	234	6-22-95
500 KAR 6:110E	1555	2-14-96	Replaced	910	11-6-95
500 KAR 6:150E	1558	2-14-96	787 KAR 1:110E	234	6-22-95
500 KAR 6:190E	1559	2-14-96	Replaced	466	11-6-95
500 KAR 6:200E	1560	2-14-96	787 KAR 1:120E	237	6-22-95
501 KAR 6:020E	1061	11-15-95	Replaced	470	11-6-95
Replaced	1357	3-7-96	787 KAR 1:130E	237	6-22-95
502 KAR 45:005E	703	8-30-95	Expired (ordinary withdrawn)		6-22-95
Replaced	1305	1-8-96	787 KAR 1:140E	237	6-22-95
502 KAR 45:015E	704	8-30-95	Replaced	472	11-6-95
Replaced	955	1-8-96	787 KAR 1:150E	238	6-22-95
502 KAR 45:025E	705	8-30-95	Replaced	473	11-6-95
Replaced	1462	2-12-96	787 KAR 1:160E	239	6-22-95
502 KAR 45:035E	706	8-30-95	Replaced	475	11-6-95
Replaced	957	1-8-96	787 KAR 1:170E	239	6-22-95
502 KAR 45:045E	707	8-30-95	Replaced	476	11-6-95
Replaced	1305	1-8-96	787 KAR 1:180E	240	6-22-95
			Replaced	478	11-6-95
			787 KAR 1:190E	241	6-22-95
			Replaced	911	11-6-95
			787 KAR 1:200E	241	6-22-95
			Replaced	481	11-6-95

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LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	22 Ky.R Page No.	Effective Date	Regulation Number	22 Ky.R Page No.	Effective Date
787 KAR 1:210E	242	6-22-95	907 KAR 1:013E	887	9-28-95
Replaced	482	11-6-95	Withdrawn		3-7-96
787 KAR 1:220E	242	6-22-95	907 KAR 1:014E	264	6-30-95
Replaced	483	11-6-95	Withdrawn		8-10-95
787 KAR 1:230E	243	6-22-95	907 KAR 1:015E	266	6-30-95
Replaced	484	11-6-95	Withdrawn		8-10-95
787 KAR 1:240E	243	6-22-95	907 KAR 1:060E	267	6-30-95
Replaced	911	11-6-95	Expired		1-18-96
787 KAR 1:250E	244	6-22-95	Resubmitted	1576	1-18-96
Replaced	487	11-6-95	907 KAR 1:061E	269	6-30-95
787 KAR 1:260E	244	6-22-95	Expired		1-18-96
Replaced	488	11-6-95	Resubmitted	1578	1-18-96
787 KAR 1:270E	245	6-22-95	907 KAR 1:140E	895	9-27-95
Replaced	911	11-6-95	907 KAR 1:505E	1071	11-6-95
787 KAR 1:280E	245	6-22-95	907 KAR 1:510E	1073	11-6-95
Replaced	491	11-6-95	907 KAR 1:675E	1295	12-5-95
787 KAR 1:290E	245	6-22-95	907 KAR 1:677E	1299	12-5-95
Replaced	912	11-6-95	908 KAR 1:340E	1582	1-30-96
787 KAR 1:300E	246	6-22-95	909 KAR 1:021E	22	6-14-95
Replaced	493	11-6-95	Replaced	934	11-15-95
787 KAR 1:310E	246	6-22-95	909 KAR 1:055E	23	6-14-95
Replaced	495	11-6-95	Replaced	662	11-15-95
787 KAR 2:010E	247	6-22-95	909 KAR 1:100E	578	8-15-95
Replaced	496	11-6-95	Replaced	1009	1-8-96
787 KAR 2:020E	248	6-22-95	ORDINARY ADMINISTRATIVE REGULATIONS:		
Replaced	912	11-6-95	2 KAR 2:040	1509	
787 KAR 2:030E	248	6-22-95	As Amended	1814	
Replaced	912	11-6-95	9 KAR 1:010		
788 KAR 2:010E	249	6-22-95	As Amended	273	
Replaced	1082	12-7-95	As Amended	583	7-26-95
803 KAR 2:317E	1273	12-6-95	9 KAR 1:015		
803 KAR 2:320E	252	6-30-95	As Amended	25	7-6-95
Expired		1-18-96	9 KAR 1:020		
Resubmitted	1562	2-15-96	Repealed	214	7-11-95
803 KAR 2:403E	255	6-30-95	9 KAR 1:030		
Expired		1-18-96	As Amended	26	7-6-95
803 KAR 2:404E	1275	12-6-95	9 KAR 1:035		
803 KAR 2:412E	1283	12-6-95	As Amended	30	7-6-95
803 KAR 2:425E	257	6-30-95	9 KAR 1:040		
Expired		1-18-96	As Amended	273	
Resubmitted	1567	2-15-96	As Amended	583	7-26-95
803 KAR 2:500E	259	6-30-95	11 KAR 4:040		
Expired		1-18-96	Amended	97	
Resubmitted	1569	2-15-96	As Amended	584	9-7-95
804 KAR 4:320E	575	7-25-95	11 KAR 12:060		
Replaced	1008	1-8-96	As Amended	30	7-6-95
806 KAR 17:066E	1779	2-29-96	11 KAR 12:070		
815 KAR 8:040E	21	6-6-95	As Amended	31	7-6-95
Replaced	915	11-6-95	12 KAR 1:115		
903 KAR 5:001E	713	8-28-95	Amended	1324	2-15-96
904 KAR 2:015E	1571	1-30-96	13 KAR 2:045		
904 KAR 2:016E	1064	11-15-94	Amended	1656	
Withdrawn		12-5-95	15 KAR 1:040	125	
Resubmitted	1285	12-5-95	As Amended	587	9-7-95
904 KAR 2:116E	1447	1-4-96	31 KAR 4:061	1745	
904 KAR 2:460E	576	8-7-95	31 KAR 4:070		
Expired		2-16-96	Amended	1662	
905 KAR 1:360E	1292	11-22-95	31 KAR 4:100		
907 KAR 1:009E	261	6-30-95	As Amended	274	7-26-95
Withdrawn		9-19-95	31 KAR 4:110		
Resubmitted	885	9-19-95	As Amended	274	7-26-95
907 KAR 1:010E	262	6-30-95			
Withdrawn		9-19-95			
Resubmitted	886	9-19-95			

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LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	22 Ky.R Page No.	Effective Date	Regulation Number	22 Ky.R Page No.	Effective Date
31 KAR 5:020			200 KAR 22:100	1511	
Amended	1088		200 KAR 22:110	1512	
As Amended	1452	2-12-96	201 KAR 1:300		
32 KAR 2:210	814		As Amended	275	8-10-95
As Amended	1302	1-8-96	201 KAR 7:040		
45 KAR 1:030			Amended	935	
Amended	1325	3-7-96	As Amended	1302	1-8-96
45 KAR 1:040			201 KAR 8:220		
Amended	1327	3-7-96	Amended	107	8-16-95
45 KAR 1:050			201 KAR 8:277		
Amended	1329	3-7-96	Amended	108	8-16-95
101 KAR 1:325			201 KAR 9:041		
Amended	1332	3-7-96	Amended	1482	
101 KAR 2:036			201 KAR 9:175		
Amended	1663		Amended	1483	
101 KAR 2:100			201 KAR 11:400		
Amended	1089		As Amended	717	
Amended	1610		Reprint	852	10-13-95
As Amended	1814		201 KAR 12:082		
101 KAR 3:010			Amended	613	
Amended	1094		As Amended	1452	1-25-96
Amended	1616		201 KAR 16:050		
As Amended	1821		Amended	936	
101 KAR 3:045			As Amended	1302	1-8-96
Amended	1666		201 KAR 18:129	1173	
103 KAR 16:190	127		Withdrawn		3-4-96
Amended	761		201 KAR 19:035		
Withdrawn		10-18-95	Amended	1668	
105 KAR 1:140			201 KAR 20:057		
Amended	1871		Amended	305	9-20-95
105 KAR 1:210			201 KAR 20:070		
Amended	775	12-7-95	Amended	1487	
105 KAR 1:215			Withdrawn		1-18-96
Amended	777	12-7-95	Amended	1872	
106 KAR 1:091			201 KAR 20:162		
Amended	606		Amended	306	9-20-95
As Amended	898	10-11-95	201 KAR 20:215		
106 KAR 1:131			Amended	1337	
Amended	609		As Amended	1594	3-7-96
As Amended	900	10-11-95	201 KAR 20:240		
200 KAR 2:006			Amended	109	
Amended	779	12-7-95	Withdrawn		8-16-95
200 KAR 5:314	1510		Amended	1338	
200 KAR 15:010			As Amended	1595	3-7-96
Amended	101		201 KAR 20:410	418	9-20-95
As Amended	715	9-28-95	201 KAR 22:070		
Amended	1334	2-20-96	Amended	615	
200 KAR 17:050			As Amended	1975	11-15-95
Amended	104		201 KAR 30:040		
As Amended	589	8-24-95	Amended	1669	
200 KAR 19:010			201 KAR 30:050		
Recodified as 803 KAR 30:020		7-24-95	As Amended	277	8-10-95
200 KAR 20:010			201 KAR 30:120		
As Amended	32	7-6-95	As Amended	279	8-10-95
200 KAR 22:020			201 KAR 31:050	998	
As Amended	33	7-6-95	As Amended	1303	1-8-96
200 KAR 22:030	412	10-13-95	201 KAR 32:010	419	
200 KAR 22:040	413	10-13-95	As Amended	903	10-19-95
200 KAR 22:050	414	10-13-95	201 KAR 32:020	420	
200 KAR 22:060	415	10-13-95	As Amended	903	10-19-95
200 KAR 22:070	417	10-13-95	201 KAR 32:030	421	
200 KAR 22:080	815	12-7-95	As Amended	904	10-19-95
200 KAR 22:090	1172		201 KAR 32:040	1911	
As Amended	1452	2-12-96	201 KAR 32:050	1911	

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Regulation Number	22 Ky.R Page No.	Effective Date	Regulation Number	22 Ky.R Page No.	Effective Date
201 KAR 33:010	999		302 KAR 20:080		
As Amended	1304	1-8-96	Repealed	1179	2-12-96
201 KAR 33:020	999		302 KAR 20:081	1179	2-12-96
As Amended	1304	1-8-96	302 KAR 20:115	1179	2-12-96
201 KAR 33:030	1001		302 KAR 31:015		
As Amended	1455	2-12-96	As Amended	36	6-14-95
201 KAR 33:040	1003		302 KAR 31:025		
As Amended	1305	1-8-96	Amended	1339	2-15-96
201 KAR 34:010	1913		302 KAR 31:040	1397	
202 KAR 3:020	1746		Withdrawn		2-6-96
202 KAR 3:040	1395		302 KAR 100:010	423	10-11-95
As Amended	1825		302 KAR 100:020	424	10-11-95
202 KAR 4:010	1747		307 KAR 1:030	133	
300 KAR 1:010	635		As Amended	591	
As Amended	1828		As Amended	719	8-17-95
301 KAR 1:015			307 KAR 2:010		
Amended	308		As Amended	39	7-6-95
As Amended	718	10-11-95	307 KAR 3:010		
301 KAR 1:016			As Amended	40	7-6-95
Amended	1488		307 KAR 4:010	135	
301 KAR 1:085			As Amended	593	
Amended	309	10-11-95	As Amended	720	8-17-95
301 KAR 1:201			401 KAR 5:030		
Amended	312	10-11-95	Amended	89	
301 KAR 2:044			As Amended	280	7-12-95
Repealed	695	8-23-95	401 KAR 42:005	427	
301 KAR 2:049			Amended	918	11-14-95
Amended	1670		401 KAR 42:011		
301 KAR 2:172			Amended	315	11-14-95
Amended	1874		401 KAR 42:020		
301 KAR 2:174			Amended	318	
Amended	1877		Amended	920	11-14-95
301 KAR 2:178			401 KAR 42:040		
Amended	1878		Amended	321	
301 KAR 2:221			Amended	921	11-14-95
Amended	1673		401 KAR 42:060		
301 KAR 2:222			Amended	323	
Amended	1675		Amended	921	11-14-95
301 KAR 2:223			401 KAR 42:070		
Amended	1679		Amended	327	
301 KAR 2:224			Amended	922	11-14-95
Amended	1681		401 KAR 42:071	432	
301 KAR 2:225	1174	2-12-96	Amended	924	11-14-95
301 KAR 2:251			401 KAR 42:080		
Amended	1491		Amended	331	
301 KAR 3:025			Amended	924	11-14-95
Repealed	1263	12-11-95	401 KAR 42:090		
301 KAR 5:001	1176		Amended	335	11-14-95
As Amended	1456	2-12-96	401 KAR 42:200		
301 KAR 5:010	1177		Amended	337	11-14-95
As Amended	1457	2-12-96	401 KAR 50:010		
301 KAR 5:020	1748		Amended	1686	
301 KAR 5:030	1750		401 KAR 50:031	817	
301 KAR 6:001			Amended	1315	
Amended	1683		As Amended	1458	2-12-96
301 KAR 6:020			401 KAR 50:033	1752	
Amended	1684		401 KAR 50:065	434	10-11-95
301 KAR 6:050	816		401 KAR 51:001		
As Amended	1076	11-14-95	Amended	1691	
301 KAR 10:010			401 KAR 59:001		
Repealed	92	7-12-95	Amended	1695	
302 KAR 15:010			401 KAR 59:430		
As Amended	33	6-14-95	Recodified as 401 KAR 60:042		10-18-95
302 KAR 20:076	422	10-11-95			

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401 KAR 59:435			501 KAR 3:140		
Recodified as 401 KAR 60:043		10-18-95	Amended	1355	
401 KAR 60:042			As Amended	1598	3-7-96
Recodified from 401 KAR 59:430		10-18-95	501 KAR 6:020		
401 KAR 60:043			Amended	616	11-6-95
Recodified from 401 KAR 59:435		10-18-95	Amended	783	12-7-95
401 KAR 61:001			Amended	1357	3-7-96
Amended	1699		Amended	1493	
401 KAR 63:001			Amended	1710	
Amended	1703		Amended	1882	
401 KAR 65:001			501 KAR 6:030		
Amended	1707		Amended	943	1-8-96
401 KAR 100:010			Amended	1884	
Amended	937	12-13-95	501 KAR 6:040		
401 KAR 100:050	137		Amended	945	1-8-96
Amended	598	10-11-95	Amended	1099	2-12-96
415 KAR 1:114			Amended	1495	
Amended	1343		Amended	1886	
As Amended	1596	2-27-96	501 KAR 6:050		
416 KAR 1:010	142	8-24-95	Amended	785	12-7-95
418 KAR 1:010			501 KAR 6:060		
Amended	92	7-12-95	Amended	1100	2-12-96
418 KAR 1:020			Amended	1712	
Amended	92	7-12-95	Amended	1843	
418 KAR 1:030			501 KAR 6:080		
Amended	93	7-12-95	Amended	344	10-13-95
418 KAR 1:040			501 KAR 6:090		
Amended	94	7-12-95	Amended	946	1-8-96
418 KAR 1:070			Amended	1102	2-12-96
Amended	96	7-12-95	501 KAR 6:110		
500 KAR 11:001	146	9-7-95	Amended	948	1-8-96
500 KAR 11:030	436	10-13-95	Amended	1104	2-12-96
500 KAR 11:040	439	10-13-95	501 KAR 6:120		
500 KAR 11:050	441	10-13-95	As Amended	42	7-6-95
500 KAR 11:060	442	10-13-95	Amended	950	1-8-96
500 KAR 11:070	147	9-7-95	Amended	1105	2-12-96
500 KAR 11:080	148	9-7-95	Amended	1889	
Reprint	1030	9-7-95	501 KAR 6:130		
500 KAR 11:090	149	9-7-95	Amended	619	11-6-95
500 KAR 11:100	150	9-7-95	Amended	952	1-8-96
501 KAR 2:020			Amended	1107	2-12-96
Amended	340		Amended	1714	
As Amended	905	11-6-95	501 KAR 6:140		
501 KAR 2:040			As Amended	43	7-6-95
Amended	341		Amended	1108	2-12-96
As Amended	905	11-6-95	501 KAR 6:170	443	11-6-95
501 KAR 2:050			Amended	953	1-8-96
Amended	342		Amended	1891	
As Amended	905	11-6-95	501 KAR 7:010		
501 KAR 2:060			Amended	1359	
Amended	343		As Amended	1599	3-7-96
As Amended	1076	12-7-95	501 KAR 7:050		
501 KAR 3:010			Amended	1360	
Amended	1346		As Amended	1600	3-7-96
As Amended	1598	3-7-96	501 KAR 13:010	1402	
501 KAR 3:020			As Amended	1601	3-7-96
Amended	1347	3-7-96	502 KAR 45:005		
501 KAR 3:050			Amended	954	
Amended	1349	3-7-96	As Amended	1305	1-8-96
501 KAR 3:060			502 KAR 45:015		
Amended	1353	3-7-96	Amended	955	1-8-96
501 KAR 3:100			502 KAR 45:025		
Amended	1354	3-7-96	Amended	956	
			As Amended	1462	2-12-96

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Regulation Number	22 Ky.R Page No.	Effective Date	Regulation Number	22 Ky.R Page No.	Effective Date
502 KAR 45:035			601 KAR 9:220	824	12-7-95
Amended	957	1-8-96	601 KAR 12:070	444	10-3-95
502 KAR 45:045			603 KAR 3:080		
Amended	958		Amended	1367	
As Amended	1305	1-8-96	Amended	1635	
502 KAR 45:055			As Amended	1851	
Amended	959		603 KAR 4:035		
As Amended	1305	1-8-96	Amended	984	
502 KAR 45:065			Amended	1318	
Amended	960	1-8-96	As Amended	1463	1-22-96
502 KAR 45:075			603 KAR 5:070		
Amended	961	1-8-96	Amended	620	
502 KAR 45:085			As Amended	1077	11-1-95
Amended	962		603 KAR 5:071		
As Amended	1306	1-8-96	Amended	624	11-1-95
502 KAR 45:145	1004		603 KAR 5:072		
As Amended	1306	1-8-96	Amended	348	10-3-95
502 KAR 45:150	1005		603 KAR 5:075		
As Amended	1307	1-8-96	Amended	786	12-7-95
502 KAR 50:010			603 KAR 5:110		
Amended	1715		Amended	350	10-3-95
600 KAR 1:120	821	12-7-95	603 KAR 5:115		
600 KAR 3:010			Amended	789	1-8-96
Amended	963	1-8-96	603 KAR 5:230		
600 KAR 4:010			Amended	1110	1-22-96
Amended	1362		603 KAR 5:301		
Amended	1621		Amended	791	12-7-95
As Amended	1835		701 KAR 5:076	1754	
600 KAR 5:010			701 KAR 5:110		
Amended	302	10-3-95	Amended	989	1-8-96
600 KAR 6:010	1403		702 KAR 1:140		
600 KAR 6:020	1405		As Amended	45	7-6-95
As Amended	1840		702 KAR 3:245		
600 KAR 6:030	1406		Amended	990	2-12-96
As Amended	1840		702 KAR 3:246	1005	2-12-96
600 KAR 6:040	1407		702 KAR 3:280	637	
Amended	1626		Amended	925	
As Amended	1840		Withdrawn		2-8-96
600 KAR 6:050	1410		702 KAR 3:300	638	11-2-95
Amended	1627		702 KAR 7:010		
As Amended	1842		Amended	626	11-2-95
600 KAR 6:060	1412		702 KAR 7:050		
As Amended	1843		As Amended	45	7-6-95
600 KAR 6:070	1414		702 KAR 7:065		
Amended	1628		Amended	1728	
As Amended	1844		702 KAR 7:080		
600 KAR 6:080	1419		Repealed	151	9-7-95
Amended	1633		702 KAR 7:081	151	9-7-95
As Amended	1849		702 KAR 7:090		
601 KAR 1:005			Repealed	152	9-7-95
Amended	1716		702 KAR 7:091	152	9-7-95
601 KAR 1:025			704 KAR 3:470	152	9-7-95
Amended	981		704 KAR 20:055		
As Amended	1307	1-8-96	Repealed	153	9-7-95
601 KAR 1:029			704 KAR 20:056	153	9-7-95
Amended	1719		704 KAR 20:084		
601 KAR 1:030			Amended	1892	
Amended	1720		704 KAR 20:260		
601 KAR 1:031			Amended	1894	
Amended	1724		704 KAR 20:305		
601 KAR 1:040			As Amended	283	8-3-95
Amended	1725		704 KAR 20:320		
601 KAR 9:074			Repealed	1602	3-7-96
Amended	345	10-3-95			

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Regulation Number	22 Ky.R Page No.	Effective Date	Regulation Number	22 Ky.R Page No.	Effective Date
704 KAR 20:510			780 KAR 4:020		
Amended	992	1-8-96	Amended	371	
704 KAR 20:540			As Amended	732	10-5-95
Amended	1896		780 KAR 4:030	447	
704 KAR 20:670			As Amended	733	10-5-95
Amended	1897		780 KAR 4:040	448	
704 KAR 20:690	1422		As Amended	733	10-5-95
As Amended	1602	3-7-96	780 KAR 4:050	448	
735 KAR 1:010			As Amended	734	10-5-95
As Amended	48	7-6-95	780 KAR 4:060	449	
735 KAR 1:020			As Amended	734	10-5-95
As Amended	50	7-6-95	780 KAR 5:010		
750 KAR 1:010			Amended	372	
Amended	627		As Amended	734	10-5-95
As Amended	906	11-2-95	780 KAR 5:020		
780 KAR 2:010			Amended	373	
Amended	353		As Amended	734	10-5-95
As Amended	722	10-5-95	780 KAR 5:030		
780 KAR 2:020			Amended	374	
Amended	354		As Amended	735	10-5-95
As Amended	722	10-5-95	780 KAR 5:040		
780 KAR 2:021	445	10-5-95	Amended	375	
780 KAR 2:030			As Amended	735	10-5-95
Amended	355		780 KAR 5:050		
As Amended	723	10-5-95	Amended	375	
780 KAR 2:035	446		As Amended	735	10-5-95
As Amended	724	10-5-95	780 KAR 7:010		
780 KAR 2:040			Amended	376	
Amended	357		As Amended	735	10-5-95
As Amended	724	10-5-95	780 KAR 7:020		
780 KAR 2:045			Amended	378	
Repealed	445	10-5-95	As Amended	737	10-5-95
780 KAR 2:050			780 KAR 7:030		
Repealed	445	10-5-95	Amended	379	
780 KAR 2:060			As Amended	738	10-5-95
Amended	358		780 KAR 7:032	450	
As Amended	725	10-5-95	As Amended	738	10-5-95
780 KAR 2:070			780 KAR 7:035		
Repealed	445	10-5-95	Repealed	739	10-5-95
780 KAR 2:080			780 KAR 7:036	451	
Repealed	445	10-5-95	As Amended	739	10-5-95
780 KAR 2:090			780 KAR 7:040		
Amended	359		Amended	380	
As Amended	726	10-5-95	As Amended	739	10-5-95
780 KAR 2:100			780 KAR 7:050		
Amended	361		Repealed	739	10-5-95
As Amended	727	10-5-95	780 KAR 7:060		
780 KAR 2:110			Amended	381	
Amended	363	10-5-95	As Amended	739	10-5-95
780 KAR 2:120			780 KAR 7:070		
Amended	364		Amended	382	
As Amended	728	10-5-95	As Amended	740	10-5-95
780 KAR 2:130			780 KAR 8:010		
Amended	365		Repealed	740	10-5-95
As Amended	728	10-5-95	780 KAR 8:011	452	
780 KAR 2:140			As Amended	740	10-5-95
Amended	367		780 KAR 9:010		
As Amended	730	10-5-95	Repealed	825	12-7-95
780 KAR 2:150			780 KAR 9:030		
Repealed	445	10-5-95	Repealed	825	12-7-95
780 KAR 4:010			780 KAR 9:040		
Amended	369		Repealed	825	12-7-95
As Amended	731	10-5-95	780 KAR 9:050		
			Repealed	825	12-7-95

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780 KAR 9:060			787 KAR 1:250	487	11-6-95
Repealed	825	12-7-95	787 KAR 1:260	488	11-6-95
780 KAR 9:070			787 KAR 1:270	490	
Repealed	825	12-7-95	As Amended	911	11-6-95
780 KAR 9:080			787 KAR 1:280	491	11-6-95
Repealed	825	12-7-95	787 KAR 1:290	492	
780 KAR 9:090			As Amended	912	11-6-95
Repealed	825	12-7-95	787 KAR 1:300	493	11-6-95
780 KAR 9:100			787 KAR 1:310	495	11-6-95
Repealed	825	12-7-95	787 KAR 2:010	496	11-6-95
780 KAR 9:110			787 KAR 2:020	498	
Repealed	825	12-7-95	As Amended	912	11-6-95
780 KAR 9:120			787 KAR 2:030	499	
Repealed	825	12-7-95	As Amended	912	11-6-95
780 KAR 9:130			788 KAR 2:010	501	
Repealed	825	12-7-95	As Amended	1082	12-7-95
780 KAR 9:131	825	12-7-95	803 KAR 2:317		
781 KAR 1:040			Amended	1730	
Amended	111	10-5-95	803 KAR 2:320		
785 KAR 1:010	639	11-2-95	Amended	1142	
785 KAR 1:020	641	11-2-95	As Amended	1466	2-12-96
785 KAR 1:030	642	11-2-95	803 KAR 2:403		
785 KAR 1:040	643	11-2-95	Amended	1149	
785 KAR 1:050	646	11-2-95	As Amended	1473	2-12-96
785 KAR 1:060	648	11-2-95	803 KAR 2:404		
785 KAR 1:070	650	11-2-95	Amended	1731	
785 KAR 1:080	651	11-2-95	803 KAR 2:412		
785 KAR 1:090	652	11-2-95	Amended	1739	
785 KAR 1:100	653		803 KAR 2:500		
As Amended	1081	12-7-95	Amended	1151	
785 KAR 1:110	654		As Amended	1474	2-12-96
As Amended	1081	12-7-95	803 KAR 25:020		
787 KAR 1:010	452	11-6-95	Repealed	52	6-15-95
787 KAR 1:020	454	11-6-95	803 KAR 25:021		
787 KAR 1:030	455		As Amended	52	6-15-95
As Amended	908	11-6-95	803 KAR 25:025		
787 KAR 1:040	456	11-6-95	Repealed	54	6-15-95
787 KAR 1:050	457	11-6-95	803 KAR 25:026		
787 KAR 1:060	459		As Amended	54	6-15-95
As Amended	908	11-6-95	803 KAR 25:150	656	
787 KAR 1:070	460		As Amended	913	10-19-95
As Amended	909	11-6-95	803 KAR 25:170	658	
787 KAR 1:080	461	11-6-95	Amended	926	
787 KAR 1:090	463		As Amended	1084	12-7-95
As Amended	909	11-6-95	803 KAR 25:190		
787 KAR 1:100	465		Amended	303	
As Amended	910	11-6-95	As Amended	740	9-19-95
787 KAR 1:110	466	11-6-95	803 KAR 30:010	826	
787 KAR 1:120	470	11-6-95	As Amended	1308	12-19-95
787 KAR 1:130	471		803 KAR 30:020		
Withdrawn		10-2-95	Recodified from 200 KAR 19:010		7-24-95
787 KAR 1:140	472	11-6-95	804 KAR 4:320	1008	1-8-96
787 KAR 1:150	473	11-6-95	805 KAR 1:150	1181	
787 KAR 1:160	475	11-6-95	Amended	1649	
787 KAR 1:170	476	11-6-95	806 KAR 3:160		
787 KAR 1:180	478	11-6-95	Amended	1741	
787 KAR 1:190	479		806 KAR 5:025	1755	
As Amended	911	11-6-95	806 KAR 6:080		
787 KAR 1:200	481	11-6-95	Reprinted	1204	11-13-84
787 KAR 1:210	482	11-6-95	806 KAR 9:220		
787 KAR 1:220	483	11-6-95	As Amended	58	7-6-95
787 KAR 1:230	484	11-6-95	Reprinted	675	7-6-95
787 KAR 1:240	486		806 KAR 9:230		
As Amended	911	11-6-95	As Amended	286	8-10-95

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806 KAR 47:010	154	9-7-95	902 KAR 20:004		
806 KAR 47:020	155	9-7-95	Repealed	81	6-21-95
806 KAR 47:030	157	9-7-95	902 KAR 20:126		
807 KAR 5:013	503	9-25-95	Repealed	87	6-21-95
807 KAR 5:058			902 KAR 20:270		
As Amended	287	7-21-95	Amended	383	
807 KAR 5:062	1915		Amended	927	11-15-95
807 KAR 5:076			902 KAR 55:030		
Amended	994		Amended	1900	
As Amended	1312	1-3-96	902 KAR 55:095		
810 KAR 1:015			As Amended	291	7-26-95
Amended	1496		902 KAR 115:020		
As Amended	1865		As Amended	292	7-26-95
815 KAR 7:100			903 KAR 1:010		
Amended	113	9-7-95	Repealed	713	8-28-95
Amended	1153	2-12-96	903 KAR 5:010		
815 KAR 8:010			Repealed	713	8-28-95
Amended	792		903 KAR 5:020		
As Amended	1085	12-7-95	Repealed	713	8-28-95
815 KAR 8:020			903 KAR 5:030		
Amended	794	12-7-95	Repealed	713	8-28-95
815 KAR 8:040	505		903 KAR 5:050		
As Amended	915	11-6-95	Repealed	713	8-28-95
815 KAR 10:040			903 KAR 5:060		
Repealed	506	10-13-95	Repealed	713	8-28-95
815 KAR 10:045			903 KAR 5:070		
Repealed	1184	2-12-96	Repealed	713	8-28-95
815 KAR 10:046	1184	2-12-96	903 KAR 5:080		
815 KAR 10:050	506	10-13-95	Repealed	713	8-28-95
815 KAR 20:020			903 KAR 5:090		
Amended	796	12-7-95	Repealed	713	8-28-95
Amended	1383	3-7-96	903 KAR 5:100		
815 KAR 20:078			Repealed	713	8-28-95
Amended	799	12-7-95	903 KAR 5:110		
815 KAR 20:090			Repealed	713	8-28-95
Amended	1386	3-7-96	903 KAR 5:130		
815 KAR 20:110			Repealed	713	8-28-95
Amended	116	9-7-95	903 KAR 5:140		
815 KAR 20:120			Repealed	713	8-28-95
Amended	800	12-7-95	903 KAR 5:150		
815 KAR 35:015			Repealed	713	8-28-95
Amended	117		903 KAR 5:160		
As Amended	594	9-7-95	Repealed	713	8-28-95
815 KAR 35:030			903 KAR 5:170		
Amended	630		Repealed	713	8-28-95
As Amended	916	11-6-95	903 KAR 5:180		
902 KAR 8:060			Repealed	713	8-28-95
Amended	1156	2-12-96	903 KAR 5:220		
902 KAR 8:070			Repealed	713	8-28-95
Amended	1159	2-12-96	903 KAR 5:230		
902 KAR 8:110			Repealed	713	8-28-95
Amended	1163		903 KAR 5:250		
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902 KAR 8:120			903 KAR 5:270		
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902 KAR 14:080	510		903 KAR 5:300		
Amended	767	10-19-95	Repealed	713	8-28-95
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Repealed	713	8-28-95	Expired		11-3-95
903 KAR 5:340			904 KAR 3:110		
Repealed	713	8-28-95	Repealed	1189	2-12-96
903 KAR 5:350			904 KAR 3:111	1189	2-12-96
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903 KAR 5:360			As Amended	65	6-21-95
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903 KAR 5:370			Amended	931	
Repealed	713	8-28-95	As Amended	1476	2-12-96
903 KAR 5:380			907 KAR 1:013		
Repealed	713	8-28-95	Amended	1502	
903 KAR 5:392			Withdrawn		3-7-96
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903 KAR 6:010			As Amended	749	9-20-95
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903 KAR 6:020			Repealed		7-28-93
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903 KAR 6:040			Repealed	267	6-30-95
Repealed	713	8-28-95	907 KAR 1:425		
903 KAR 6:050			Repealed	895	9-27-95
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903 KAR 6:060			Amended	1906	
Repealed	713	8-28-95	907 KAR 1:510		
903 KAR 6:070			Amended	1908	
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904 KAR 2:001			Repealed	1071	11-6-95
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