

ADMINISTRATIVE REGISTER OF KENTUCKY

LEGISLATIVE RESEARCH COMMISSION
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MEETING NOTICE: The Administrative Regulation Review Subcommittee is scheduled to meet on June 10, 1997. See tentative agenda beginning on page 4051 of this Register.

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

TENTATIVE AGENDA - June 10, 1997 at 10 a.m.

Room 149, Capitol Annex

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

LEGISLATIVE RESEARCH COMMISSION

Capital Planning Advisory Board

1 KAR 6:020. Policies and procedures. (Deferred from February)

COUNCIL ON HIGHER EDUCATION

Public Educational Institutions

13 KAR 2:080. State Autism Training Center.

DEPARTMENT OF LAW

Division of Consumer Protection

40 KAR 2:250. Filing of annual reports by cemeteries.

40 KAR 2:260. Filing of annual reports by preneed burial licensees.

Medical Examination of Sexual Abuse Victims

40 KAR 3:010. Payment schedule to hospitals, physicians and sexual assault nurse examiners for medical examinations of victims of sexual offenses. (Deferred from May)

PERSONNEL CABINET

Department of Personnel, Unclassified

101 KAR 3:045E. Compensation plan and compensation incentive systems. (Deferred from May)

REVENUE CABINET

Office of General Counsel

Division of Tax Policy and Research

Income Tax; Corporations

103 KAR 16:200. Consolidated Kentucky corporation income tax return. (Deferred from May)

MILITARY AFFAIRS

Emergency Response Commission

Disaster and Emergency Services

106 KAR 1:091E. Kentucky Emergency Response Commission fee account grant requirements for local emergency planning committees.

BOARD OF PHARMACY

Board of Pharmacy

201 KAR 2:106. Pharmacy, manufacturer, or distributor closures.

201 KAR 2:225. Special pharmacy permit-medical gasses.

Real Estate Commission

201 KAR 11:400. Agency disclosure requirements. (Amended After Hearing)

Board of Nursing

201 KAR 20:057. Scope and standards of practice of advanced registered nurse practitioners. (Amended After Hearing)

TOURISM DEVELOPMENT CABINET

Department of Fish and Wildlife Resources

Game

301 KAR 2:140. Seasons for wild turkey.

301 KAR 2:172. Deer hunting seasons and requirements.

301 KAR 2:174. Deer hunting zones.

301 KAR 2:178. Deer hunting on wildlife management areas.

301 KAR 2:251. Hunting and trapping seasons and limits for furbearers and small game.

Hunting and Fishing

301 KAR 3:030. Year-round season for some birds and animals.

DEPARTMENT OF AGRICULTURE

Division of Animal Health

Livestock Sanitation

302 KAR 20:180. Restrictions equine viral arteritis.

Division of Markets

Organic Agricultural Product Certification

302 KAR 40:010. Standard organic agricultural product requirements.

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LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance

Division of Occupational Safety and Health Education and Training

Occupational Safety and Health

- 803 KAR 2:301 & E. Adoption and extension of established federal standards.
- 803 KAR 2:306 & E. Occupational health and environmental control.
- 803 KAR 2:308 & E. Personal protective equipment.
- 803 KAR 2:320 & E. Air contaminants.
- 803 KAR 2:402 & E. General safety and health provisions.
- 803 KAR 2:403 & E. Occupational health and environmental controls.
- 803 KAR 2:404 & E. Personal protective and life saving equipment.
- 803 KAR 2:405 & E. Fire protection and prevention.
- 803 KAR 2:410 & E. Electrical.
- 803 KAR 2:411 & E. Scaffolds.
- 803 KAR 2:424 & E. Diving.
- 803 KAR 2:425 & E. Toxic and hazardous substances.
- 803 KAR 2:500 & E. Maritime employment.
- 803 KAR 2:900E. Repeal of 803 KAR 2:302. (Deferred from May)

Department of Workers Claims

Workers' Claims

- 803 KAR 25:010 & E. Procedure for adjustments of claims.
- 803 KAR 25:200 & E. Workers' compensation notice.
- 803 KAR 25:210 & E. Affidavit of exemption from KRS Chapter 342.
- 803 KAR 25:220 & E. Guaranty funds.
- 803 KAR 25:230 & E. Employee leasing.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Alcoholic Beverage Control

Licensing

- 804 KAR 4:340. Brew-on-premises license.

Department of Mines and Minerals

Division of Oil and Gas

- 805 KAR 1:160. Posting of a danger sign on a facility used for the storage of oil. (Public Hearing in May)
- 805 KAR 1:170. Content of the operations and reclamation proposal; form on which the proposal is filed. (Public Hearing in May)
- 805 KAR 1:180. Production reporting. (Public Hearing in May)

Department of Insurance

Authorization of Insurers and General Requirements

- 806 KAR 3:190. Risk-based capital for insurers.

Fees and Taxes

- 806 KAR 4:010. Fees of the Department of Insurance.

Rates and Rating Organizations

- 806 KAR 13:130E. Experience modification factors for workers' compensation insurers.
- 806 KAR 13:140E. Notice of right to seek review of application of workers' compensation insurance rates.

Health Maintenance Organizations

- 806 KAR 38:090E. Open enrollment. (Deferred from May)

Public Service Commission

Utilities

- 807 KAR 5:063. Filing requirements and procedures for proposals to construct telecommunications antenna towers. (Amended After Hearing)

Department of Financial Institutions

Securities

- 808 KAR 10:225. Procedural regulation governing hearing and hearing related procedures for matters before the Department of Financial Institutions. (Deferred from April) (Deferred from May)

Kentucky Racing Commission

Harness Racing

- 811 KAR 1:090E. Stimulants and drugs.

Department of Housing, Buildings and Construction

Office of the State Fire Marshall

Boilers and Pressure Vessels

- 815 KAR 15:026. Existing boilers and pressure vessels; testing, repairs, inspection and safety factors. (Deferred from May)

Plumbing

- 815 KAR 20:020. Parts or materials list.
- 815 KAR 20:070. Plumbing fixtures.
- 815 KAR 20:090. Soil, waste and vent systems.

ADMINISTRATIVE REGULATION REVIEW PROCEDURE
(See KRS Chapter 13A for specific provisions)

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 working (5) days before the scheduled hearing. If no written notice is received at least five (5) working 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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(b) Persons who wish to file this request may obtain a request form from the Kentucky Revenue Cabinet at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the administration of the corporation license tax is KRS 131.130(1).

(b) The administrative regulation that the Kentucky Revenue Cabinet intends to promulgate will not amend an existing administrative regulation. It will explain the computation of capital as it relates to the accounts advances by affiliated companies and intercompany accounts.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 136.070 defines the term capital which includes the accounts advances by affiliated companies and intercompany accounts. KRS 131.130(1) requires the cabinet to make administrative regulations for the administration of all tax laws. This administrative regulation establishes terms and procedures required for the implementation of KRS 136.070.

(d) The benefits expected from the administrative regulation are:

1. Improved corporate taxpayer education;
2. Fewer mistakes made by corporate taxpayers on returns filed; and
3. Fewer adjustments made by the Cabinet to license tax returns filed.

(e) The administrative regulation will be implemented as follows: The provisions of this administrative regulation will be incorporated into the instructions of Revenue Form 720, Kentucky Corporation Income and License Tax Return, and other publications issued by the Revenue Cabinet.

KENTUCKY REAL ESTATE COMMISSION

April 24, 1997

Kentucky Real Estate Commission

(1) Regulation Number and Title; or subject matter if new: **201 KAR 11:011.**

(2) The Kentucky Real Estate Commission intends to promulgate administrative regulations concerning definitions of fraud and fraudulent conduct as those terms are used in KRS Chapter 324 and 201 KAR Chapter 11.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 23, 1997, at 10 a.m. (EST), at Kentucky Real Estate Commission, Suite 201, 10200 Linn Station Road, Louisville, Kentucky 40223.

(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 10 days prior to June 23, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address:

(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 Jeffrey C. Blair at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of administrative regulation relating to the Kentucky Real Estate Commission are KRS 13A.100 and 324.281.

(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will add definitions to 201 KAR 11:011 concerning fraud or fraudulent conduct as those terms are referenced in KRS 324.160(1)(r) and 324.400 - 324.420.

(c) The necessity and function of this administrative regulation sets forth the definitions of fraud and fraudulent conduct as those terms are used in the statutes and regulations as they apply to the Kentucky Real Estate Commission and awards from the Recovery Fund pursuant to KRS 324.400 to 324.420.

(d) The benefits expected from administrative regulation are: Inform complainants and real estate licensees of definition of fraud or fraudulent conduct as those terms relate to proceedings and actions of the Kentucky Real Estate Commission.

BOARD OF NURSING

April 9, 1997

General Government Cabinet

Board of Nursing

(1) **201 KAR 20:240.** Fees for applications and for services.

(2) The Board of Nursing 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 June 23, 1997 at 10 a.m. (EDT) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(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 at least ten (10) days prior to June 23, 1997, the public hearing will be canceled.

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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 10 days prior to June 24, 1997, the public hearing will be canceled.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Certification for Professional Art Therapists at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to fees is KRS 309.135.

(b) The administrative regulation that the board intends to promulgate will establish all fees charged by the board. It will set forth in detail all of the fees regarding certification.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation is necessitated by KRS 309.135 and sets forth in detail all fees charged by the board.

(d) The benefits expected from administrative regulation are: The applicants and certificants will know what all of the fees are regarding certification.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

May 12, 1997

Kentucky Board of Certification for Professional Art Therapists

(1) **201 KAR 34:030.** Continuing education requirements.

(2) The Kentucky Board of Certification for Professional Art Therapists 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 June 24, 1997, at 9 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

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

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 10 days prior to June 24, 1997, the public hearing will be canceled.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Board of Certification for Professional Art Therapists at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to fees is KRS 309.1315(9).

(b) The administrative regulation that the board intends to promulgate will establish the continuing education requirements for renewal of certification. It will set forth in detail the number of hours, the appropriate sources, and the required verifications.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation is necessitated by KRS 309.1335(1)(b) which requires that a certificate holder produce evidence of the receipt of relevant continuing education in order to renew their certificate.

(d) The benefits expected from administrative regulation are: The certificants will know all of the requirements regarding continuing education.

(e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

May 12, 1997

Kentucky Board of Certification for Professional Art Therapists

(1) **201 KAR 34:040.** Code of ethics.

(2) The Kentucky Board of Certification for Professional Art Therapists 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 June 24, 1997, at 9 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

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

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

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(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 ten days prior to June 23, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to John Wilson, Assistant Director, Public Affairs/Policy, Kentucky 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 150.025.

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:111 as follows: It will shift the ending of the season framework for deer hunting from January 15 to January 31.

(c) The necessity and function of the proposed administrative regulation is to provide a season framework on federal areas (Ft. Knox, Ft. Campbell, Bluegrass Ordnance Depot, Land Between the Lakes and Reelfoot National Wildlife Refuge) during which hunting may be permitted.

(d) The benefits expected from the administrative regulation are to provide optimal hunting opportunity on federal areas consistent with the other uses and priorities on these areas.

(e) This administrative regulation will be implemented by cooperative efforts of the department and the federal areas involved.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Environmental Protection

Division for Air Quality

May 15, 1997

Natural Resources and Environmental Protection Cabinet

Department for Environmental Protection

Division for Air Quality

(1) **401 KAR 63:060**, List of hazardous air pollutants, petitions process, lesser quantity designations, and source category list, will upon adoption, amend the existing regulation which has been recodified from 401 KAR 57:061. The subject matter of this amendment is the updating of the state's administrative regulation to bring it in line with revisions to the federal rule for National Emission Standard for Hazardous Air Pollutants (NESHAP) at 40 CFR Part 63, Subpart A. The promulgation of the amended administrative regulation is required in order for the Commonwealth to retain the existing delegated authority to enforce the federal NESHAP regulation pursuant to its delegated Title V permitting program from the U.S. EPA.

(2) The Division for Air Quality intends to promulgate one amended 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 June 23, 1997, at 10 a.m. (ET), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 23, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Division for Air Quality, Attention Millie Ellis, Supervisor, Regulation Development Section, Program Planning and Administration Branch, 803 Schenkel Lane, 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 Division for Air Quality at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of the NESHAP regulation is KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will amend 401 KAR 63:060 as recodified from 401 KAR 57:061. The amended administrative regulation will update the state's administrative regulation to agree with list of hazardous air pollutants and source categories found in the corresponding federal rule.

(c) The necessity and function of the proposed administrative regulation is as follows: 42 USC 7412(d) mandates the U.S. EPA to promulgate federal NESHAP regulations which establish emission standards for major and area sources of hazardous air pollutants as listed in the 1990 amendments to the federal Clean Air Act. The amended administrative regulation contains the same provisions as the federal regulation. The Division for Air Quality is proposing this administrative regulation so that the Commonwealth will continue to have the delegated authority to enforce the provisions of the corresponding federal NESHAP regulation.

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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 Division for Air Quality at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of the NESHAP regulation is KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-

120.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend any existing administrative regulation. The new administrative regulation will incorporate by reference those national emission standards in the corresponding federal rule.

(c) The necessity and function of the proposed administrative regulation is as follows: 42 USC 7412(d) mandates the U.S. EPA to promulgate federal NESHAP regulations which establish emission standards for major and area sources of hazardous air pollutants as listed in the 1990 amendments to the federal Clean Air Act. The proposed administrative regulation contains the same provisions as the federal regulation. The Division for Air Quality is proposing this administrative regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the corresponding federal NESHAP regulation.

(d) The expected benefit from this administrative regulation is that sources subject to the federal NESHAP regulation will be able to work with the state rather than the federal government to obtain necessary permits.

(e) The administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, those sources subject to 40 CFR 63.1040 through 63.1049 (40 CFR 63, Subpart VV) shall comply with the provisions of 401 KAR 63:104 as part of the existing regulatory program.

May 15, 1997

Natural Resources and Environmental Protection Cabinet

Department for Environmental Protection

Division for Air Quality

(1) **401 KAR 63:541**, National emission standards for hazardous air pollutants from secondary lead smelting. The subject matter of this new administrative regulation is the federal National Emission Standard for Hazardous Air Pollutants (NESHAP) which limits the emissions from facilities at which lead-bearing scrap material is recycled into elemental lead by smelting. The promulgation of the proposed administrative regulation is required in order for the Commonwealth to have the delegated authority to enforce the federal NESHAP regulation pursuant to its delegated Title V permitting program from the U.S. EPA.

(2) The Division for Air Quality intends to promulgate a new administrative regulation that incorporates by reference the federal NESHAP regulation, 40 CFR 63.541 through 63.550 (40 CFR 63, Subpart X), 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 June 23, 1997, at 10 a.m. (ET), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 23, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Division for Air Quality, Attention Millie Ellis, Supervisor, Regulation Development Section, Program Planning and Administration Branch, 803 Schenkel Lane, 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 Division for Air Quality at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of the NESHAP regulation is KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-

120.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend any existing administrative regulation. The new administrative regulation will incorporate by reference those national emission standards in the corresponding federal rule.

(c) The necessity and function of the proposed administrative regulation is as follows: 42 USC 7412(d) mandates the U.S. EPA to promulgate federal NESHAP regulations which establish emission standards for major and area sources of hazardous air pollutants as listed in the 1990 amendments to the federal Clean Air Act. The proposed administrative regulation contains the same provisions as the federal regulation. The Division for Air Quality is proposing this administrative regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the corresponding federal NESHAP regulation.

(d) The expected benefit from this administrative regulation is that sources subject to the federal NESHAP regulation will be able to work with the state rather than the federal government to obtain necessary permits.

(e) The administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, those sources subject to 40 CFR 63.541 through 63.550 (40 CFR 63, Subpart X) shall comply with the provisions of 401 KAR 63:541 as part of the existing regulatory program.

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of the NESHAP regulation is KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend any existing administrative regulation. The new administrative regulation will incorporate by reference those national emission standards in the corresponding federal rule.

(c) The necessity and function of the proposed administrative regulation is as follows: 42 USC 7412(d) mandates the U.S. EPA to promulgate federal NESHAP regulations which establish emission standards for major and area sources of hazardous air pollutants as listed in the 1990 amendments to the federal Clean Air Act. The proposed administrative regulation contains the same provisions as the federal regulation. The Division for Air Quality is proposing this administrative regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the corresponding federal NESHAP regulation.

(d) The expected benefit from this administrative regulation is that sources subject to the federal NESHAP regulation will be able to work with the state rather than the federal government to obtain necessary permits.

(e) The administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, those sources subject to 40 CFR 63.640 through 63.654 (40 CFR 63, Subpart CC) shall comply with the provisions of 401 KAR 63:640 as part of the existing regulatory program.

May 15, 1997

Natural Resources and Environmental Protection Cabinet
Department for Environmental Protection
Division for Air Quality

(1) **401 KAR 63:680**, National emission standards for hazardous air pollutants from off-site waste and recovery operations. The subject matter of this new administrative regulation is the federal National Emission Standard for Hazardous Air Pollutants (NESHAP) which limits the emissions from specified waste management or recovery operations at a major source for hazardous air pollutants for operations that receive specified off-site materials. The promulgation of the proposed administrative regulation is required in order for the Commonwealth to have the delegated authority to enforce the federal NESHAP regulation pursuant to its delegated Title V permitting program from the U.S. EPA.

(2) The Division for Air Quality intends to promulgate a new administrative regulation that incorporates by reference the federal NESHAP regulation, 40 CFR 63.680 through 63.698, and Tables 1 through 4 to Subpart DD (40 CFR 63, Subpart DD), 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 June 23, 1997, at 10 a.m. (ET), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 23, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Division for Air Quality, Attention Millie Ellis, Supervisor, Regulation Development Section, Program Planning and Administration Branch, 803 Schenkel Lane, 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 Division for Air Quality at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of the NESHAP regulation is KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend any existing administrative regulation. The new administrative regulation will incorporate by reference those national emission standards in the corresponding federal rule.

(c) The necessity and function of the proposed administrative regulation is as follows: 42 USC 7412(d) mandates the U.S. EPA to promulgate federal NESHAP regulations which establish emission standards for major and area sources of hazardous air pollutants as listed in the 1990 amendments to the federal Clean Air Act. The proposed administrative regulation contains the same provisions as the federal regulation. The Division for Air Quality is proposing this administrative regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the corresponding federal NESHAP regulation.

(d) The expected benefit from this administrative regulation is that sources subject to the federal NESHAP regulation will be able to work with the state rather than the federal government to obtain necessary permits.

(e) The administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, those sources subject to 40 CFR 63.680 through 63.698 (40 CFR 63, Subpart DD), and Tables 1 through 4 to Subpart DD, shall comply with the provisions of 401 KAR 63:680 as part of the existing regulatory program.

ADMINISTRATIVE REGISTER - 4067

(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 for Air Quality at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of the NESHAP regulation is KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend any existing administrative regulation. The new administrative regulation will incorporate by reference those national emission standards in the corresponding federal rule.

(c) The necessity and function of the proposed administrative regulation is as follows: 42 USC 7412(d) mandates the U.S. EPA to promulgate federal NESHAP regulations which establish emission standards for major and area sources of hazardous air pollutants as listed in the 1990 amendments to the federal Clean Air Act. The proposed administrative regulation contains the same provisions as the federal regulation. The Division for Air Quality is proposing this administrative regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the corresponding federal NESHAP regulation.

(d) The expected benefit from this administrative regulation is that sources subject to the federal NESHAP regulation will be able to work with the state rather than the federal government to obtain necessary permits.

(e) The administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, those sources subject to 40 CFR 63.780 through 63.788 (40 CFR 63, Subpart II) shall comply with the provisions of 401 KAR 63:780 as part of the existing regulatory program.

May 15, 1997

Natural Resources and Environmental Protection Cabinet

Department for Environmental Protection

Division for Air Quality

(1) **401 KAR 63:800**, National emission standards for wood furniture manufacturing operations. The subject matter of this new administrative regulation is the federal National Emission Standard for Hazardous Air Pollutants (NESHAP) which limits the emissions from major sources of wood furniture manufacturing operations or which are located at a major source of hazardous air pollutants. The promulgation of the proposed administrative regulation is required in order for the Commonwealth to have the delegated authority to enforce the federal NESHAP regulation pursuant to its delegated Title V permitting program from the U.S. EPA.

(2) The Division for Air Quality intends to promulgate a new administrative regulation that incorporates by reference the federal NESHAP regulation, 40 CFR 63.800 through 63.808 (40 CFR 63, Subpart JJ), 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 June 23, 1997, at 10 a.m. (ET), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 23, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Division for Air Quality, Attention Millie Ellis, Supervisor, Regulation Development Section, Program Planning and Administration Branch, 803 Schenkel Lane, 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 Division for Air Quality at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of the NESHAP regulation is KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend any existing administrative regulation. The new administrative regulation will incorporate by reference those national emission standards in the corresponding federal rule.

(c) The necessity and function of the proposed administrative regulation is as follows: 42 USC 7412(d) mandates the U.S. EPA to promulgate federal NESHAP regulations which establish emission standards for major and area sources of hazardous air pollutants as listed in the 1990 amendments to the federal Clean Air Act. The proposed administrative regulation contains the same provisions as the federal regulation. The Division for Air Quality is proposing this administrative regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the corresponding federal NESHAP regulation.

(d) The expected benefit from this administrative regulation is that sources subject to the federal NESHAP regulation will be able to work with the state rather than the federal government to obtain necessary permits.

(e) The administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, those sources subject to 40 CFR 63.800 through 63.808 (40 CFR 63, Subpart JJ) shall comply with the provisions of 401 KAR 63:800 as part of the existing regulatory program.

May 15, 1997

Natural Resources and Environmental Protection Cabinet

Department for Environmental Protection

Division for Air Quality

(1) **401 KAR 63:820**, National emission standards for the printing and publishing industry. The subject matter of this new administrative

120.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend any existing administrative regulation. The new administrative regulation will incorporate by reference those national emission standards in the corresponding federal rule.

(c) The necessity and function of the proposed administrative regulation is as follows: 42 USC 7412(d) mandates the U.S. EPA to promulgate federal NESHAP regulations which establish emission standards for major and area sources of hazardous air pollutants as listed in the 1990 amendments to the federal Clean Air Act. The proposed administrative regulation contains the same provisions as the federal regulation. The Division for Air Quality is proposing this administrative regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the corresponding federal NESHAP regulation.

(d) The expected benefit from this administrative regulation is that sources subject to the federal NESHAP regulation will be able to work with the state rather than the federal government to obtain necessary permits.

(e) The administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, those sources subject to 40 CFR 63.900 through 63.907 (40 CFR 63, Subpart OO), shall comply with the provisions of 401 KAR 63:900 as part of the existing regulatory program.

May 15, 1997

Natural Resources and Environmental Protection Cabinet
Department for Environmental Protection
Division for Air Quality

(1) **401 KAR 63:920**, National emission standards for containers. The subject matter of this new administrative regulation is the federal National Emission Standard for Hazardous Air Pollutants (NESHAP) which applies to the control of emissions from containers for which another subpart of 40 CFR Parts 60, 61, or 63 references the use of this federal subpart. Examples of containers include but are not limited to drums, dumpsters, roll-off boxes, bulk cargo containers commonly known as "portable tanks" or "totes", cargo tank trucks, and tank railcars. The promulgation of the proposed administrative regulation is required in order for the Commonwealth to have the delegated authority to enforce the federal NESHAP regulation pursuant to its delegated Title V permitting program from the U.S. EPA.

(2) The Division for Air Quality intends to promulgate a new administrative regulation that incorporates by reference the federal NESHAP regulation, 40 CFR 63.920 through 63.928 (40 CFR 63, Subpart PP), 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 June 23, 1997, at 10 a.m. (ET), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 23, 1997, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Division for Air Quality, Attention Millie Ellis, Supervisor, Regulation Development Section, Program Planning and Administration Branch, 803 Schenkel Lane, 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 Division for Air Quality at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of the NESHAP regulation is KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-

120.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend any existing administrative regulation. The new administrative regulation will incorporate by reference those national emission standards in the corresponding federal rule.

(c) The necessity and function of the proposed administrative regulation is as follows: 42 USC 7412(d) mandates the U.S. EPA to promulgate federal NESHAP regulations which establish emission standards for major and area sources of hazardous air pollutants as listed in the 1990 amendments to the federal Clean Air Act. The proposed administrative regulation contains the same provisions as the federal regulation. The Division for Air Quality is proposing this administrative regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the corresponding federal NESHAP regulation.

(d) The expected benefit from this administrative regulation is that sources subject to the federal NESHAP regulation will be able to work with the state rather than the federal government to obtain necessary permits.

(e) The administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, those sources subject to 40 CFR 63.920 through 63.928 (40 CFR 63, Subpart PP) shall comply with the provisions of 401 KAR 63:920 as part of the existing regulatory program.

May 15, 1997

Natural Resources and Environmental Protection Cabinet
Department for Environmental Protection
Division for Air Quality

(1) **401 KAR 63:940**, National emission standards for surface impoundments. The subject matter of this new administrative regulation is the federal National Emission Standard for Hazardous Air Pollutants (NESHAP) which applies to the control of emissions from surface impoundments for which another subpart of 40 CFR Parts 60, 61, or 63 references the use of this federal subpart. The promulgation of the proposed administrative regulation is required in order for the Commonwealth to have the delegated authority to enforce the federal NESHAP regulation pursuant to its delegated Title V permitting program from the U.S. EPA.

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promulgate federal NESHAP regulations which establish emission standards for major and area sources of hazardous air pollutants as listed in the 1990 amendments to the federal Clean Air Act. The proposed administrative regulation contains the same provisions as the federal regulation. The Division for Air Quality is proposing this administrative regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the corresponding federal NESHAP regulation.

(d) The expected benefit from this administrative regulation is that sources subject to the federal NESHAP regulation will be able to work with the state rather than the federal government to obtain necessary permits.

(e) The administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, those sources subject to 40 CFR 63.960 through 63.966 (40 CFR 63, Subpart RR) shall comply with the provisions of 401 KAR 63:960 as part of the existing regulatory program.

JUSTICE CABINET Department of Corrections

May 14, 1997
Justice Cabinet
Department of Corrections

(1) Regulation Number and Title: **501 KAR 6:020**, Department of Corrections.

(2) The Justice Cabinet, Department of Corrections, 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 June 23, 1997, at 9 a.m., in the Auditorium, in the State Office Building, 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 10 days prior to June 23, 1997, the public hearing will be canceled.

(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 above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation relating to the subject matter 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. Advanced supervision (27-10-01) shall be deleted due to the fact that this type of supervision has been abolished in order to permit probation and parole officers to handle a larger number of offenders at all other levels of supervision.

2. Intensive supervision (27-11-01) shall be amended to delete the section involving the criteria and procedures for early release to intensive supervision as this is no longer a viable option. Offenders may be paroled at their regular eligibility date to intensive supervision in the three (3) large metropolitan areas.

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

1. 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.

2. This administrative regulation updates operating procedures at the Department of Corrections to comply with KRS Chapter 13A and to reflect current operating procedures.

(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify current operating procedures.

(e) This administrative regulation will be implemented as follows: Staff will comply with operational procedures and standards noted in policy changes.

May 14, 1997
Justice Cabinet
Department of Corrections

(1) Regulation Number and Title: **501 KAR 6:110**, Roederer Correctional Complex.

(2) The Justice Cabinet, Department of Corrections, 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 June 23, 1997, at 9 a.m., in the Auditorium, in the State Office Building, 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

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offenders.

32. Inmate discharge procedures (RCC 25-05-01) shall be amended to delete any references to transfers which are delineated in CPP 17-01-02.

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

1. 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.

2. This administrative regulation updates operating procedures at the Roederer Correctional Complex to comply with KRS Chapter 13A and to reflect current operating procedures.

(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify current operating procedures.

(e) This administrative regulation will be implemented as follows: Staff will comply with operational procedures and standards noted in policy changes.

TRANSPORTATION CABINET

June 1, 1997

Transportation Cabinet

(1) **600 KAR 4:010**, relating to the certification of disadvantaged, minority and women business enterprises.

(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation which will amend existing administrative regulation 600 KAR 4:010. In that administrative regulation the role of the in-house certification committee is unclear. Should the committee be advisory only, or should the committee have an actual vote in the approval of certification of a disadvantaged business enterprise? In addition to addressing this issue, the Transportation Cabinet will examine the entire certification process to ensure that it is functioning as well as possible.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 23, 1997 at 10 a.m. local prevailing time, at 501 High Street, 4th Floor Hearing/Conference Room, Frankfort, Kentucky 40622.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 23, 1997, the hearing will be canceled.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the certification of disadvantaged, minority or women business enterprises is KRS 174.080 and 49 CFR 23.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend an existing administrative regulation, 600 KAR 4:010 by clearly establishing the role of the certification committee.

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

(d) The benefit expected is the removal of uncertainty about the role of the certification committee.

(e) The change to the administrative regulation will be implemented by informing all concerned of the role of the certification committee.

(8) Any person with a disability for which the Transportation Cabinet needs to make an accommodation in order for the person to participate in the public comment hearing should notify Sandra Pullen Davis at the above-mentioned address no later than June 15, 1997.

EDUCATION PROFESSIONAL STANDARDS BOARD

May 1997

Education Professional Standards Board

(1) **704 KAR 20:670**, Kentucky teaching certificates.

(2) The Education Professional Standards Board 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 June 25, 1997 at 10 a.m. in the First Floor Conference Room, Capital Plaza Tower, 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

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enforcement actions when it is appropriate to resolve a matter informally with an agreed order.

CABINET FOR HEALTH SERVICES Department for Public Health Division for Health Systems Development

May 15, 1997

Cabinet for Health Services
Department for Public Health
Division for Health Systems Development

(1) **902 KAR 13:120.** Automated external defibrillation (AED) procedures for emergency medical technicians (EMTs) and EMT-first responders.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1997, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, first floor, 275 East Main St., Frankfort, Kentucky.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people by June 20, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mae B. Lewis, Cabinet Regulation Coordinator, Office of the 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 from the Administrative Regulation Coordinator, Commissioner's Office, Department for Health Services, 275 E. Main St., Frankfort, Kentucky 40621, or by calling (502) 564-3970 between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to: Certification and standards of emergency medical technicians (EMTs) is KRS 211.964.

(b) The administrative regulation that the Department for Health Services intends to promulgate will: Establish authorization, training requirements, medical direction, and coordination of patient care procedures for EMTs and EMT-first responders who utilize AEDs. This proposed amendment will be less restrictive on training, reporting requirements, oversight, and utilization.

(c) The necessity and function of the proposed administrative regulation is as follows: Conform with KRS 211.964 to promulgate administrative regulations relating to the training, certification, and authorized procedures for EMTs and EMT-first responders.

(d) The benefit expected from administrative regulation is: To establish uniform standards for the use of AEDs by EMTs and EMT-first responders certified in Kentucky.

CABINET FOR FAMILIES AND CHILDREN Department for Social Insurance Division of Management and Development

May 1, 1997

Cabinet for Families and Children
Department for Social Insurance
Division of Management and Development

(1) **904 KAR 2:006.** Technical requirements for the Kentucky Transitional Assistance Program (K-TAP).

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1997, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 30, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Judy Trigg, Regulation

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(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation is necessary to implement the mandated requirements found in 42 USC 601 et seq., in order to implement the Temporary Assistance for Needy Families (TANF) block grant program that replaces the current AFDC program. The October filing of Kentucky's Title IV-A State Plan defines our method for operating the requirements for the program, called the Kentucky Transitional Assistance Program (K-TAP), funded under 42 USC 601 et seq. The provisions of the program delineated in the State Plan submission to Health and Human Services must be implemented in order to qualify for block grant funds.

(d) The benefits expected from administrative regulation are: The amendments to this administrative regulation will bring Kentucky in compliance with the mandated requirements found in 42 USC 601 et seq. Simplification of financial eligibility requirements for the Kentucky Transitional Assistance Program (K-TAP) will reduce the complexities in applying for benefits by the applicant and in making eligibility determinations by the cabinet. The value of one (1) motor vehicle will be exempted to allow the applicant or recipient the ability to own a dependable vehicle to travel to employment or training. References to the amount of child care made directly to the provider will be based on rates in administrative regulation 905 2:140 instead of 904 KAR 2:017E to comply with the amendments proposed in those administrative regulations. In addition, the resource standard will be increased from \$1,000 to \$2,000; up to a total of \$5,000 in individual development accounts will be allowed; and the disregard of the first two (2) months of earnings will be added.

(e) The administrative regulation will be implemented as follows: The Cabinet for Families and Children, the Department for Social Insurance will be responsible for implementing the administrative regulation.

May 7, 1997

Cabinet for Families and Children

Department for Social Insurance

Division of Management and Development

(1) **904 KAR 3:050**, Claims and additional administrative provisions.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1997 at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 30, 1997, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Judy H. Trigg, Regulation Coordinator, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-7573 (fax).

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the program is KRS 194.050 and Executive Order 96-862, which reorganized the Cabinet for Human Resources and placed the Department for Social Insurance and its programs under the Cabinet for Families and Children.

(b) The administrative regulation that the Department for Social Insurance intends to promulgate is an amendment to administrative regulation, 904 KAR 3:050. The amendment to the administrative regulation implements the food stamp claims, collections, and disclosure procedures that are mandated by PL 104-193, sections 809 (7 USC 2014(e)), 837 (7 USC 2020(e)(8)), and 844 (7 USC 2022). The department also plans to implement a food and consumer service administrative notification to waive the establishment and collection of any claim that is \$125 or less for any nonparticipating household. It has been determined by the FCS that collection of such claims is not cost effective.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the claims, collections, and disclosure procedures that are used by the cabinet in the administration of the Food Stamp Program.

(d) The benefits expected from administrative regulation are: This administrative regulation will prevent a loss of federal funds by implementing the requirements mandated by PL 104-193.

Date: May 7, 1997

Cabinet for Families and Children

Department for Social Insurance

Division of Management and Development

(1) **904 KAR 3:060**, Administrative disqualification hearings and penalties.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30,

EMERGENCY ADMINISTRATIVE REGULATIONS NOW IN EFFECT

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

STATEMENT OF EMERGENCY
904 KAR 2:006E

The administrative regulation 904 KAR 2:006E, Technical requirements for Kentucky Transitional Assistance Program (K-TAP), implements the technical requirements for the Kentucky Transitional Assistance Program (K-TAP). This emergency administrative regulation must be placed into effect immediately in order to meet a deadline imposed by federal law. The passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 has eliminated entitlement to the Aid to Families with Dependent Children (AFDC) program and has created the Temporary Assistance for Needy Families block grant program. It is necessary to promulgate this emergency administrative regulation to bring Kentucky into compliance with the federally mandated requirements found in 42 USC 601 et seq., in order for Kentucky to implement the Temporary Assistance for Needy Families (TANF) block grant program called K-TAP. As a result of 42 USC 601 et seq., the Cabinet for Families and Children filed a Title IV-A State Plan for TANF block grant funding, in order to implement the TANF block grant program in Kentucky called K-TAP. This Title IV-A State Plan was filed for October 1996, effective the first possible quarter for Kentucky to be considered an eligible state to receive block grant funding for federal fiscal year 1996-97. The new Title IV-A State Plan was submitted as soon as possible for Kentucky to have the ability to be eligible to receive the full total of the Title IV-A block grant funding from the federal government. The submittal of the Title IV-A State Plan effective October 18, 1996, the date following the end of the public notice period, will mean more federal funding for K-TAP than could be realized for the current federal funding for the AFDC program. Implementation of the plan must include the mandatory provisions in 42 USC 601 et seq. which the cabinet was required to include in the Title IV-A State Plan. An ordinary administrative regulation would not allow sufficient time to meet the time frames to implement the mandated provisions of the program delineated in the Title IV-A State Plan submission to the U.S. Department of Health and Human Services. The mandated provisions must be implemented in order to qualify for TANF funding. With the cabinet's submittal of Kentucky's Title IV-A State Plan, Kentucky was required to certify the state will operate its Temporary Assistance to Needy Families (TANF) block grant program, called K-TAP, in accordance with the federal statutory requirements, as provided by 42 USC 601 et seq. In order for Kentucky to meet the deadline imposed by the federal law, it is necessary to place into effect immediately this emergency administrative regulation. The deadline imposed by the Department of Health and Human Services for the complete Title IV-A State Plan for implementation of the mandated requirements of the cabinet's Title IV-A block grant program is October 18, 1996. Therefore, in order to meet this deadline by the U.S. Department of Health and Human Services and to prevent the loss of federal funds, this emergency administrative regulation must be placed in effect immediately in order to amend the technical program requirements in 904 KAR 2:006 to comply with the federal mandates contained in the Title IV-A State Plan. The emergency administrative regulation filed on January 31, 1997, was withdrawn and this substantially different emergency amendment to this administrative regulation promulgated. This emergency administrative regulation is substantially different from the withdrawn emergency administrative regulation because of the addition of exceptions to the work registration requirement for adults receiving K-TAP. In addition, time limitation requirements are clarified for minor teenage parents not living in an adult supervised

setting. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
VIOLA P. MILLER, Secretary

CABINET FOR FAMILIES AND CHILDREN
Department for Social Insurance
Division of Management and Development

904 KAR 2:006E. Technical requirements for the Kentucky Transitional Assistance Program (K-TAP) [AFDC].

RELATES TO: KRS 205.010, 205.200(2), (3), 45 CFR 205.10, 205.52, 232.11-12, 232.40-48, 233.10, 233.40, 233.50, 233.90, 233.100, "Expansion of Definition of Specified Caretaker Relative", Transmittal No. ACF-AT-91-33 (December 12, 1991), U.S. Department of Health and Human Services, Administration for Children & Families, Office of Family Assistance, "Determining AFDC Eligibility When the Only Dependent Child Receives Foster Care Benefits", Transmittal No. ACF-AT-94-5 (February 28, 1994), U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, 8 USC 1611-1645, 42 USC 601 et seq., 602, PL 104-208

STATUTORY AUTHORITY: KRS 194.050, 205.010, 205.200(2), (3), 42 USC 601 et seq., EO 96-862

EFFECTIVE: April 30, 1997

NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Social Insurance and its programs under the Cabinet for Families and Children. The Cabinet for Families and Children [Human Resources] has the responsibility under the provisions of KRS Chapter 205 to administer the assistance program of Aid to Families with Dependent Children, now named the Kentucky Transitional Assistance Program, the block grant program funded under 42 USC 601 et seq. KRS 205.200(2) requires that the conditions of eligibility to receive money grants from Aid to Families with Dependent Children, now named the Kentucky Transitional Assistance Program, be prescribed by administrative regulations in conformity with 42 USC 602 and federal regulations. This administrative regulation sets forth the technical requirements of school attendance, residence, citizenship, deprivation, living with a relative, age, one (1) category of assistance, work registration, cooperation in child support enforcement activities, strikers, minor teenage parent provisions, time limits and potential entitlement for other programs for eligibility for benefits from the Kentucky Transitional Assistance Program [Aid to Families with Dependent Children].

Section 1. Definitions. (1) "Battered or subjected to extreme cruelty" means an individual who has been subjected to:

(a) Physical acts that resulted in, or threatened to result in, physical injury to the individual;

(b) Sexual abuse;

(c) Sexual activity involving a dependent child;

(d) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

(e) Threats of, or attempts at, physical or sexual abuse;

(f) Mental abuse; or

(g) Neglect or deprivation of medical care. ["Aid to Families with Dependent Children (AFDC)"] means a money payment program for

mine his continuing eligibility; or

(b) A minor teenage parent pursuant to Section 18(1) of this administrative regulation. [A child who is sixteen (16) to eighteen (18) years of age and living in an active JOBS county, in order to determine his status as exempt or nonexempt for participation in the JOBS program, as specified in 904 KAR 2:370.]

(3) Full- and part-time school attendance is defined in 904 KAR 2:016E, Standards for need and amount for Kentucky Transitional Assistance Program (K-TAP).[- AFDC.]

(4) Unless the parent states the child shall not reenter school, a child shall be considered in regular attendance in months in which he is not attending because of:

- (a) Official school or training program vacation;
- (b) Illness;
- (c) Convalescence; or
- (d) Family emergency.

Section 3. Enumeration. (1) Each person included in the K-TAP [AFDC] case shall furnish his Social Security number or apply for a number if one has not been issued.

(2) Refusal to furnish the Social Security number or apply for a number shall result in the ineligibility of the person whose Social Security number is not furnished [verified].

(3) The agency shall assist an individual in making application for a Social Security number, if needed.

Section 4. Residence and Citizenship. (1) Residence. A resident shall be [is] anyone who:

- (a) Is living in the state voluntarily and not for a temporary purpose; or
- (b) Entered the state with a job commitment or seeking employment; and
- (c) Is not receiving assistance funded by a block grant program under 42 USC 601 et seq. [AFDC benefits] from another state.

(2) Citizenship.

(a) Except as provided in paragraphs (b) and (c) of this subsection, K-TAP [AFDC] shall be provided only to United States [- citizens.]

(b) A qualified alien, as defined in Section 1(10) of this administrative regulation, who entered the United States before August 22, 1996, who is otherwise eligible for K-TAP, shall be eligible for assistance.

(c) A qualified alien, as defined in Section 1(10) of this administrative regulation, who entered the United States on or after August 22, 1996, shall not be eligible for K-TAP for a period of five (5) years beginning on the date of the alien's entry into the United States. The following exceptions apply to this provision:

- 1. An alien who is admitted to the United States as a refugee under 8 USC 1157.
- 2. An alien who is granted asylum under 8 USC 1158.
- 3. An alien whose deportation is being withheld under 8 USC 1253(h); or
- 4. An alien who is lawfully residing in Kentucky and is:
 - a. A veteran as defined in 38 USC 101 with a discharge characterized as an honorable discharge and not on account of alienage;
 - b. On active duty other than active duty for training in the Armed Forces of the United States; or
 - c. The spouse or unmarried dependent child of an individual described in clause a or b of this subparagraph.
- (d) [-
 - 2. Aliens lawfully admitted for permanent residence; or
 - 3. Aliens otherwise permanently residing in the United States under color of law.

(b) Failure of the parent or other adult, applying for or receiving benefits, to sign a citizenship or alien status declaration shall cause the needs of the parent or other adult to be removed from the case.

Section 5. Deprivation. (1) To be eligible for K-TAP [AFDC], a child shall be in need and shall be deprived of parental support or care [meet the definition of deprivation] as specified in Section 1(4) of this administrative regulation.

(2) A specific deprivation factor shall be verified for each child for whom assistance is approved.

Section 6. Deprivation Due to Death. The death of either parent shall qualify a child as deprived due to death.

Section 7. Deprivation Due to Absence. (1) To be considered deprived due to absence, a needy child shall be physically separated from the parent and:

(a) The nature of the absence of the parent interrupts or terminates the parent's functioning as a provider of maintenance, physical care, or guidance for the child; and

(b) The known or indefinite duration of absence precludes counting on the parent's performance of his function in planning for the present support or care of the child.

(2) Absence may be voluntary or involuntary.

(a) Voluntary absence includes:

- 1. Divorce;
- 2. Legal separation;
- 3. Marriage annulment;
- 4. Desertion:
 - a. Of thirty (30) days or more if:
 - (i) The parent voluntarily leaves; or
 - (ii) The parent refuses to accept the child into his home; or
 - b. Of less than thirty (30) days if:
 - (i) The child leaves the parent because the parent was requiring the child to live under circumstances hazardous to the health or morals of the child; or
 - (ii) One (1) of the parents in the home is required by the court to leave the home because that parent was requiring the child to live under circumstances hazardous to the health or morals of the child; or
- (iii) The child is voluntarily placed with relatives following a finding by the Department for Social Services that the home is unsuitable; or
- (iv) The child is placed by the court with a specified relative other than the parent; or
- (v) The child is eligible and receiving benefits based on the unemployment or the incapacity of a parent and one (1) of the parents subsequently leaves the home; or
- (vi) Both parents are absent from the home;

5. Forced separation of seven (7) days or more; or

6. Birth out-of-wedlock.

(b) Involuntary absence includes:

- 1. Commitment to a penal institution for thirty (30) days or more;
- 2. Long-term hospitalization;
- 3. Deportation; or
- 4. Single parent adoption.

(3) A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday shall be [is] considered absent from the home.

Section 8. Deprivation Due to Incapacity. (1) Each determination of a deprivation of incapacity shall be based on a full consideration and assessment of the following factors affecting the claimant:

- (a) Medical;
- (b) Social; and
- (c) Economic.

(2) If a verified medical condition exists, then all relevant social and economic factors shall be considered to determine whether the parent's condition is the cause of and results in the parent's inability to support or care for the child.

(3) Incapacity exists in a case when the following criteria are met:

may be substituted for two (2) of the six (6) calendar quarters. Qualifying activities shall be:

1. An elementary;
2. Secondary; or
3. Vocational or technical training course designed to prepare the individual for gainful employment.

(c) Gross income from self-employment and farming qualify as earned income in determining PLMA. The self-employed individual does not have to realize a profit to meet this requirement.

(6) Restrictions. Unemployment shall not exist if the PWE:

- (a) Is on strike;
- (b) Is temporarily unemployed:
 1. Due to weather conditions or lack of work;
 2. If there is a job to return to; and
 3. Return can be anticipated within thirty (30) days or at the end of a normal vacation period;

(c) Is unavailable for full-time employment;

(d) Is under contract for employment, unless a written statement from the employer verifies that the individual is subject to release from the contract if full-time employment is secured;

(e) Has not met the criteria of unemployment for at least thirty (30) days;

(f) Is not:

1. Registered for work under Section 14 of this administrative regulation; or

2. Subject to Kentucky Works [JOBS], as specified in 904 KAR 2:370E; or

(g) Has refused a bona fide offer of employment or training for employment without good cause in the thirty (30) days prior to [AFDC-JUP] eligibility or during the course of receipt of [AFDC] UP benefits. Good cause exists if criteria specified in 904 KAR 2:016E, Section 4(4)(a)1, 2, 3, or 4 are met.

Section 10. Living with a Specified Relative. To be eligible for K-TAP [AFDC] a needy child shall be living in the home of a relative as follows:

(1) A blood relative, including:

- (a) Father;
- (b) Mother;
- (c) Grandfather;
- (d) Grandmother;
- (e) Brother;
- (f) Sister;
- (g) Uncle;
- (h) Aunt;
- (i) Nephew;
- (j) Niece;

(k) First cousin; and

(l) First cousin once removed;

(2) A relative of the half-blood;

(3) Preceding generations denoted by prefixes of:

- (a) Grand;
- (b) Great;
- (c) Great-great; or
- (d) Great-great-great;

(4) A stepfather, stepmother, stepbrother, stepsister;

(5) Any person listed in subsections (1) through (4) of this section if the alleged father has had paternity established through the administrative determination process as specified in Section 11 of this administrative regulation.

(6) An adoptive parent, the natural and other legally adopted child and other relative of the adoptive parent.

(7) The husband or wife of any person listed in subsections (1) through (6) of this section, even if the marriage may have terminated, providing termination occurred after the birth of the child.

(a) For K-TAP [AFDC] eligibility purposes, a couple that has been considered married by a state with common-law marriage provisions

shall be considered married.

(b) The statement of the applicant or recipient that he resides in a state which recognizes common-law marriage shall be accepted as verification by the agency.

(8)(a) Cash assistance shall not be provided for a child who is absent, or expected to be absent, from the home for a period of thirty (30) consecutive days or more unless the parent continues to exercise care and control of the child and good cause exists. [If the specified relative continues to exercise control over the child, a child is considered as living in the home even when temporarily absent for:]

(b) Good cause for absence, or expected absence, of the child from the home for a period of thirty (30) consecutive days or more, shall exist when the child is absent due to:

1. ~~[(a)]~~ Medical care;
2. ~~[(b)]~~ Attendance at school including boarding school;
3. ~~[(c)]~~ College or vocational school;
4. ~~[(d)]~~ Emergency foster care; or

5. If it is intended that the child will return to the home and the parent or specified relative maintains parental control of the child, ~~[(e)]~~ short visits with friends or relatives.

(9) If a specified relative fails to notify the agency of a thirty (30) consecutive day or more absence of the minor child for a reason other than one (1) of the good cause reasons listed in subsection (8)(b) of this section, the specified relative shall not be eligible for his share of K-TAP benefits during the period of the child's unreported absence of thirty (30) consecutive days or more. Ineligible benefits received by the specified relative and child during the period of the child's unreported absence of thirty (30) consecutive days or more shall be recouped pursuant to Section 10 of 904 KAR 2:016E.

Section 11. Administrative Establishment of Paternity. (1) An administrative determination of paternity as set forth in this administrative regulation shall be used only to establish relationship for K-TAP eligibility and shall be ~~[(e)]~~ limited to situations in which the following types of evidence are present:

(a) A birth certificate listing the alleged parent; or

(b) Legal documents such as:

1. Hospital records;
2. Juvenile court records;
3. Wills; and

4. Other court records which clearly indicate the relationship of the alleged parent or relative; or

(c) Receipt of statutory benefits as a result of the alleged parent's circumstances; or

(d) A sworn statement or affidavit of either parent acknowledging paternity plus one (1) of the following:

1. School records;
2. Bible records;
3. Immigration records;
4. Naturalization records;
5. Church documents, such as baptismal certificates;
6. Passport;
7. Military records;
8. U.S. Census records; or
9. Notarized ~~[Sworn]~~ statement or affidavit from an individual having specific knowledge about the relationship between the alleged parent and child.

(2) Rebuttal of administrative paternity may occur if:

(a) The parent or, in the absence of the parent, the caretaker relative alleges the evidence present in subsection (1)(a) or (b) of this section is erroneous and provides substantiation of the erroneous information; and

(b) The parent or caretaker relative provides a notarized ~~[sworn]~~ statement or affidavit acknowledging the erroneous information and containing the correct information on the actual alleged parent.

(3) Presence of the notarized ~~[sworn]~~ statement or affidavit specified in subsection (2)(b) of this section shall ~~[will]~~ serve as

(c) When the good cause claim is based on the anticipation of physical harm to the child or caretaker relative, and corroborative evidence is not submitted:

1. The agency shall conduct an investigation if it is believed that:
 - a. Corroborative evidence is not available; and
 - b. The claim is credible without corroborative evidence.
2. If the agency conducts an investigation of a good cause claim, it shall not contact the absent or alleged parent regarding support unless the contact is necessary to establish the good cause claim.
3. If it is necessary for the agency to make the contact, the worker shall notify the applicant or recipient of the proposed contact to either:
 - a. Obtain permission for the contact; or
 - b. To enable the applicant or recipient to:
 - (i) Present additional evidence or information so that such contact is unnecessary;
 - (ii) Withdraw the application for assistance or request discontinuance of K-TAP [AFDC]; or
 - (iii) Have the good cause claim denied.
- (6) After receipt of evidence to substantiate the good cause claim or conducting an investigation, the agency shall:
 - (a) Document the case;
 - (b) Determine that:
 1. Good cause exists and support activities cannot be initiated without endangering:
 - a. The best interests of the child; or
 - b. The physical or emotional health of the child or the relative; or
 2. ~~Good cause exists and support activities can be initiated without endangering the physical or emotional health of the child or the relative; or~~
 3. Good cause does not exist.
 - (c) Advise the specified relative in writing of the result of the good cause claim determination; and
 - (d) Identify each case in which good cause is established, but may be subject to change, for subsequent review.
 - (7) If the specified relative refuses to cooperate without good cause criteria being claimed, or claimed but not deemed to be met by the agency:
 - (a) K-TAP benefits shall be reduced by twenty-five (25) percent of the amount of the maximum payment for the appropriate family size pursuant to Section 8 of 904 KAR 2:016E; [The relative shall be ineligible for benefits;] and
 - (b) The agency shall attempt to obtain a protective payee to administer the K-TAP [AFDC] payment on behalf of the child.
 - (8) If, after the reduction of the K-TAP payment [exclusion from the grant] for failure to cooperate, the specified relative states he will cooperate, the agency shall:
 - (a) Remove the twenty-five (25) percent reduction in benefits effective the first administratively feasible month if the individual states he will cooperate and verification of cooperation is provided timely; [Add the specified relative to the case effective with the date the individual states he will cooperate;]
 - (b) Remove the protective payee from the case; and
 - (c) Not authorize back payments for the period of time for which the individual did not cooperate.

Section 17. Potential Entitlement for Other Programs. (1) An applicant or recipient shall apply for and comply with the requirements to receive any benefit if potential entitlement exists.

(2) Except for the PWE in an [AFDC]-JUP case, failure to apply for another benefit or comply with its requirements shall result in ineligibility for K-TAP [AFDC].

(3) If a PWE or second parent in an [AFDC]-JUP case fails to apply for unemployment insurance benefits or comply with its requirements, the PWE or second parent shall have his needs removed from the case.

(4) If an applicant or recipient voluntarily reduces the amount of

benefits received from another source, other than for the purpose of reimbursing the source for a previous overpayment, this action shall result in ineligibility.

Section 18. Minor Teenage Parents. (1) A minor teenage parent shall participate in educational activities directed toward the attainment of a high school diploma, or its equivalent, or a cabinet approved alternate education or training program if the minor teenage parent:

(a) Has a minor child at least twelve (12) weeks of age in his care; and

(b) Has not completed a high school education (or its equivalent).

(2) Except as provided in subsection (4) of this section, a minor teenage parent and his minor child shall reside in:

(a) A place of residence maintained by:

1. A parent;

2. A legal guardian;

3. An adult relative as described in Section 10 of this administrative regulation; or

(b) An appropriate adult supervised supportive living arrangement, that includes a second chance home or maternity home, taking into consideration the needs and concerns of the minor teenage parent.

(3) The cabinet shall provide or assist the minor teenage parent in locating a second chance home, maternity home, or other appropriate adult supervised supportive living arrangement if:

(a) The minor teenage parent does not have:

1. A parent, legal guardian or appropriate adult relative as described in Section 10 of this administrative regulation who is living or whose whereabouts are known; or

2. A living parent, legal guardian, or other appropriate adult relative as described in Section 10 of this administrative regulation who otherwise meets applicable state criteria to act as the legal guardian of the minor teenage parent, who would allow the minor teenage parent to live in the home of the parent, guardian, or relative as described in Section 10 of this administrative regulation; or

(b) The cabinet determines:

1. The minor teenage parent or the minor child of the teenage parent is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the minor teenage parent's own parent or legal guardian; or

2. Substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the minor teenage parent and the minor child lived in the same residence with the minor teenage parent's own parent or legal guardian.

(4) The requirement in subsection (2) of this section shall be waived if:

(a) The cabinet determines living in the place of residence maintained by the parent, legal guardian, or adult relative as described in Section 10 of this administrative regulation is not in the best interest of the minor child taking into consideration the needs and concerns of the minor child; or

(b) The cabinet determines the minor teenage parent's current living arrangement is appropriate.

(5) If circumstances change and the current arrangement ceases to be appropriate based on the needs and concerns of the minor teenage parent, the cabinet shall assist the minor teenage parent in finding an alternate appropriate arrangement.

(6) The minor teenage parent shall complete a "Teen Parent Personal Responsibility Plan", form KW-202TP.

(7) If the minor teenage parent is determined to be ineligible for K-TAP as a result of not complying with provisions found in Section 18 of this administrative regulation, payments to a protective payee shall continue for the eligible child of the minor teenage parent.

(8) Even if exemption criteria is met and the cabinet determines the minor teenage parent's current living arrangement is appropriate, a minor teenage parent and his child, who do not reside in a place of residence maintained by a parent, legal guardian, other adult relative

ADMINISTRATIVE REGISTER - 4087

JOHN L. CLAYTON, Commissioner

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: April 29, 1997

FILED WITH LRC: April 30, 1997 at noon

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Marty Mason, Director

(1) Type and number of entities affected: The affected entities are families who apply for or receive benefits under the Aid to Families with Dependent Children program (AFDC). The AFDC program will be replaced by the Temporary Assistance for Needy Families (TANF) block grant program called Kentucky Transitional Assistance Program (K-TAP). There are approximately 67,335 families in Kentucky (monthly average) who are currently receiving benefits.

(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 comment received: To be determined after the publication of the notice of intent.

(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: To be determined after the publication of the notice of intent.

(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 individuals who are applicants or recipients of AFDC, now K-TAP, who are minor teenage parents will have additional compliance, reporting or paperwork requirements due to the completion of a Personal Responsibility Plan. This form, KW-202TP, will be completed by the minor teenage parent. This form assists the minor teenage parent in outlining future goals to be achieved by the minor teenage parent and her child. Individuals required to complete the form will be interviewed during the next case recertification and will not be required to make a special trip to the office to complete the form; therefore, the individual will not be fiscally impacted by the completion of this form. Verification of school attendance and living arrangements for minor teenage parents will also be required. These two eligibility requirements are mandated by 42 USC 601 et seq. The individual will be assisted by the caseworker in obtaining any required verification for these two eligibility requirements. The other change involves adults having to work register. Adults will be required to register for work. The applicant or recipient will not be required to make a special trip to the local office. Individuals required to complete the form will be interviewed during the next case recertification and will not be required to make a special trip to the office, but will be able to comply with these requirements during application or recertification interviews. Therefore, the adult will not be fiscally impacted by the registering for work.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The breakdown of costs and savings to the agency for the first year are listed below:

a. Time limits - a five-year limit and a two-year limit for work: no immediate cost impact-budget neutral.

b. Minor teenage parent and domestic violence provisions - no cost impact to the Department for Social Insurance. There may be discontinued cases due to the minor teenage parent requirement of living in an adult supervised setting; however, the cost savings in benefits to the agency would be negligible. The second chance home provides a minor teen parent with support which would be budget neutral to the agency. Minor teenage parents who are determined by the cabinet to be allowed to waive requirements of adult supervised setting would be budget neutral to the agency for benefit costs.

c. Qualified alien provisions are budget neutral to the agency.

d. Grant reduction of twenty-five (25) percent of grant maximum due to noncooperation of child support activities is budget neutral for the first year to the agency.

e. K-TAP form revisions, printing and system form revisions is \$10,200 costs to the agency for the first year.

2. Continuing costs or savings: The breakdown of costs and savings to the agency for the second year are the same as listed in number 1. above except as listed below:

a. K-Tap form revisions, printing and system form revisions is no cost to the agency for the second year.

b. It is estimated that the total cost of staff time to the Department for Social Services to provide the services provided for in this amendment is between \$198,122 and \$296,944 for the second and subsequent year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal funds and state 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 determined after the publication of the notice of intent.

(b) Kentucky: To be determined after the publication of the notice of intent.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered since the state is responsible under federal requirements to implement the requirements for the program funded under 42 USC 601 et seq.

(8) Assessment of expected benefits:

(a) Identify effects on public welfare and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will bring Kentucky in compliance with the mandated requirements found in 42 USC 601 et seq. The state is required to administer the requirements for the block grant program under 42 USC 601 et seq. This program, referred to as Temporary Assistance for Needy Families (TANF), replaces the Aid to Families with Dependent Children (AFDC) program. The October filing of Kentucky's Title IV-A State Plan defines the cabinet's method for operating the requirements for the block grant program, called the Kentucky Transitional Assistance Program (K-TAP). This administrative regulation is needed to comply with the mandated requirements found in 42 USC 601 et seq., and to implement the block grant program, K-TAP, that replaces the current AFDC program.

(b) State whether a harmful effect on environment and public welfare would result if not implemented: A detrimental effect on public welfare would result if this amendment is not implemented.

(c) If detrimental effect would result, explain detrimental effect: It is necessary to promulgate this emergency administrative regulation to meet the deadline imposed by federal law. In order for Kentucky to meet the requirements mandated by the federal government regarding the cabinet's Title IV-A State Plan, effective October 18, 1996, it is necessary to promulgate this administrative regulation to meet this deadline imposed by the federal law. Therefore, in order to meet the deadline for implementation of the mandated requirements for the cabinet's Title IV-A block grant program, this regulation must be placed in effect immediately in order to amend the technical program requirements in 904 KAR 2:006 to comply with the federal mandates contained in the Title IV-A State plan.

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

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

(b) If in conflict, was effort made to harmonize the proposed

Diversion ~~[an aid to families with dependent children assistance payment is established].~~

Section 1. Definitions. (1) ~~["Aid to families with dependent children (AFDC) means a money payment program for children who are deprived of parental support or care due to death, continued absence, physical or mental incapacity or unemployment of a parent.~~

(2) "Benefit group" means a group composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:006E, Section 10 [3].

(a) The benefit group shall include:

1. The dependent child;

2. The child's eligible parent living in the home with the needy child who is:

a. Eligible for K-TAP; or

b. Ineligible for K-TAP due to benefit time limitations pursuant to 904 KAR 2:006E, Section 19; and

3. All eligible siblings living in the home with the needy child.

(b) If the benefits to the household would be greater by excluding an otherwise eligible child related by subsidized adoption to the other members, this child shall not be included in the benefit group.

(c) If the dependent child's parent is a minor living in the home with his eligible parent, the minor's parent shall also be included in the benefit group if the minor's parent applied for assistance.

(d) The incapacitated or unemployed natural or adoptive parent of the child who is living in the home shall be included as second parent if the technical eligibility factors are met.

(2) ~~[(3)]~~ "Beyond the control" means:

(a) Loss or theft of the money;

(b) The individual to whom the lump sum was designated no longer lives in the household, making the lump sum income inaccessible; or

(c) Expenditure of the lump sum income to meet extraordinary expenses, that are not included in the K-TAP ~~[AFDC]~~ Standard of Need.

(3) ~~[(4)]~~ "Burial space" means a space and certain related services used for the remains of a deceased person. This includes:

(a) A grave site;

(b) Costs to open and close the grave;

(c) A crypt;

(d) A mausoleum space;

(e) A casket;

(f) A vault;

(g) An urn; and

(h) A headstone.

(4) ~~[(5)]~~ "Change in circumstances" means a change in income and or dependent care expenses which affects the ongoing K-TAP ~~[AFDC]~~ payment. This shall include:

(a) Beginning or ending employment;

(b) Change in employers or obtaining additional employment;

(c) Increase or decrease in the number of work hours;

(d) Increase or decrease in the rate of pay;

(e) Increase or decrease in the dependent care expense due to a change in provider, number of hours of care, number of individuals for whom care is given, or amount charged; or

(f) Change in farm cropping arrangements or type of self-employment activities.

(5) ~~[(6)]~~ "Claimant" means the individual responsible for an overpayment.

(6) ~~[(7)]~~ "Countable income" means income which remains after excluded income and appropriate deductions are removed from gross income.

(7) ~~[(8)]~~ "Deduction" means an amount subtracted from gross income to determine countable income.

(8) ~~[(9)]~~ "Excluded income" means income that is received but not counted in the gross income test.

(9) "Family Alternatives Diversion (FAD) Program" means the

Kentucky Transitional Assistance Program benefit paid to a FAD eligible family to meet a short-term need.

(10) "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

(11) "Full-time school attendance" means a workload of at least:

(a) The number of hours required by the individual program for participation in an adult basic education program, a general educational development program or a literacy program; or

(b) Twelve (12) semester hours or more in a college or university; or six (6) semester hours or more during the summer term; or the equivalent in a college or university if other than a semester system is used; or

(c) The number of hours required by the individual high school or [A] vocational school to fulfill their definition of full time.

(12) "Gross income limitation standard" means 185 percent of ~~the sum of~~ the assistance standard, as set forth in Section 8 of this administrative regulation.

(13) ~~["Job opportunities and basic skills (JOBS)" means a program which assists recipients of AFDC in obtaining the necessary education and training that will lead to gainful employment and self-support.~~

~~[(14)]~~ "Job Training Partnership Act Program (JTPA)" means a program that prepares youth and unskilled adults for entry into the labor force. Only those individuals who are certified as eligible for the program can benefit from JTPA funds.

(14) "Kentucky Transitional Assistance Program (K-TAP)", Kentucky's Temporary Assistance for Needy Families (TANF) Program, means a money payment program for children who are deprived of parental support or care due to:

(a) Death, continued voluntary or involuntary absence of a parent;

(b) Physical or mental incapacity of one (1) parent when both parents are in the home; or

(c) Unemployment of at least one (1) parent when both parents are in the home.

(15) "Kentucky Works" means a program which assists recipients of K-TAP in obtaining gainful employment and becoming self-sufficient.

(16) ~~[(15)]~~ "Lump sum income" means income that does not occur on a regular basis, and does not represent accumulated monthly income received in a single sum.

(17) ~~[(16)]~~ "Minor" means any person who is under the age of eighteen (18) or under the age of nineteen (19) in accordance with 904 KAR 2:006E, Section 1(2) ~~[45 CFR 233.90(b)(3)]~~. EXCEPTION: For the purpose of deeming income, a minor parent is considered any person under the age of eighteen (18).

(18) ~~[(17)]~~ "Part-time employment" means employment of less than thirty (30) hours per week or 130 hours per month or not employed throughout the entire month.

(19) ~~[(18)]~~ "Part-time school attendance" means a workload of anything less than "full-time school attendance."

(20) "Penalized individual" means a person who is required to be included in the benefit group but fails to fulfill and eligibility requirement which causes a pro rata reduction in benefits of the benefit group. If otherwise eligible, a penalized individual remains a member of the benefit group.

(21) ~~[(19)]~~ "Prospective budgeting" means computing the amount of assistance based on income and circumstances which will exist in the month(s) for which payment is made.

(22) ~~[(20)]~~ "Recoupment" means recovery of overpayments of assistance payments.

(23) "Relocation Assistance Program (RAP)" means the one (1) time only K-TAP benefit for a RAP eligible K-TAP recipient to meet moving related expenses when a specific job opportunity exists for the K-TAP recipient requiring the recipient to relocate in order to access the employment.

(24) ~~[(21)]~~ "Sanctioned individual" means any person who is required to be included in the benefit group but who is excluded from

(d) If resources are held jointly other than those listed in paragraphs (a) through (c) of this subsection, the applicant or recipient's share is determined by dividing the value of the resource by the number of owners.

(e) Rebuttal of ownership may be accomplished if the applicant or recipient asserts he does not contribute to or benefit from a jointly held resource and he provides:

1. A written statement regarding ownership, who deposits and withdraws; and

2. A written statement from each of the other owners which corroborates the applicant's or recipient's statement, unless the account holder is a minor or is incompetent; and

3. Verification that the applicant or recipient's name has been removed from the resource.

(7)(a) To be considered an exempt resource, an individual development account shall be established on or after May 1, 1997, funded through periodic contributions by a member of the benefit group from earnings set up for a qualified purpose.

(b) A qualified purpose to establish an individual development account shall be for:

1. Postsecondary educational expenses which shall include:

a. Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution; and

b. Fees, books, supplies and equipment required for courses of instruction at an eligible educational institution;

c. An eligible educational institution shall be:

(i) An institution described in 20 USC 1088(a)(1) or 1141 (a); or
(ii) An area vocational education school as defined by 20 USC 2471(4)(C) or (D);

2. First home purchase which includes:

a. Costs of acquiring, constructing, or reconstructing a residence; and

b. Usual or reasonable settlement, financing, or other closing costs;

3. Business capitalization expenditures for a business that does not contravene any law or public policy, as determined by the cabinet, pursuant to a qualified plan. A qualified plan shall:

a. Include capital, plant, equipment, working capital, and inventory expenses;

b. Be approved by a financial institution; and

c. Include a description of services or goods to be sold, a marketing plan, and projected financial statements. Assistance of an experienced entrepreneurial advisor may be required; or

4. Other purpose allowed by federal regulations or clarifications.

(c) Funds held in an individual development account shall not be withdrawn except for one (1) or more of the qualified purposes listed in paragraph (b) of this subsection;

(d) An entity who may contribute to the individual development account shall be:

1. A member of the benefit group using funds derived only from earned income, as defined in 26 USC 911(d)(2), which was earned after May 1, 1997;

2. A nonprofit organization described in 26 USC 501(c)(3) and exempt from taxation under 26 USC 501(a), with matching funds; or

3. Funding permitting, a state or local government agency acting in cooperation with an organization described in subparagraph 2 of this paragraph.

Section 3. Income Limitations. In determining eligibility for K-TAP [AFDC] the following shall apply:

(1) Gross income test.

(a) The total gross non-K-TAP [AFDC] income shall not exceed the gross income limitation standard. This income includes:

1. Income of the benefit group;

2. Income of a parent who does not receive SSI or state supplementation;

3. Income of a sanctioned individual;

4. An amount deemed available from the parent of a minor parent living in the home with the benefit group;

5. An amount deemed available from a stepparent living in the home;

6. An amount deemed available from the spouse of a minor dependent child living in the home; and

7. An amount deemed available from an alien's sponsor and sponsor's spouse if living with the sponsor.

(b) Excluded income types specified in Section 4(1) of this administrative regulation shall apply.

(c) If total gross income exceeds the gross income limitation standard, the benefit group is ineligible.

(2) Applicant eligibility test.

(a) An applicant eligibility test shall be applied if:

1. The gross income is below the gross income limitation standard; and

2. The benefit group has not received assistance during the four (4) months prior to the month of application; or

3. The benefit group has a member added to the case and that member:

a. Has earned income; and

b. Has not received assistance during the four (4) months prior to being added to the case.

(b) The total gross income after application of excluded income and deduction policy set forth in Section 4(1) and (2) of this administrative regulation shall be compared to the [assistance] standard of need set forth in Section 8 of this administrative regulation.

(c) If income exceeds this standard, the benefit group is ineligible.

(d) For a benefit group which meets the gross income test but has received assistance any time during the four (4) months prior to the application month, the applicant eligibility test shall not apply.

(3) Benefit calculation.

(a) If the benefit group meets the criteria set forth in subsections (1) and (2) of this section, benefits shall be determined by subtracting excluded income and applicable deductions in Section 4(1), (2), and (3) of this administrative regulation.

(b) If the benefit group's income, after subtracting excluded income and applicable deductions, exceeds the [benefit] standard of need for the appropriate benefit group size as set forth in Section 8 of this administrative regulation, the benefit group is ineligible.

(c) Amount of assistance shall be determined prospectively.

(4) Ineligibility period.

(a) A period of ineligibility shall be established for a benefit group whose income in the month of application or during any month for which assistance is paid exceeds the limits as set forth in subsections (2) or (3) of this section due to receipt of lump sum income.

(b) The ineligibility period shall be:

1. The number of months which equals the quotient of the division of total countable income by the standard of need as set forth in Section 8 of this administrative regulation for the appropriate benefit group size; and

2. Effective with the month of receipt of the nonrecurring lump sum amount.

(c) The ineligibility period shall be recalculated if any of the following circumstances occur:

1. The standard of need set forth in Section 8 of this administrative regulation increases and the amount of grant the benefit group would have received also changes;

2. Income, which caused the calculation of the ineligibility period, has become unavailable for reasons that were beyond the control of the benefit group;

3. The benefit group incurs and pays necessary medical expenses not reimbursable by a third party;

4. An individual, who is required to be a member of the benefit group, joins the K-TAP [AFDC] household during an established ineligibility period; or

5. The benefit group reapplies during an established ineligibility

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c. A sanctioned individual whose earned income is considered available to the K-TAP [AFDC] household;

d. At the option of the recipient, a K-TAP [An-AFDC] case which would otherwise be ineligible for K-TAP [AFDC] without the benefit of the disregard for child care; or

e. The month of application for K-TAP [AFDC] benefits; and

2. Shall not exceed:

a. \$175 per month per individual for full-time employment; or

b. \$150 per month per individual for part-time employment; or

c. \$200 per month per individual for child under age two (2).

(3) Benefit calculation. After eligibility is established, exclude or deduct all incomes listed in subsections (1) and (2) of this section as well as deductions listed in this subsection:

(a) Child support payments assigned and actually forwarded or paid to the department; and

(b) First thirty (30) dollars and one-third (1/3) of the remainder of earned income not already deducted for each member of the benefit group.

1. The one-third (1/3) portion of this deduction shall not be applied to an individual after the fourth consecutive month it has been applied to his earned income.

2. The thirty (30) dollar portion of this deduction shall be applied concurrently with the one-third (1/3) deduction and for an additional eight (8) consecutive months following the expiration of the concurrent period.

3. These deductions shall not be available to the individual until he has not been a recipient for twelve (12) consecutive months; and

(c) One (1) time only disregard per benefit group, the amount of the first two (2) full calendar months earnings for employment of an adult member of the benefit group which began on or after May 1, 1997.

1. The two (2) months earnings disregard shall be consecutive and shall not be cumulative.

2. If otherwise eligible, a sanctioned or penalized member of the benefit group may receive the two (2) months earnings disregard. [Earnings of a child in full-time school attendance or earnings of a child in part-time school attendance, if not working full-time.]

(4) Exceptions. Deductions from earnings in subsections (2)(a) ~~(e)~~ and (b) ~~(e)~~ and (3)(b) of this section shall not apply for any month in which the individual:

(a) Reduces, terminates, or refuses to accept employment within the period of thirty (30) days preceding such month, unless good cause exists as follows:

1. The individual is unable to engage in the employment or training for mental or physical reasons; or

2. The individual has no way to get to and from the work site or the site is so far removed from the home that commuting time would exceed three (3) hours per day; or

3. Working conditions at a prospective job or training site would be a risk to the individual's health or safety; or

4. A bona fide offer of employment at a minimum wage customary for this work in the community was not made; or

5. The child care arrangement is terminated through no fault of the applicant or recipient; or

6. The available child care does not meet the needs of the child, for example, a ~~disabled~~ child with a disability; or

7. The parent is temporarily absent from work on approved educational leave; or

8. ~~[The JOBS participant leaves employment in an attempt to improve skills, become self-sufficient and leave the AFDC rolls; or~~

9.] The individual is needed in the home to care for another ill or incapacitated household member and no other household member is available to provide needed care.

(b) Requests assistance be terminated for the primary purpose of evading the four (4) month limitation on the deduction in subsection (3)(b) of this section;

(c) Fails to report and increase in earnings, which impacts

eligibility, within ten (10) days of the change, unless good cause exists as follows:

1. The benefit group has been directly affected by a natural disaster;

2. An immediate family member living in the home was institutionalized or died during the ten (10) day report period; or

3. The responsible relative in the case, and if different, the member employed, is out of town for the entire ten (10) day report period.

Section 5. Direct Child Care Payments. With the exception of those circumstances outlined in Section 4(2)(b) ~~(e)~~ of this administrative regulation, on or after November 1, 1995, child care expenses incurred as a result of employment shall:

(1) Be made directly to the provider, in an amount equal to the actual cost, up to a payment maximum based on local market rates in administrative regulation 904 KAR 2:017E; and

(2) Be authorized upon the receipt of appropriate verification of the cost of care.

Section 6. Income and Resources of an Individual Not Included in the Benefit Group. (1) The income provisions of this section shall apply to the following individuals, living in the home but not included in the benefit group, as described in subsection (2) of this section:

(a) A stepparent;

(b) The spouse of a minor dependent child;

(c) The spouse of a specified relative other than a parent;

(d) A parent barred from receiving assistance due to failure to meet alien status; or

(e) A parent of a minor parent.

(2) Income. The gross income of the individual is considered available to the benefit group, subject to the following deductions and with income types excluded:

(a) The first ninety (90) dollars of the gross earned income;

(b) An amount equal to the K-TAP [AFDC assistance] standard of need for the appropriate family size, as set forth in Section 8 of this administrative regulation, for:

1. The support of the individual; and

2. Any other person living in the home if:

a. His needs are not taken into consideration in the K-TAP [AFDC] eligibility determination; and

b. He is or may be claimed as a dependent for purposes of determining his federal personal income tax liability by the individual.

(c) Any amount actually paid to a person not living in the home who is or may be claimed by him as a dependent for purposes of determining his personal income tax liability by the individual;

(d) Payments for alimony or child support to a person not living in the home by the individual;

(e) Income of an SSI recipient who is listed in subsection (1) of this section; or

(f) A retroactive SSI payment, which is counted in determining eligibility and the amount of payment to the K-TAP [AFDC] unit in the month received, in any subsequent month.

(3) Sanction exception. The income of any sanctioned individual is not eligible for the deductions listed in this section.

(4) Resources. Resources which belong solely to the stepparent, spouse of a minor dependent child, spouse of a specified relative other than a parent or parent of a minor parent are not considered in determining eligibility of the parent, minor dependent child, or specified relative other than a parent or the benefit group.

Section 7. Alien Income and Resources. (1) For the purposes of this section the alien's sponsor and sponsor's spouse (if living with the sponsor) shall be referred to as sponsor.

(2) The gross non-K-TAP [AFDC] income and resources of an alien's sponsor shall be deemed available to the alien, subject to deductions set forth in this section, for a period of three (3) years

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3. The agency shall determine profit by:

- a. Rounding the total gross income to the nearest dollar;
- b. Rounding the total amount of allowable expenses to the nearest dollar;
- c. Dividing each by twelve (12), or the appropriate number of months, and rounding to the nearest dollar; and
- d. Subtracting the rounded monthly expense from the rounded monthly income.

(3) The best estimate shall be recalculated:

(a) At six (6) month intervals for cases with:

1. Earned or unearned income other than self-employment; or
2. Income from a self-employment enterprise which has not been in existence for at least one (1) year;

(b) At twelve (12) month intervals for cases with a self-employment enterprise which has been in existence for at least one (1) year;

(c) Whenever the agency becomes aware of a change in circumstances; or

(d) To reflect a mass change in the standard of need or payment maximum [payment] standard as set forth in Section 8 of this administrative regulation.

Section 10. K-TAP [AFDC] Recoupment. Except for those overpayments in administrative regulation 904 KAR 2:017E, the following provisions are effective for all overpayments discovered on or after April 1, 1982, regardless of when the overpayment occurred.

(1) Necessary action will be taken promptly to correct and recoup any overpayments.

(2) ~~Overpayments[including assistance paid pending hearing decisions;]~~ shall be recovered:

(a) The claimant;

(b) The overpaid assistance unit;

(c) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or

(d) Any individual member of the overpaid assistance unit whether or not currently a recipient.

(3) Overpayments shall be recovered through:

(a) Repayment by the individual to the cabinet; or

(b) Reduction of future K-TAP [AFDC] benefits, which shall result in the assistance group retaining, for the payment month, family income and liquid resources of not less than ninety (90) percent of the amount of assistance paid to a like size family with no income in accordance with Section 8 of this administrative regulation; or

(c) Civil action in the court of appropriate jurisdiction.

(4) In cases which have both an overpayment and an underpayment, the cabinet shall offset one against the other in correcting the payment to current recipients.

(5) Neither reduction in future benefits nor civil action shall be taken except after notice and an opportunity for a fair hearing as specified in 904 KAR 2:055 is given and the administrative and judicial remedies have been exhausted or abandoned.

Section 11. Avoiding an Overpayment. (1) A K-TAP [An AFDC] recipient may voluntarily return a benefit check to avoid an overpayment if:

(a) The case is totally ineligible for the month for which the check is issued; and

(b) The check has not been reduced for recoupment of a previous overpayment.

(2) If a check is voluntarily returned, the agency shall determine whether or not the recipient is due a refund as described in Section 12 of this administrative regulation.

Section 12. Refund. A recipient shall be due a refund in the following situations:

(1) The agency recoups an amount in excess of the actual overpayment;

(2) The agency offsets an overpayment and an underpayment and

finds a balance owed to the recipient;

(3) A recipient voluntarily returns a K-TAP [an AFDC] check to avoid an overpayment and the current month obligation of child support was collected by the agency during the month the K-TAP [AFDC] check was intended to cover, leaving a balance owed to the recipient.

Section 13. Correction of Underpayments. The following provisions apply to all K-TAP [AFDC] payments:

(1) The department shall promptly correct an underpayment to:

(a) A current K-TAP [AFDC] recipient; and

(b) One who would be a current recipient if the error causing the underpayment had not occurred.

(2) The difference between the payment received by the recipient and the actual entitlement amount shall be issued to the underpaid assistance group.

(3) In a determination of ongoing eligibility, the corrective payment to the assistance group shall not be considered as income or a resource in:

(a) The month the payment is paid; or

(b) The next following month.

Section 14. Family Alternatives Diversion. (1) The cabinet shall make available in limited areas family alternatives diversion assistance to eligible families to allow the family to maintain self-sufficiency. The cabinet shall expand the program into additional areas until statewide implementation is completed.

(2) To qualify for family alternatives diversion benefits, the K-TAP benefit group as defined in Section 1(1) of this administrative regulation shall:

(a) Meet K-TAP income and resource requirements pursuant to Sections 2, 3(1), 4(1), and 6 of this administrative regulation;

(b) Meet technical requirements of K-TAP pursuant to 904 KAR 2:006E;

(c) Not be currently receiving ongoing K-TAP benefits;

(d) Have a verified short-term need to include:

1. Transportation;

2. Child care;

3. Child support;

4. Housing; or

5. Employment related problem.

(e) Be determined by the cabinet to be self-supporting or would be self-supporting if the short-term need is met; and

(f) Not have received a FAD payment anytime during the previous twelve (12) months.

(3) The Transitional Assistance Self-assessment Survey Form, FA-1, shall be used to screen applicants for K-TAP to determine eligibility for FAD.

(4) The cabinet shall determine through the screening process if a potential K-TAP eligible benefit group may be an eligible family to receive FAD benefits. The K-TAP eligible benefit group shall be notified of the option to decline FAD benefits in lieu of applying for ongoing K-TAP benefits. FAD shall be utilized instead of K-TAP if requested by the benefit group and if the benefit group is deemed eligible for FAD.

(5)(a) The benefit group's countable gross income shall include the earned and unearned income listed in Sections 3 and 4 of this administrative regulation.

(b) The benefit group's gross income shall be computed using the best estimate of income pursuant to Section 9 of this administrative regulation.

(c) The benefit group's total gross earned and unearned income as determined in paragraph (b) of this subsection shall be compared to the maximum gross income scale for K-TAP pursuant to Section 8(2)(b) of this administrative regulation.

(d) If the benefit group's total gross earned and unearned income exceed the maximum gross income limit for the appropriate benefit

factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: The individuals who are applicants or recipients of AFDC, now K-TAP, will not have any additional compliance, reporting or paperwork requirements, except for the completion of a self assessment form, FA-1, and the FA-2 Family Alternatives Acceptance Agreement for applicants of this program, in locations where Family Alternatives Diversion is available and for completion of a RA-1 for applicants of Relocation Assistance Location.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The breakdown of costs and savings to the agency for the first year are listed below:

a. A cost of excluding one (1) vehicle per household is \$50,000 as a cost to the agency for the first year beginning May 1, 1997.

b. Relocation assistance - A one-time K-TAP payment of \$500 up to \$900 to meet moving related expenses in order to access employment is \$20,000 cost to the agency for the first year beginning May 1, 1997.

c. Family alternative diversion - A one-time payment in lieu of ongoing cash assistance payments to maintain self-sufficiency is budget neutral to the agency for the first year.

d. Alien income and resources is budget neutral to the agency.

e. Ratable reduction is no change in current policy and is budget neutral to the agency.

f. K-TAP form revisions is a cost of \$33,800 to the agency for the first year.

g. Disregard of earnings for two (2) months is a cost of \$262,000 to the agency for the first year. Even though there is a two (2) month cost to the agency, there will be long-term savings due to clients getting jobs and going off K-TAP benefits.

h. Increase in the resource limit from \$1000 to \$2,000 per family is a cost to the agency for the first year due to the possible increase in eligible recipients; however, the cost to the agency is indeterminate.

i. Exemption of individual development accounts is cost neutral to the agency for the first year.

j. Elimination of the six (6) months period in a year to consider earnings of a dependent child in school attendance is cost neutral to the agency for the first year.

2. Continuing costs or savings: The breakdown of costs and savings to the agency for the second year are listed below:

a. A cost of excluding one (1) vehicle per household is \$300,000 for the second year as a cost to the agency.

b. Relocation assistance - A one-time K-TAP payment of \$500 up to \$900 to meet moving related expenses in order to access employment is \$100,000 for the second year.

c. Family alternative diversion - A one-time payment in lieu of ongoing cash assistance payments to maintain self-sufficiency is budget neutral to the agency for the second year.

d. Alien income and resources is budget neutral to the agency for the second year.

e. Ratable reduction is no change in current policy and is budget neutral to the agency for the second year.

f. K-TAP form revisions is no cost to the agency for the second year.

g. Disregard of earnings for two (2) months is a cost of \$419,000 to the agency for the second year. Even though there is a two (2) month cost to the agency, there will be long-term savings due to clients getting jobs and going off K-TAP benefits.

h. Increase in the resource limit from \$1000 to \$2,000 per family is a cost to the agency for the second year due to the possible increase in eligible recipients; however, the cost to the agency is indeterminate.

i. Exemption of individual development accounts is cost neutral to

the agency for the second year.

j. Elimination of the six (6) months period in a year to consider earnings of a dependent child in full-time school attendance is cost neutral to the agency for the second year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: K-TAP budgeted 70% Federal funds and 30% state 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 determined after the publication of the notice of intent.

(b) Kentucky: To be determined after the publication of the notice of intent.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered since the state is responsible under federal requirements to implement a program funded under 42 USC 601 et seq.

(8) Assessment of expected benefits:

(a) Identify effects on public welfare and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will bring Kentucky in compliance with the mandated requirements found in 42 USC 601 et seq. The state is required to administer a block grant program under 42 USC 601 et seq. This program, referred to as Temporary Assistance for Needy Families (TANF), replaces the Aid to Families with Dependent Children (AFDC) program. The October filing of Kentucky's Title IV-A State Plan defines our method for operating the requirements for the block grant program, called the Kentucky Transitional Assistance Program (K-TAP). This administrative regulation is needed to comply with the mandated requirements found in 42 USC 601 et seq., and to implement the block grant program, K-TAP, that replaces the current AFDC program. In addition, the value of one (1) motor vehicle will be an excluded resource to allow the applicant or recipient the ability to own a dependable vehicle to travel to employment or training; the resource limit was increased from \$1,000 to \$2,000 per family; individual development accounts up to a total of \$5,000 are considered a disregarded resource; a disregard of the first two (2) months of earnings is allowed; elimination of the six (6) month time period within a given year that earnings of a dependent child in school attendance is considered.

(b) State whether a harmful effect on environment and public welfare would result if not implemented: A detrimental effect on public welfare would result if this amendment is not implemented.

(c) If detrimental effect would result, explain detrimental effect: It is necessary to promulgate this administrative regulation to meet the deadline imposed by federal law. In order for Kentucky to meet the requirements of federal law regarding our Title IV-A State Plan, effective October 18, 1996, it is necessary to promulgate this administrative regulation to meet his deadline imposed by the federal law. Therefore, in order to meet the deadline for implementation of the mandated requirements for our Title IV-A block grant program, this regulation must be placed in effect immediately in order to amend the financial program requirements to comply with the federal mandates contained in the Title IV-A State Plan.

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

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

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

(10) Any additional information or comments: The emergency administrative regulation filed on January 31, 1997, was withdrawn

ADMINISTRATIVE REGULATIONS AS AMENDED BY THE PROMULGATING AGENCY
AND THE REVIEWING SUBCOMMITTEE

COMPILER'S NOTE: The administrative regulations in this section were amended by the promulgating agency and the Administrative Regulations Review Subcommittee on May 13, 1997, unless otherwise noted.

COUNCIL ON HIGHER EDUCATION
(As Amended)

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

RELATES TO: KRS Chapter 13B, 164.020, 164.030, 164A.330(9)

STATUTORY AUTHORITY: KRS 164.020(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.020(3) requires the Council on Higher Education to determine tuition and approve the minimum qualifications for admission to the public institutions of higher education and authorizes the Council to set different tuition amounts for residents and nonresidents of Kentucky. This administrative regulation establishes the procedure and guidelines for determining the residency status of a student who is seeking admission to, or who is enrolled at, a public institution of higher education and for each student residency determination. [Public institutions of higher education were established and are maintained by the Commonwealth of Kentucky primarily for the benefit of qualified residents of Kentucky. The substantial commitment of public resources to higher education is predicated on the proposition that the state benefits significantly from the existence of an educated citizenry. As a matter of policy, access to higher education is provided so far as feasible at reasonable cost to bona fide residents of the state. It is the long-standing practice of the Council on Higher Education to require students who are neither domiciled in Kentucky nor who are residents to meet higher admission standards and to pay a higher level of tuition than resident students. The Commonwealth of Kentucky uses residency requirements to determine items such as voting rights, income tax liability, and employment in certain occupations. The requirements for residency vary in form and substance for each of these uses. The purpose of this administrative regulation is to establish a process and corresponding guidelines for the determination of residency status for students seeking admission to, or who are enrolled in, public institutions of higher education. The administrative regulation applies to all student residency determinations regardless of circumstances, including programs such as the Southern Regional Education Board Contract Spaces and academic common market programs. Furthermore, it is the intent of the Council on Higher Education that this administrative regulation be interpreted and applied in a uniform manner, as described herein, in determining whether students shall be classified as residents or nonresidents for admission and tuition assessment purposes.] [Public institutions of higher education were established and are maintained by the Commonwealth of Kentucky primarily for the benefit of qualified residents of Kentucky. The substantial commitment of public resources to higher education is predicated on the proposition that the state benefits significantly from the existence of an educated citizenry. As a matter of policy, access to higher education is provided so far as feasible at reasonable cost to residents of the state. It is the long-standing practice of the Council on Higher Education to require students who are not Kentucky residents to meet higher admission standards and to pay a higher level of tuition than resident students. The Commonwealth of Kentucky uses residency requirements to

determine items such as voting rights, income tax liability, and employment in certain occupations. The requirements for residency vary in form and substance for each of these uses. The purpose of this administrative regulation is to establish a process and corresponding guidelines for the determination of residency status for students seeking admission to, or who are enrolled in, public institutions of higher education. Furthermore, it is the intent of the Council on Higher Education that this administrative regulation be interpreted and applied in a uniform manner, as described herein, in determining whether students shall be classified as residents or nonresidents for admission and tuition assessment purposes.]

Section 1. Definitions. (1) "Academic term" means a division of the school year during which a course of studies is offered, and includes a [2] semester, quarter, or summer term as defined by the institution [in a manner consistent with subsection (18) of this section].

(2) "Continuous enrollment" means enrollment [a person is enrolled] in a state-supported college or university [the Kentucky system of state-supported colleges and universities] at the same degree level for consecutive terms, excluding summer term, since the beginning of the period for which continuous enrollment is claimed unless a sequence of continuous enrollment is broken due to [where the student fails to enroll for a consecutive academic term excluding summer term, except under] extenuating circumstances beyond the student's control, including [such as] serious personal illness or injury, or illness or death of a parent.

(3) "Degree level" means enrollment in a course or program which could result in the award of a: [one (1) of the following:]

(a) [Enrollment in courses or programs which could result in the award of a] Baccalaureate degree or lower including enrollment in a course [enrollments in courses] by a nondegree seeking postbaccalaureate student [students];

(b) [Enrollment in courses or programs which result in a] Graduate degree or graduate certification other than a [the] first-professional degree [degrees] in law, medicine, dentistry or "Pharm. D"; or

(c) [Enrollment in courses or programs which result in a] Professional degree in law, medicine, dentistry, or "Pharm. D".

(4) "Demonstration of Kentucky domicile and residency" means the presentation of documented information and evidence sufficient to prove by a preponderance of the evidence that a person is domiciled in Kentucky and is a resident of Kentucky.

(5) "Dependent person" means a person who cannot demonstrate financial independence from parents or persons other than a spouse and who does not meet the criteria established in Section 5 of this administrative regulation. [is unable to meet all of the criteria listed in subsection (11) of this section.]

(6) "Determination of residency status" means the decision of a college or university and a subsequent decision by the Council on Higher Education including an administrative hearing, if appropriate, that results in the classification of a person as a Kentucky resident or as a nonresident for admission and tuition assessment purposes.

(7) "Documentation" means source documents, such as official letters, papers, or sworn statements.

(8) "Domicile" means a person's true, fixed, and permanent home and is the place where the person intends to remain, and to which the person expects to return if [when] absent without intending to establish a new domicile elsewhere.

(8) [(9)] "Full-time employment" means employment for at least forty-eight (48) weeks at an average of at least thirty (30) hours per week.

student and whose admissions records show the student to be a graduate of an out-of-state high school;

(b) A person's admission records indicate the student's residence to be outside of Kentucky at the time of application for admission;

(c) A person moves to Kentucky primarily for the purpose of enrollment in an institution of higher education;

(d) A person moves to Kentucky and within twelve (12) months enrolls in an institution of higher education more than half time; or

(e) A person has a continuous absence of one (1) year from the state.

(2) A presumption arising from subsection (1) of this section shall ~~[A person is presumed to have lost Kentucky domicile and residency upon a one (1) year continuous absence from the state.]~~

~~(3) When an institution has reason to believe one (1) or more of the circumstances set forth in subsections (1) and (2) of this section is true, the institution shall make an initial determination that a person is a nonresident in the absence of a demonstration of Kentucky domicile and residency.~~

~~(4) A determination of residency status created by the presence of circumstances detailed in subsection (1) of this section creates a presumption which can be overcome by a demonstration of Kentucky domicile and residency.~~

~~(5) The same facts and conditions which are presumed in establishing Kentucky domicile and residency are similarly presumed in determining when domicile and residency are established elsewhere.]~~

Section 5. ~~[4-]~~ Determination of Whether a Student is Dependent or Independent. (1) In a determination of residency status, an institution shall first determine whether a student is dependent or independent.

(2) In determining the dependent or independent status of a person, the following information shall be considered as well as ~~[any]~~ other relevant information available at the time the determination is made:

(a) That the person has not been claimed as a dependent on the federal or state tax returns of a parent or other person for the year preceding the date of application for a determination of residency status; or

(b)1. That the person is no longer claimed by a parent or other person as a dependent or as an exemption for federal and state tax purposes; and

2. ~~[(e)]~~ That the person has financial earnings and resources independent of both parents or a person ~~[persons]~~ other than a spouse necessary to provide for the person's own sustenance.

(3) ~~An individual who enrolls [Individuals who enroll]~~ in college immediately following graduation from high school and ~~remains [remain]~~ enrolled shall be ~~[are]~~ presumed to be a dependent person ~~[persons]~~ unless the contrary is evident from the information submitted.

(4) Domicile may be inferred from the student's permanent address, parent's mailing address, or location of high school of graduation.

(5) Marriage to a person domiciled in and who is a resident of Kentucky shall be ~~[is]~~ a factor ~~[to be]~~ considered by an institution in determining whether a student is dependent or independent.

Section 6. ~~[5-]~~ Effect of a Determination of Dependent or Independent Status on a Determination of Residency Status. (1) The effect of a determination that a person is dependent shall be ~~[is]~~ as follows:

(a) The domicile and residency of a dependent person shall be the same as ~~[are that of]~~ either parent. The domicile and residency of the parent shall be determined in the same manner as the domicile and residency of an independent person.

(b) The domicile and residency of a dependent person whose parents are divorced, separated, or otherwise living apart shall be a

resident of Kentucky if either parent is domiciled in and is a resident of Kentucky ~~[resident]~~ regardless of which parent has legal custody or is entitled to claim that person as a dependent pursuant to Kentucky income tax provisions.

(c)1. If ~~[When]~~ the parent or parents of a dependent person are Kentucky residents and ~~[-whose parent or parents]~~ are domiciled in Kentucky but ~~[and whose parents are residents of Kentucky and]~~ subsequently move from the ~~[this]~~ state, the dependent person shall be considered a resident of Kentucky ~~[resident]~~ while in continuous enrollment at the degree level in which currently enrolled.

2. If ~~[When]~~ continuous enrollment is broken or the current degree level is completed, the dependent person's residency status shall be reassessed when the circumstances detailed in subparagraph 1 of this paragraph are present.

(2) If an independent person, the sole parent, or both parents of a dependent person moves out of state, Kentucky domicile and residency, having been previously established, shall be ~~[are]~~ retained until steps are taken to establish domicile and residency elsewhere.

Section 7. ~~[6-]~~ Member of Armed Forces of the United States, Spouse and Dependents; Effect on a Determination of Residency Status. (1) A member ~~[person]~~, spouse, or dependent of a member ~~[person]~~ whose domicile and residency was Kentucky at the time of induction into the Armed Forces of the United States, and who maintains Kentucky as home of record and permanent address, shall be entitled to Kentucky residency status:

(a) During the time of active service; and

(b) If the member, spouse, or dependent returns to this state within six (6) months of the date of the member's discharge from active duty.

(2) ~~[A person, as described in subsection (1) of this section, who returns to this state within six (6) months of the date of discharge from active duty, shall retain Kentucky residency status as shall the spouse and dependents of that person.]~~

~~(3)~~(a) A member, spouse or dependent of a member of the Armed Forces of the United States stationed in Kentucky on active military orders shall be considered a Kentucky resident while the member is on active duty in this state pursuant to those ~~[such]~~ orders if the member is not:

1. Stationed in Kentucky for the purpose of enrollment at an institution of higher education; or

2. On temporary assignment of less than one (1) year. ~~[-and]~~

(b) A member, spouse or dependent of a member, shall not lose Kentucky residency status if ~~[when]~~ the member is thereafter transferred on military orders while the member, spouse or dependent requesting the ~~[such]~~ status is in continuous enrollment ~~[attendance]~~ at the degree level in which currently enrolled.

(3) ~~[(4)]~~ A person's residency status established pursuant to this section shall be reassessed if ~~[when]~~ the qualifying condition is terminated.

~~[(5) The provisions of subsection (3) of this section shall not apply if a person is stationed in Kentucky for the purpose of enrollment at an institution of higher education or is on temporary assignment of less than one (1) year.]~~

Section 8. ~~[7-]~~ Status of Nonresident Aliens; Visas and Immigration. (1)(a) A person holding a permanent residency visa or classified as a political refugee shall establish domicile and residency in the same manner as another ~~[any other]~~ person.

(b) Time spent in Kentucky and progress made in fulfilling the conditions of domicile and residency prior to obtaining permanent status shall ~~[may]~~ be considered in establishing Kentucky domicile and residency.

(2) A person holding a nonimmigrant visa with designation A, E, G, H, I, L, N, O, P, R, S, TD or TN shall establish domicile and residency the same as another ~~[any other]~~ person.

(3)(a) A person holding a nonimmigrant visa with designations B,

nation, review or reconsideration of residency status.

Section 13. [42.] Establishment of a residency review committee by an Institution. (1) Each institution shall establish a residency review committee, which shall be a standing committee, to review, evaluate, and act upon:

(a) A student appeal related to an initial determination of residency status;

(b) A recommendation of the administrative office or person designated pursuant to Section 11 of this administrative regulation, that the residency review committee review, evaluate, and act upon an initial determination of residency status; and

(c) A student request for a reconsideration of a residency classification because of a changed circumstance [circumstances].

(2) Membership on the residency review committee shall include at least one (1) faculty and one (1) student member.

(3) The policies and procedures of an institution's residency review committee shall be in writing and published for student use.

(4) A copy of the document authorizing and creating an institution's residency review committee, and a copy of the operating policies and procedures of the residency review committee shall be provided to the Council on Higher Education.

Section 14. [43.] Student Responsibilities [under this Administrative Regulation]. (1) A student shall register [has the responsibility for registering] under the proper residency classification which includes [but is not limited to] the following actions:

(a) Raising a question [questions] in a timely manner concerning residency classification;

(b) Making application for change of residency classification in a timely manner with the designated office or person at the institution; and

(c) Notifying the designated office or person at the institution immediately upon a change in residency.

(2) If [When] a student fails to notify an institutional official [officials] of a change in residency, an institutional official [officials] may investigate and evaluate the student's current residency status.

(3)(a) If [When] a student fails to provide, in a timely manner [and in accordance with deadlines established in writing by policy], information required by an institution in a determination of residency status or by the Council on Higher Education in an appeal of a determination of residency status, [then] the student shall be notified by the institution or by the Council on Higher Education, as appropriate, that the review has been canceled and that a determination has been made.

(b) Notification shall [should] be made by registered mail, return receipt requested.

(c) Notification shall be made within ten (10) calendar [five (5) working] days after the deadline for receipt of materials has passed.

(4) A student shall [may] not appeal a determination of residency status made by an institution or by the Council on Higher Education for a failure to meet published deadlines for the submission of information as set forth in subsection (3) of this section. A student may request a review of a determination of residency status in a subsequent academic term.

Section 15. [44.] Procedures for an Initial Determination of Residency Status, an Institutional Review of Residency Status and for a Reconsideration of a Determination of Residency Status. (1) Application for a review of a determination of residency status shall be made to the administrative office or person designated by the institution pursuant to Section 12 [44] of this administrative regulation.

(2) The application, with supporting documentation, shall be made by the student within [not more than] thirty (30) calendar days after the first day of classes of the academic term for which a review of a determination of residency status is sought.

(3) An application shall consist of:

(a) An affidavit authorized by the Council on Higher Education and submitted by the student or the parent of a dependent student asserting the claim for a determination of residency status and asserting that the documentation and information are accurate and true; and

(b) Information and documentation required by an institution and consistent with this administrative regulation which is necessary to substantiate a request for a change in a determination of residency status.

(4)(a) An application [A student shall be responsible for ensuring that all necessary documentation as required by the institution is submitted with the affidavit. The time limit set forth in subsection (2) of this section shall apply to the date an application, with necessary documentation, is received in the office designated to administer this administrative regulation.]

(5)(a) Applications shall be first reviewed by the office or person designated by the institution pursuant to Section 12 [44] of this administrative regulation.

(b) If [When] a student asks, in writing and in a manner set forth by the institution consistent with this administrative regulation, to appeal the decision of the designated office or person, the residency review committee shall review, evaluate, and act upon that appeal.

(c) An application [Provided, however, that] [Applications] for a review of residency status which is [are] not submitted in a timely manner, shall result in a determination of residency status consistent with an initial determination of residency status. [In the event of a failure to provide the required documentation in a timely manner, the student shall be notified as set forth in Section 13(3) of this administrative regulation.]

(5) [(6)] The decision of the designated office or person, or of the residency review Committee shall include [but not be limited to] the following information:

(a) Findings of fact;

(b) Determination of whether the applicant is deemed to be a "dependent person" or "independent person"; and

(c) Whether the applicant is a resident or nonresident, and the reasons consistent with institutional policy and this administrative regulation.

(6) [(7)] The student shall be notified in writing, by registered or certified mail, of the decision of the administrative officer designated by the institution or the residency review committee, as appropriate, within forty-five (45) calendar [working] days after receipt of a person's application for a change.

(7) [(8)] A change in a determination of residency shall not be made retroactive beyond the academic term in which the request for a change is made.

(8) [(9)] A student shall have the right to appeal a decision of the residency review committee to the Council on Higher Education pursuant to Sections 16, 17, and 18 [15, 16 and 17] of this administrative regulation

(9) [(10)] An institution shall, by written policy, establish deadlines for the submission of written documentation by a person seeking an initial determination of residency status and shall not consider an appeal which does [appeals which do] not conform to the timetable requirement [requirements] for documentation and process established [preceeses set forth] in the institution's policy.

Section 16. [45.] Procedure for Appeal to the Council on Higher Education and Intermediate Review by the Council on Higher Education Appeals Officer. (1) The Executive Director of the Council on Higher Education shall designate a person on the staff of the Council on Higher Education to serve as an appeals officer.

(2) The appeals officer's review of an institutional determination [determinations] of residency status shall be [is] to determine whether the residency review committee's written decision was [is] supported by a preponderance of [clear and convincing] evidence and conformed [conforms] to this administrative regulation.

all of the criteria listed in subsection (10) of this section.

(6) "Documentation" means source documents, such as official letters, papers, or sworn statements.

(7) "Domicile" means a person's true, fixed, and permanent home and is the place where the person intends to remain, and to which the person expects to return without intending to establish a new domicile elsewhere.

(8) "Full time employment" means employment for at least forty-eight (48) weeks at an average of at least thirty (30) hours per week.

(9) "Half time enrollment" means any enrollment during an academic term which is equal to one-half (1/2) of full time as determined by the institution.

(10) "Independent person" means a person who demonstrates financial independence from parents and persons other than a spouse and who can meet the criteria in Section 2(2)(a) of this administrative regulation.

(11) "Institution", "institution of higher education", or "college" means all entities offering instruction and conferring degrees or diplomas beyond the secondary school level, including four (4) year colleges or universities, two (2) year institutions including community colleges, and postsecondary vocational technical schools unless the type of institution shall be expressly stated.

(12) "Kentucky residency" or "Kentucky resident" means the result of a determination by an institution that a person is a resident of Kentucky for the purpose of tuition assessment and for the purpose of admission to that institution, if applicable.

(13) "Nonresident" means a person who is domiciled outside of Kentucky or who currently maintains legal residence outside Kentucky or who has not met the criteria for establishing Kentucky residency as defined in this administrative regulation.

(14) "Parent" means one (1) of the following:

(a) A person's father or mother; or

(b) A court appointed legal guardian recognized by an appropriate court within the United States in which there is a relinquishment of the rights of the parents but shall not apply if a guardianship has been established primarily for the purpose of conferring the status of Kentucky residency on a person.

(15) "Residence" or "residency" means the place of abode of a person and the place where the person is physically present most of the time for a noneducational purpose in accordance with Section 2 of this administrative regulation.

(16) "Summer term" means the sum of the summer session enrollment periods following the spring academic term and preceding the fall academic term as defined by an institution of higher education.

(17) "Sustenance" means living expenses including room, board, maintenance, transportation, and educational expenses including tuition, fees, books, and supplies.

Section 2. Guidelines for Determination of Residency Status.

(1)(a) An initial determination of residency status for admission and tuition assessment purposes shall be based upon the facts in existence when the credentials established by an institution for admission for a specific academic term have been received.

(b) An initial determination of residency status is made on:

1. The basis of information derived from admissions materials;
2. Other materials required by an institution and which are consistent with this administrative regulation; or
3. Other information available to the institution.

(c) An individual seeking a determination of residency status must demonstrate that status by clear and convincing evidence.

(d) An undergraduate student whose admissions records show the student to be a graduate of an out-of-state high school shall be presumed to be a nonresident unless the person demonstrates Kentucky domicile and residency. An institution shall make a determination that a student is a nonresident in the absence of such evidence.

(e) A student whose admissions records indicate the student's residence to be outside of Kentucky at the time of application for admission is presumed to be a nonresident.

(2)(a) A determination shall first be made of whether a student is dependent or independent. In determining the dependent or independent status of a person, the following information shall be considered as well as any other relevant information available at the time the determination is made.

(b) A person claiming independent status shall document that status and demonstrate that the person:

1. Has not been claimed as a dependent on the federal or state tax returns for the year preceding the date of application for a determination of residency status; or
2. Is no longer claimed by a parent or other person as a dependent or an exemption for federal and state tax purposes; and
3. Has financial earnings and resources independent of parents and persons other than a spouse necessary to provide for the person's own sustenance.

(3)(a)1. A dependent person whose parent or parents are domiciled in and whose parents are residents of this state, and whose parents subsequently move from this state, shall be considered a Kentucky resident for the purpose of this administrative regulation while in continuous enrollment at the degree level in which currently enrolled.

2. If continuous enrollment is broken or the current degree level is completed, the person's residency status shall be reassessed in accordance with this administrative regulation.

(b) An independent person who moves to Kentucky and within twelve (12) months enrolls in an institution of higher education more than half time shall be presumed to have come to Kentucky primarily for educational purposes and shall be presumed to be a nonresident and shall be so classified unless establishment of a Kentucky domicile and residency can be demonstrated in a manner consistent with this administrative regulation.

(c) An independent person who provides clear and convincing evidence of Kentucky domicile and residency shall be so classified as shall that person's spouse or dependent children, notwithstanding the provisions of paragraph (d) of this subsection.

(d) A person who moves to Kentucky primarily for the purpose of enrollment of either self, spouse, or a dependent in an institution of higher education shall not be granted Kentucky residency unless such person can demonstrate establishment of Kentucky domicile and residency.

(e) If an independent person or the sole parent or both parents of a dependent person moves out of state, domicile and Kentucky residency, having been established is retained until steps are taken to establish domicile and residency elsewhere.

(f) The same facts and conditions which are presumed in establishing Kentucky domicile and residency are similarly presumed in determining when domicile and residency are established elsewhere.

(g) A person is presumed to have lost Kentucky domicile and residency upon a one (1) year continuous absence from the state unless the person asserting Kentucky domicile and residency can establish that Kentucky domicile and residency are maintained.

(h) Upon transfer to, or matriculation from, a Kentucky public institution of higher education, a student's residency status shall be reassessed by the receiving institution subject to the provisions for continuous enrollment.

(i)1. An individual or the spouse or dependent of an individual whose domicile and residency was Kentucky at the time of induction into the armed forces of the United States, and who maintains Kentucky as home of record and permanent address, shall be entitled to Kentucky residency status during the time of active service; or

2. If the individual returns to this state within six (6) months of the date of discharge from active duty having met the provisions of subparagraph 1 of this paragraph, the student, spouse, and dependents shall retain Kentucky residency status.

offered in support of a claim of Kentucky domicile and residency.

(b) Evidence cited as the basis for domicile and residency shall be documented, and the required documentation shall accompany the application for a change in a determination of residency status.

(c) Institutions may request additional documentation to clarify the person's circumstances and to formulate a determination of residency status which considers all relevant facts.

Section 3. Penalty and Sanctions for Submission of False Documents. (1) A student who gives incorrect or misleading information to institutional officials may be subject to criminal prosecution and to such disciplinary sanctions as may be imposed by the institution through a policy written and disseminated to students.

(2) A penalty or sanction because of incorrect information shall include but not necessarily be limited to the payment of nonresident tuition for each academic term for which tuition was assessed based on an improper determination of residency status.

Section 4. Determination of Residency Status by Institution. (1) A determination of residency status by an institution refers to:

(a) The determination reached by the institution at the time of consideration of admission including an initial determination and review of that decision by the institution conducted in accordance with university policy and consistent with this administrative regulation; or

(b) A subsequent review of a request for a change in a determination of residency status by the institution whether initiated by the student, the institution, or the Council on Higher Education.

(2) Each institution shall designate a person or office at the institution with responsibility for a determination of residency status at that institution.

(3) Each institution shall designate an administrative office or person with delegated day to day responsibility for administration of this administrative regulation. The designation of an administrative office or person shall be in writing setting forth the duties and responsibilities. A copy shall be provided to the Council on Higher Education.

(4) Each institution shall establish by written policy filed with the Council on Higher Education a residency review committee, which shall be a standing committee, to review, evaluate, and act upon:

(a) Student requests for a change in a determination of residency status; or

(b) A recommendation of the administrative office or person designated pursuant to subsection (3) of this section, that the residency review committee review, evaluate, and act upon a determination of residency status.

(5)(a) The residency review committee shall be established by the institution in a manner set forth by the institution in accordance with this section.

(b) Membership on the residency review committee shall include at least one (1) faculty and one (1) student member.

(6) Each institution shall establish an operational policy on the determination of residency status which shall be filed with the Council on Higher Education and which shall include but not be limited to the following:

(a) Procedures describing the steps in the initial determination of residency status;

(b) Designated responsibilities of institutional officials;

(c) Responsibilities of persons requesting admission to the institution or who request a change in residency status;

(d) Procedures and requirements pursuant to a residency review committee review of a determination of residency status;

(e) Training of institutional officials responsible for a determination of residency status; and

(f) The role of the residency review committee.

(7) The administrative regulation shall be published in its entirety in the institution's catalog and disseminated to all students.

(8) A student has the responsibility for registering under the

proper residency classification which includes but is not limited to the following actions:

(a) Raising questions in a timely manner concerning residency classification;

(b) Making application for change of residency classification in a timely manner with the designated office or person at the institution; and

(c) Notifying the designated office or person at the institution immediately upon a change in residency.

(9) If a student fails to notify institutional officials of a change in residency, institutional officials may investigate and evaluate the current residency status of the student regardless of the source of the information.

(10) A student classified as a nonresident shall retain that status until the student is officially reclassified by the proper administrative officials.

Section 5. Procedures for a Determination of Residency Status.

(1) Application for a review of a determination of residency status shall be made to the administrative office or person designated by the institution for this purpose pursuant to Section 4 of this administrative regulation.

(2) The application, with supporting documentation, shall be made by the student not more than thirty (30) calendar days after the first day of classes of the academic term for which a determination of residency status is sought.

(3) A student may apply for a review of a determination of residency status set out in Section 4 of this administrative regulation only once for each academic term.

(4) When the Council on Higher Education has information that an institution's determination of residency status may be incorrect, it may require the institution to review the determination of residency status and report the results of that review.

(5) An application shall consist of:

(a) An affidavit authorized by the Council on Higher Education and submitted by the student or the parent of a dependent student asserting the claim for a change in an initial determination of residency status or a change in the determination of residency status and asserting that the documentation and information are accurate and true; and

(b) Information and documentation required by an institution and consistent with this administrative regulation which is necessary to substantiate a request for a change in a determination of residency status.

(6) A student shall be responsible for ensuring that all necessary documentation as required by the institution is submitted with the affidavit. Incomplete applications may be returned to the student for completion at the discretion of appropriate institutional officials. The time limit set forth in subsection (2) of this section shall apply to the date an application is received in the office designated to administer this administrative regulation.

(7)(a) Applications shall be first reviewed by the office or person designated by the institution pursuant to Section 4 of this administrative regulation.

(b) Upon a written request by a student appealing the decision of the designated office or person, the residency review committee shall review, evaluate, and act upon that appeal.

(c) The student shall be notified in writing, by registered or certified mail of the decision of the administrative officer designated by the institution or the residency review committee as appropriate within forty five (45) working days after receipt of a person's application for a change.

(8) The residency review committee's written decision on residency shall include but not be limited to the following information:

(a) Findings of fact;

(b) Determination of whether the applicant is deemed to be a "dependent person" or "independent person"; and

315.191(1)(a) authorizes the board to promulgate administrative regulations governing pharmacy technicians. KRS 315.010(18) authorizes the board to permit a pharmacy technician to work under the general supervision of a pharmacist. KRS 315.191(1)(l) authorizes the board to promulgate administrative regulations establishing the qualifications a pharmacy technician is required to attain prior to practicing under the general supervision of a pharmacist. This administrative regulation establishes the qualifications required for a pharmacy technician to practice under the general supervision of a pharmacist, and establishes the scope of practice for a pharmacy technician. [This administrative regulation establishes, consistent with the requirements of KRS 315.191(1)(a), (g) and (l), the qualifications pharmacy technicians are required to attain and identifies the tasks that may be performed outside the immediate supervision of a pharmacist by those technicians attaining such qualifications.]

Section 1. A person shall be recognized by the board as a certified pharmacy technician, if:

(a) He has successfully completed the National Certification Examination administered by the Pharmacy Technician Certification Board; and

(b) The certificate issued by the Pharmacy Technician Certification Board is current.

Section 2. [All duties, tasks or functions not enumerated herein that lawfully may be delegated by a pharmacist shall require the immediate supervision of the pharmacist.]

Section 2. Any person who has successfully completed the National Certification Examination administered by the Pharmacy Technician Certification Board or any other equivalent examination approved by the board, and whose certificate is current and in good standing is recognized as a certified pharmacy technician. A certified pharmacy technician, subject to the supervision, as defined by KRS [KAR] 315.010(25), of a pharmacist may [and in compliance with this administrative regulation, is permitted to] perform the following functions:

(1) Certify for delivery unit dose mobile transport systems that have been refilled by another technician;

(2) Within a nuclear pharmacy, receive diagnostic orders; and

(3)(a) Initiate or receive a telephonic communication from a practitioner or practitioner's agent concerning refill authorization, after he clearly identifies himself as a certified pharmacy technician;

(b) If a practitioner or practitioner's agent communicates information that does not relate to the refill authorization:

1. A technician shall immediately inform the pharmacist; and

2. The pharmacist shall receive the communication. [Initiate or receive a telephonic communication to or from a practitioner or practitioner's agent concerning refill authorization after clear identification has been made to the practitioner or practitioner's agent that the speaker is a certified pharmacy technician, and at any time the practitioner or practitioner's agent communicates any information other than the authorization for the refill, the technician immediately shall inform the pharmacist to receive the communication.]

Section 3. (1) A technician who has not been certified by the Pharmacy Technician Certification Board may perform the functions specified by Section 2 of this administrative regulation under the immediate supervision of a pharmacist.

(2) A function performed by a certified pharmacy technician or pharmacy technician shall be performed subject to the review of the pharmacist who directed the technician to perform the function.

(3) A pharmacist who directs a certified pharmacy technician or pharmacy technician to perform a function shall be responsible

for the technician and the performance of the function. [All technicians whether working under general or immediate supervision of a pharmacist at all times shall wear an identification badge that clearly identifies the technician by [full] name and either "pharmacy technician" or "certified pharmacy technician."]

Section 4. The delegation of any duties, tasks or functions by a pharmacist to either a certified pharmacy technician or a pharmacy technician must be performed subject to the continuing review and ultimate professional and personal responsibility of the pharmacist who directed the certified pharmacy technician or pharmacy technician to perform the duty, task or function.

MICHAEL B. WYANT, President

APPROVED BY AGENCY: March 19, 1997

FILED WITH LRC: March 20, 1997 at 1 p.m.

**GENERAL GOVERNMENT CABINET
Kentucky Board Of Pharmacy
(As Amended)**

201 KAR 2:220. Collaborative care agreements.

RELATES TO: KRS 315.010(4), 315.040(4), 315.191(1)(a)

STATUTORY AUTHORITY: KRS 315.191(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation establishes, consistent with the requirements of KRS 315.191(1)(a), minimum requirements for the development and maintenance of collaborative care agreements between an individual pharmacist and an individual practitioner.

Section 1. A collaborative care agreement shall:

(1) Be in writing;

(2) Be signed and dated by the:

(a) Individual practitioner;

(b) Individual pharmacist; and

(c) Patient or care giver;

(3) Provide that upon termination of the agreement the individual practitioner or individual pharmacist shall notify the patient in writing;

(4) State the method for termination of the agreement; and

(5) Contain the information specified by Section 2 of this administrative regulation. [A collaborative care agreement between an individual pharmacist and an individual practitioner shall meet the following requirements:

(1) The agreement shall be in writing, signed and dated by the individual practitioner and the individual pharmacist;

(2) The agreement shall provide for notification to the patient of the existence of the agreement and the extent of the authority conferred by the individual practitioner upon the individual pharmacist;

(3) The agreement shall provide for notification by the individual practitioner or the individual pharmacist to the patient of termination of the agreement;

(4) The agreement shall provide for [written] notification by the individual practitioner and individual pharmacist of termination of the agreement and shall include a provision establishing the method by which the agreement may be terminated;

(5) The agreement shall provide for the incorporation by reference of the specific method (e.g., protocols, criteria, standing orders) by which the individual practitioner authorizes the individual pharmacist to perform a service permitted by KRS 315.010(4); and

(6) The fully executed agreement shall be maintained at the pharmacist's practice site.]

Section 2. Patient Information. A collaborative care agreement shall contain the following information relating to the patient:

hours are not required for retired status. A "professional engineer, retired" or a "professional land surveyor, retired" shall not practice or offer to practice his profession. Reinstatement to active registration shall require board approval and completion of eight (8) professional development hours for each calendar year on retired status, up to a maximum of thirty-two (32) professional development hours.

Section 2. "Professional engineer, inactive" or "professional land surveyor, inactive" shall mean a person who has been duly registered as a professional engineer or professional land surveyor by the board and who chooses not to engage in the practice of engineering or land surveying in the state for an undetermined period of time, but who would like to retain a future possible right to practice. The biennial fee to be paid to the board shall be twenty (20) dollars. Renewals shall be effectuated in the same manner as regular renewals, except that professional development hours are not required for inactive status. A "professional engineer, inactive" or a "professional land surveyor, inactive" shall not practice or offer to practice his profession. Reinstatement to active registration shall require board approval and completion of eight (8) professional development hours for each calendar year on retired status, up to a maximum of thirty-two (32) professional development hours.]

JOSEPH F. SISLER, PE, PLS, Chairman
APPROVED BY AGENCY: December 6, 1996
FILED WITH LRC: March 13, 1997 at 4 p.m.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Appraisers Board
(As Amended)

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

RELATES TO: KRS 324A.035, 324A.050(10), 12 CFR 225.64, 225.65, 12 USC 3331, 3336, 3339

STATUTORY AUTHORITY: KRS 324A.035(3)(d), 12 CFR 225.64, 225.65, 12 USC 3331, 3336, 3339

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324A.035(3)(d) requires the board to establish by administrative regulation standards of professional appraisal practice. 12 USC 3331, 3336, and 3339 and 12 CFR 225.64 and 225.65 require that real estate appraisals in connection with federally-related transactions be performed in accordance with appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation. ~~[The function of]~~ This administrative regulation establishes [is to establish] the standards of professional practice. This administrative regulation establishes requirements that are no more stringent than the federal law requirements.

Section 1. A licensed nonfederal real property appraiser shall not be required to comply ~~[be exempted from the provisions of KRS 324A.050(10), requiring compliance]~~ with the "Uniform Standards of Professional Appraisal Practice."

Section 2. A certified general real property appraiser, a certified residential real property appraiser, a licensed real property appraiser, and a trainee real property appraiser shall comply with the "Uniform Standards of Professional Appraisal Practice."

Section 3. An appraisal report that is made with regard to a federally related transaction shall be in writing.

Section 4. Incorporation by Reference. (1) "Uniform Standards of Professional Appraisal Practice (1997 [1996] edition)," Appraisal Standards Board of the Appraisal Foundation, is incorporated by

reference[, as the standards of professional appraisal practice established by the board pursuant to KRS 324A.035].

(2) It may be inspected at the Kentucky Real Estate Appraisers Board, 3572 Iron Works Pike, Room 308, Lexington, Kentucky 40511-8410, telephone: (606) 246-2017, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) It may be obtained from the Appraisal Standards Board of the Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005-3517, telephone: (202) 347-7722.

JED DETERS, Chairman
APPROVED BY AGENCY: February 28, 1997
FILED WITH LRC: March 12, 1997 at 3 p.m.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Appraisers Board
(As Amended)

201 KAR 30:070. Complaints of violations. [Prehearing procedure.]

RELATES TO: KRS 324A.020, 324A.050
STATUTORY AUTHORITY: KRS 324A.020
NECESSITY, FUNCTION, AND CONFORMITY: KRS 324A.020

authorizes the board to investigate allegations of wrongdoing. KRS 324A.050 authorizes the board to take disciplinary action against the certificate or license of an appraiser for violations of KRS Chapter 324A. [The function of] This administrative regulation establishes [is to establish] the procedures for filing complaints of violations with the board. [This administrative regulation is necessary to comply with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC 3331 through 12 USC 3351), KRS Chapter 324A to set policies and procedures and to protect the public.]

Section 1. Complaints and Answers. (1)(a) A complaint against a licensee or a certificant shall be submitted on a board form, "Sworn Statement of Complaint". ~~["Board of Appraisers Complaint Form"].~~

(b) A complaint shall contain a concise statement of the facts, transaction or occurrence upon which it is based.

(c) A complaint shall be notarized.

(d) Exhibits or other documents shall be attached to the complaint.

(e) A copy of the complaint and attachments shall be served on the licensee or certificant by the board:

1. At the last known address of the licensee or certificant;
2. By certified mail, return receipt requested.

(2)(a) The licensee or certificant shall file with the board an answer to the complaint on a board form, "Sworn Answer to Complaint". ~~["Board of Appraisers Answer Form"].~~

(b) The answer shall be notarized.

(c) The answer shall be filed with the board within twenty (20) days after service of the complaint.

(d) A copy of the answer shall be served on the complainant by the licensee or certificant by certified mail, return receipt requested to the address shown on the complaint.

Section 2. ~~[Motions, requests, filings, and opposing material filed with the board shall:~~

~~(1) Be served on the opposing party by certified mail, return receipt requested; and~~

~~(2) Contain a signed statement that service on the opposing party has been made.~~

Section 3. ~~Withdrawal of Complaint. A complaint may be withdrawn by a complainant if:~~

~~(1) A request to withdraw the complaint is received;~~

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be amended.

~~Section 14. Motions. A motion shall be:~~

- ~~(1) In writing;~~
- ~~(2) Signed; and~~
- ~~(3) Filed with the board and the hearing officer.~~

Section 4. ~~[45:]~~ Material Incorporated by Reference. (1) The following forms are incorporated by reference:

(a) "Sworn Statement of Complaint" (February 1997, Kentucky Real Estate Appraisers Board); and ~~["Board of Appraisers Complaint Form (Jan-03)"]~~

(b) "Sworn Answer to Complaint" (February 1997, Kentucky Real Estate Appraisers Board). ~~["Board of Appraisers Answer Form (Jan-03)"]~~

~~(c) "Board of Appraisers Subpoena Form (Jan-03)"]~~

(2) These forms may be inspected, copied, or obtained at the Kentucky Real Estate Appraisers Board, 3572 Iron Works Pike, Lexington, Kentucky, 40511-8410, telephone: (606) 246-2017, Monday through Friday, 8 a.m. to 4:30 p.m.

JED DETERS, Chairman

APPROVED BY AGENCY: February 28, 1997

FILED WITH LRC: March 12, 1997 at 3 p.m.

JUSTICE CABINET

Kentucky Department of Corrections
Division of Local Facilities
(As Amended)

501 KAR 13:020. County jail and juvenile detention facility victim notification system.

RELATES TO: KRS 196.280

STATUTORY AUTHORITY: KRS 196.280

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.280 requires the Justice Cabinet, Department of Corrections promulgate administrative regulations governing the notification of members of the public who request notification ~~[made a notification request upon the release]~~ of an incarcerated person released from regional jail, or county jail, or in some cases, a juvenile detention facility.

Section 1. Definitions. (1) "Notification" means the telephonic communication to a member of the public regarding the release of an inmate.

(2) "Registration" means the electronic ~~[telephonic or written]~~ communication by a member of the public recording a telephone number to be contacted when ~~[his name for notification of the release of]~~ an inmate is released.

Section 2. (1) The Department of Corrections shall at a minimum provide a system through which the jailer or chief administrator shall make immediately available the name of the arrested individual, his date of birth, date of arrest, the charge, inmate number (if available), and date of release. ~~[basic information necessary to provide the victim release notification to the public.]~~ The system shall also provide the ability to transmit the monthly jail data now required. The Department of Corrections shall provide the basic equipment necessary to begin the transfer of information from the jail or juvenile detention facility when equipment is not already in place to perform this task.

(2) The Department of Corrections shall provide:

(a) ~~[The means by which the public shall access the basic inmate information;~~

~~(b)]~~ The ability for the public to register for notification purposes; and

~~(b) [(e)]~~ The notification for which the member of the public has registered.

Section 3. ~~[(1)]~~ The jailer or chief administrator shall make available the necessary information within the time parameters designated by the Department of Corrections for use of the notification system. This shall include the basic elements of information that shall be given to the Department of Corrections or the private entity under contract with the Department of Corrections.

~~(2)]~~ Any equipment provided by the Department of Corrections for the jailer or chief administrator to provide victim notification shall be secured. The equipment shall be used only for the purposes set out in this administrative regulation, ~~[for this purpose and this purpose only,]~~ unless express written permission is obtained from the Department of Corrections. If this equipment is used for other purposes, the county shall bear the cost of upgrading the equipment. If the equipment is damaged or destroyed outside the normal coverage provided by the manufacturer's warranty, the jail shall bear the cost of replacement of the equipment with equipment of equal or greater capacity.

DOUG SAPP, Commissioner

APPROVED BY AGENCY: March 14, 1997

FILED WITH LRC: March 14, 1997 at 10 a.m.

TRANSPORTATION CABINET

Department of Administrative Services
Division of Fleet Management
Division of Purchases
(As Amended)

600 KAR 1:120. Purchase, use, lease, maintenance and disposal of state-owned motor vehicles.

RELATES TO: KRS 44.045, 186.065~~[-Executive Order 93-560]~~

STATUTORY AUTHORITY: KRS 44.045(6) ~~[Executive Order 93-560]~~

NECESSITY, FUNCTION, AND FUNCTION: KRS 44.045(6) authorizes the Secretary of the Transportation Cabinet to promulgate administrative regulations governing the use of state-owned vehicles. This administrative regulation is necessary to assure the most effective utilization of state-owned vehicles and to establish procedures governing the purchase, licensure, use, lease, maintenance, and disposal of state-owned vehicles. ~~[In order to assure the most effective utilization of state-owned vehicles, this administrative regulation establishes procedures governing the purchase, licensure, use, lease, maintenance, and disposal of state-owned vehicles.]~~

Section 1. Definitions. ~~(1)~~ "Agency specific motor pool" means the fleet of passenger carrying motor vehicles owned, operated, and maintained by a state agency other than the Transportation Cabinet.

(2) "Exempt vehicle" means a motor vehicle that is not part of the statewide motor pool.

(3) "Motor vehicle" means as defined in KRS 281.011(2).

(4) "Nonexempt vehicle" means a motor vehicle under the control of the statewide motor pool.

(5) "Passenger carrying vehicle" means a motor vehicle whose primary purpose is to transport people.

(6) "Statewide motor pool" means the fleet of passenger carrying motor vehicles operated, controlled, and maintained by the Transportation Cabinet's Division of Fleet Management.

Section 2. General. (1) This administrative regulation is applicable to:

(a) An executive branch state agency in regard to the pur-

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Section 6. Licensure of Motor Vehicles. (1) ~~All state-owned motor vehicles shall bear official license tags except those vehicles specified as exempt from this requirement in KRS 186.065.~~

(2)(a) A request to license a state-owned motor vehicle with a nonofficial license plate, pursuant to ~~[the provisions of]~~ KRS 44.045(4) and 186.020 shall ~~[be submitted to the Secretary of the Finance and Administration Cabinet [Governor's Executive Cabinet] by the head of the agency involved, and shall]~~ set forth the investigatory purposes for which the vehicle ~~shall [is to]~~ be used.

(b) It shall be the responsibility of the agency head to ascertain that the vehicle is used only for investigatory purposes and he shall insure that the use of the vehicle is not abused.

(2) ~~[(3)]~~ An official license plate attached to a motor vehicle which is being replaced shall be turned in to the Transportation Cabinet.

(3) ~~[(4)]~~ The Transportation Cabinet shall be responsible for the licensing and titling of all nonexempt vehicles.

Section 7. Lease of Motor Vehicles from Statewide Motor Pool.

(1) The fleet of vehicles in the statewide motor pool shall be available for use ~~by a [to all] state agency [agencies]~~ for official business of the Commonwealth. These vehicles shall be made available for a lease to a state agency ~~[all state agencies]~~.

(2)(a) A request to use a motor vehicle ~~[Requests to use motor vehicles]~~ available in the statewide motor pool shall be submitted to the Transportation Cabinet on the forms and in the manner prescribed in 600 KAR 1:070.

(b) Billing shall be performed by the Transportation Cabinet and necessary documentation shall be provided to a ~~[each]~~ user agency.

(c) The Transportation Cabinet has adopted the procedures to govern the operation of the statewide motor pool in 600 KAR 1:070.

(3) An agency shall not lease a motor vehicle from a private individual or business without prior written approval of the Secretary of the Finance and Administration Cabinet ~~[Governor's Executive Cabinet]~~.

Section 8. Maintenance of Motor Vehicles. (1) It shall be the responsibility of the agency to which a motor vehicle from the statewide motor pool has been permanently assigned to maintain it properly and in accordance with the manufacturer's instructions.

(2)(a) Nonexempt motor vehicle repair and ~~[&]~~ maintenance shall be the responsibility of the Transportation Cabinet.

(b) The cabinet shall repair and ~~[&]~~ maintain vehicles in the most economical means possible.

(3) A record of maintenance history and costs for an ~~[each]~~ exempt motor vehicle shall be kept by the ~~[each]~~ agency and submitted to the Transportation Cabinet on an annual basis or as requested.

Section 9. Disposal of Motor Vehicles. (1) An agency may advise the Transportation Cabinet of its desire to dispose of a motor vehicle which meets at least one (1) of the following criteria:

- (a) Is at least five (5) years old;
- (b) Has been driven at least 90,000 miles; or
- (c) Is inoperable, unsafe, or in need of substantial repair.

(2) All proceeds from the sale of a nonexempt surplus motor vehicle ~~[vehicles]~~ shall be deposited into the Transportation Cabinet motor pool agency fund unless precluded by:

- (a) ~~[except where]~~ Federal law or regulations; or
- (b) State law or administrative regulations ~~[, preclude this deposit]~~.

(3)(a) The disposal of an exempt motor vehicle shall be the responsibility of the ~~[each]~~ individual agency.

(b) For inventory control purposes, the agency shall immediately ~~[shall be immediately notified]~~ notify the Transportation Cabinet of the disposal of an exempt vehicle ~~[for inventory control purposes]~~.

ED ROBERTS, Commissioner
JAMES C. CODELL, III, Secretary

APPROVED BY AGENCY: April 9, 1997
FILED WITH LRC: April 9, 1997 at 11 a.m.

TRANSPORTATION CABINET (As Amended)

600 KAR 5:010. Transportation of nonpublic school students.

RELATES TO: KRS 158.115, 1996 Ky. Acts ch. 380, Part I, 0.87.d ~~[ch. 382, sec. 0]~~ ~~[Part XI of Chapter 5 of the Acts of the First 1994 Extraordinary Legislative Session]~~

STATUTORY AUTHORITY: 1996 Ky. Acts ch. 380, Part I, 0.87.d ~~[382, sec. 0]~~ ~~[Part XI of Chapter 5 of the Acts of the First 1994 Extraordinary Legislative Session]~~

NECESSITY, FUNCTION, AND CONFORMITY: The Commonwealth's Biennium Budget for fiscal years 1996-98 ~~[1994-96]~~ included \$2 million in the Transportation Cabinet's public transportation budget ~~[General Fund Surplus Budget Expenditure Plan]~~ each year for the transportation of nonpublic school students. This administrative regulation establishes conditions and procedures for the reimbursement to fiscal courts of financial support for the transportation of nonpublic school students. ~~[On September 1, 1994 the state Supreme Court issued an opinion relating to the methods of public financing of the transportation of nonpublic school students. This administrative regulation is promulgated to establish the eligibility criteria for application for a portion of the \$2 million appropriated each of the fiscal years of the biennium. The Transportation Cabinet has made every effort to adhere to the provisions of the 1994 Supreme Court ruling as well as the stated intention of the General Assembly with the passage of House Bill 2 during the First Extraordinary Legislative Session of 1994.]~~

Section 1. Application for ~~[Fiscal Year 1994-95]~~ Funds. (1) A ~~[Any]~~ fiscal court that [which] provided financial support for the transportation of nonpublic school students in school year 1996-97 or 1997-98 ~~[1994-95]~~ pursuant to the provisions of KRS 158.115 may apply ~~[make application]~~ to the Transportation Cabinet for reimbursement of that financial support.

(2) By May 1, 1997 for school year 1996-97 and May 1, 1998 for school year 1997-98, the fiscal court shall in writing notify the Transportation Cabinet, Office of the Secretary of its intention to apply for reimbursement. The notification shall include:

(a) The name of the person in the county who will ~~[shall]~~ serve as liaison on the application;

(b) A resolution from the fiscal court stating that the county provided funds in the school year for the transportation of nonpublic school students;

(c) A detailed statement ~~[detailing]~~ of the method by which the funds were made available for the transportation of the nonpublic school students;

(d) 1. A copy of each contract the fiscal court entered into to provide the transportation services; or

2. If the fiscal court does not contract for the provision of transportation services with a bus company or a board of education, a copy of the legal notice requesting applications for supplementary funds from providers of transportation of nonpublic school students; and

(e) An estimate of the total amount of funds to be provided.

(3) The final application to the Transportation Cabinet shall:

(a) ~~[Not]~~ Be received by the Office of the Secretary not later than June 30 of the applicable school year ~~[1, 1995]~~;

(b) ~~[Include a resolution from the fiscal court stating that the county provided funds in school year 1994-95 for the transportation of nonpublic school students;~~

(c) Include the amount of funds provided by the county for the transportation of nonpublic school students; and

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motor vehicle registration. This administrative regulation is necessary to establish the application, records, and use of a temporary registration plate. [KRS Chapter 186A allows a county clerk to issue a thirty (30) day temporary registration plate to a vehicle registered and titled in another state for which a properly completed application for title and registration has been submitted. It also provides for currently licensed motor vehicle dealers to issue thirty (30) day temporary plates to be placed on motor vehicles which have been [not] previously registered in Kentucky. Finally, a county clerk may issue a one (1) to seven (7) day temporary tag for a motor vehicle which is currently registered and titled in Kentucky when necessary to maintain the registration and if emergency or unusual conditions exist. The thirty (30) day temporary registration plate may only be issued by the county clerk while the documents necessary to title or register the vehicle in Kentucky are being assembled. This administrative regulation prescribes the properly completed application, the records to be maintained by the county clerk and his inability to renew the temporary registration plate. It further specifies how the temporary registration plate is to be completed by either the county clerk or motor vehicle dealer.]

Section 1. Application. (1) The properly completed application referred to in KRS 186A.100(4) shall be on the form mandated in KRS 186A.060.

(2)(a)1. A representative of a currently licensed motor vehicle dealer shall [may] apply to the county clerk for the issuance of temporary registration plates by presenting to the county clerk a photo identification card and written authorization executed within the preceding week from the dealer allowing the representative to apply for temporary registration plates.

2. If the representative does not have written authorization from the dealer, the county clerk shall [ean] compare the photo identification card to the list of that licensee's dealer plate users pursuant to KRS 186.070(2).

(b) The county clerk shall issue from the Automated Vehicle Information System a receipt which identifies the motor vehicle dealer, the date of transaction, and the control numbers of each temporary registration plate issued.

(c) The motor vehicle dealer representative shall sign the receipt form to acknowledge receipt of the temporary registration plates. [The application made by a motor vehicle dealer to the county clerk for the issuance of a temporary registration plate shall be on Transportation Cabinet form TC 96-209, revised August, 1983, "Temporary Tag Application". The form, TC 96-209 is hereby incorporated by reference as part of this administrative regulation. Copies of the form are available at the office of any county clerk and in the Transportation Cabinet, Division of Motor Vehicle Licensing, Second Floor, State Office Building, Frankfort, Kentucky 40601. The Division of Motor Vehicle Licensing is open Monday through Friday except holidays from 8 a.m. to 4:30 p.m. eastern time.]

Section 2. Number of Temporary Plates. (1) A county clerk shall not issue more than [or motor vehicle dealer may issue only] one (1) thirty (30) day temporary registration plate for a particular vehicle and owner.

(2) A currently licensed motor vehicle dealer shall not issue more than one (1) thirty (30) day temporary registration plate for each sale of a particular vehicle.

(3) The temporary registration plate shall not be renewed.

Section 3. Log of Temporary Registration Plates Issued. (1) A [Any] county clerk, deputy clerk or currently licensed motor vehicle dealer who issues a temporary registration plate shall maintain a log of information on each plate issued, in accordance with KRS 186A.100(2) and 186A.105(2).

(2) The county clerk's log form for recording temporary registration plates shall be maintained in the Transportation Cabinet's

Automated Vehicle Information System and shall contain the following information:

- (a) Plate number;
- (b) Person to whom the plate is issued;
- (c) Vehicle identification number of vehicle for which the plate is issued;
- (d) Expiration date of the plate; and
- (e) Name of the county clerk or deputy county clerk who issued the plate.

(3) The currently licensed motor vehicle dealers' log form for recording the issuance of a temporary registration plate [plates] shall contain the following information:

(a) Dealer's name, telephone number, and city of principal place of business;

- (b) Plate number;
- (c) Date of delivery of motor vehicle;
- (d) Expiration date of temporary registration plate;
- (e) Name of purchaser of motor vehicle; and
- (f) Vehicle identification number, make, and model year.

(4) The person issuing the temporary registration plate shall enter all information required by this administrative regulation in the log.

(5) This log shall be made available upon request to officials of the Transportation Cabinet or law enforcement officers.

Section 4. Completion of the Temporary Plate. (1) All of the blank spaces of the temporary registration plate shall be completed by the issuing agent using a dark, indelible ink.

(2) (a) The top center portion of the temporary plate shall contain six (6) blocks to be filled in with the expiration date of the temporary plate.

(b) One (1) numeral shall be entered in each block which shall:

- 1. Occupy at least eighty (80) percent of the block; and
- 2. Be written with a wide-tipped marker in indelible, dark ink over the top of the holographic material. [The top center portion [left side] of the temporary plate contains six (6) blocks to be filled in with the expiration date of the temporary plate. Only one (1) numeral shall be entered in each block. Each numeral shall occupy at least eighty (80) percent of its block and shall be written with a wide-tipped marker in indelible, dark ink over the top of the holographic material [so that it will be easy for an enforcement officer to read].]

(3) After the expiration date has been recorded, the protective cover shall be removed from the lamination strip on the temporary tag, exposing the adhesive. The lamination strip shall be firmly adhered on top of the holographic material to the expiration date portion of the temporary tag by the issuing agent.

JAMES C. CODELL, III, Secretary

ED LOGSDON, Commissioner

APPROVED BY AGENCY: March 14, 1997

FILED WITH LRC: March 14, 1997 at 9 a.m.

TRANSPORTATION CABINET Department of Highways Division of Aeronautics (As Amended)

602 KAR 15:010. Airport development loans.

RELATES TO: KRS 183.200 to 183.213

STATUTORY AUTHORITY: KRS 183.213(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 183.213(1) provides that the Transportation Cabinet shall promulgate administrative regulations governing airport loans made under KRS 183.200 to 183.210 [483.243]. This administrative regulation is promulgated to set forth specifications regarding applications for and

ment.

(5) ~~[That]~~ The loan shall be used by the airport board for the purpose stated in the application ~~[and for no other purpose]~~.

(6) ~~[That]~~ For value received and for the purpose of affording credit to the airport board, the appointing authority or authorities jointly and severally, absolutely and unconditionally, guarantee the payment at maturity of all obligations under the loan agreement.

(7) The agreement may contain ~~[any]~~ other terms agreed upon by the airport board and the cabinet.

Section 7. Material Incorporated by Reference. (1) Transportation Cabinet form TC 56-15L (effective March 1997 edition) is incorporated by reference as a part of this administrative regulation.

(2) A copy of the form incorporated by reference may be viewed, copied, or obtained free of charge from the Transportation Cabinet, Division of Aeronautics, 125 High Street, Frankfort, Kentucky 40622. The hours of operation of the division are 8 a.m. to 4:30 p.m. weekdays.

JAMES C. CODELL, III, Secretary

J.M. YOWELL, P.E., State Highway Engineer

APPROVED BY AGENCY: March 14, 1997

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**TRANSPORTATION CABINET
Department of Highways
Permits Branch
(As Amended)**

603 KAR 4:035. Logo signs; placement along fully-controlled access highways.

RELATES TO: KRS 177.0734 through 177.0738

STATUTORY AUTHORITY: KRS ~~[177.0734 through]~~ 177.0738

NECESSITY, FUNCTION, AND CONFORMITY: KRS 177.0734 through 177.0738 require the Commissioner of Highways to prescribe by administrative regulations reasonable standards for the erection of specific information panels within highway rights-of-way to provide directional information for business establishments offering goods and services in the interest of the traveling public. This administrative regulation sets forth the criteria to be followed in the erection and maintenance of specific motorist signing designed to inform motorists where travel related goods and services are available. ~~[Furthermore, as a result of a recommendation of the Governor's Highway Signage and Tourism Task Force, the Federal Highway Administration will allow Kentucky to experiment with a fifth legend logo for tourist activity signing along specified interstate and parkway routes. This administrative regulation sets forth the criteria to be followed in the erection and maintenance of these signs to be used as a demonstration project for the fifth legend logo signs relating to tourist activities. The demonstration project is scheduled to be evaluated in early 1997.]~~

Section 1. Definitions. (1) ~~["Business location" means a place of business where more than one (1) motorist service is available.]~~

(2) "Business sign" means a separately attached sign mounted on the specific information panel to show the name, brand name or trademark of a qualified motorist service available near the interchange.

(2) ~~(3)~~ "Clear zone" means the area between the edge of the driving lane of a fully controlled access highway and an imaginary line running parallel to the highway but thirty (30) feet (9.15 meters) away from the highway.

(3) ~~(4)~~ "Combination specific information sign" means a specific information sign with more than one (1) of the services "gas", "food", "lodging", "camping", or "tourist activities" listed on it.

(4) ~~(6)~~ "Contractor" means the entity selected by the Department of Highways pursuant to KRS Chapter 45A and 600 KAR ~~6:070 [4:104]~~ to administer the specific information signing program in Kentucky. The activities of the contractor shall include ~~[but not be limited to]~~ marketing; determination of business eligibility; maintenance, erection, and removal of the specific information panels and installation and removal of business signs.

(5) ~~(6)~~ "Contract year" means July 1 through the following June 30.

(6) ~~(7)~~ "Cover" means place a protective shield over a business sign to prohibit viewing of the sign.

(7) ~~(8)~~ "Double exit interchange" means a grade-separated crossing of roadways having two (2) mainline off-ramps in one (1) direction to provide access to the crossroad.

(8) ~~(9)~~ "Fully controlled access highway" means as defined in KRS 177.0734(1), [a highway, limited to interstate highways and state parkways, that gives preference to through traffic and has access only at selected public roads and that has no at highway grade crossings or interchanges.]

(9) ~~(10)~~ "Highway guide sign" means an official highway sign which is erected by the Department of Highways to give directions; to furnish advance notice of the approach to intersections or interchanges; to direct drivers into appropriate lanes; to identify routes, and directions on those routes; to show distances to destinations; to indicate access to general motorist services, rest, scenic and recreational areas; and to provide other information of value to the traveling public.

(10) ~~(11)~~ "Interchange" means a junction of two (2) or more highways by a system of separate levels that permit traffic to pass from one to another without the crossing of traffic streams.

(11) ~~(12)~~ "Intersection" means a junction of two (2) roads at the same grade level.

(12) ~~(13)~~ "Logo" means as defined in KRS 177.0734(2) [a business sign].

(13) ~~(14)~~ "Motorist service" means a place of business ~~[or a business location]~~ providing gas, food, lodging, tourist activities, or camping facilities or a combination thereof.

~~(15) "Primary motorist service" means a business location which gives precedence to one (1) motorist service over any other motorist service available at that business location.]~~

(14) ~~(16)~~ "Ramp sign" means a sign that is placed along the ramp or at the ramp terminal for service facilities which have business logos displayed along the main roadway.

~~(17) "Secondary motorist service" means one (1) or more motorist services available at a business location which are subordinate to the primary motorist service.]~~

(15) ~~(18)~~ "Single exit interchange" means a grade-separated crossing of roadways having one (1) mainline off-ramp per direction to provide access to the crossroad.

(16) ~~(19)~~ "Specific information panel" means an official sign placed within the highway right-of-way with the words "GAS", "FOOD", "LODGING", "CAMPING", or "TOURIST ACTIVITIES" or combinations thereof, and space for one (1) or more individual business signs which may be attached to the panel.

(17) ~~(20)~~ "Tourist activities" means activities or locations that are natural phenomena; historic, cultural, scientific, educational and religious sites; or areas of natural beauty or naturally suited for outdoor recreation. These activities are deemed to be in the interest of the traveling public.

(18) ~~(21)~~ "Trailblazing sign" means a sign similar to a ramp sign used on nonfully controlled access highways from which a service is available to indicate the direction to the service.

Section 2. General Provisions. (1) The Commissioner, Department of Highways, shall authorize the placement of specific information panels with business signs within the right-of-way of fully controlled access highways.

used.

(8) ~~If service facilities are not visible from a ramp terminal, supplemental "GAS," "FOOD," "LODGING," "CAMPING" or "TOURIST ACTIVITIES" logos shall be placed along the ramp or at the ramp terminal with a directional arrow and mileage (kilometers) to the service.~~

(9)(a) At a ~~Fer~~ double exit interchange ~~interchanges~~, the specific information panel shall consist of two (2) sections, one (1) for each exit, mounted on the same base.

(b) The top section shall display business signs for the first exit and the lower section shall display business signs for the second exit.

(c) Each section shall accommodate a maximum of ~~four (4) three~~ ~~(3)~~ business signs for each service per exit, with the total number of signs not to exceed six (6).

(d) If a type of motorist service is to be signed for only one (1) exit, one (1) section of the specific information panel may be omitted or a single exit interchange sign may be used.

(9) ~~(40)~~ Business signs for two (2) types of services may be displayed on the same combination specific information sign under the following conditions:

(a) For the two (2) types of services there is a total of not more than six (6) qualified businesses at the interchange unless as set forth in Section 4(9) of this administrative regulation;

(b) Up to ~~four (4) three (3)~~ business signs may be displayed for a ~~each~~ type of service in combination on a panel;

(c) If four (4) business signs are displayed for one (1) type of service on a combination specific information sign, ~~no~~ more than two (2) business signs for the other type of service shall not be displayed on the combination specific information sign; and

(d) The name of each type of service shall be displayed above its respective business signs.

(10) ~~(44)~~ Business signs shall not be combined on a panel as described in subsection (9) ~~(40)~~ of this section if:

(a) It is anticipated that additional service businesses shall become available in the near future; or

(b) It becomes necessary to display more than a total of six (6) business signs for the two (2) types of services displayed in combination.

(11) ~~(42)~~(a) Except at an unnumbered exit ~~exits~~, the exit number shall be displayed above the name of the type of service ~~[names of the types of services]~~; and

(b) At an unnumbered exit ~~exits~~, the legend "NEXT RIGHT" or "NEXT LEFT" shall be displayed above the name of the type of service ~~[names of the types of services]~~.

Section 6. Ramp Signs. (1) At a single-exit interchange ~~interchanges~~, an exit ramp sign ~~signs~~ shall be installed except that the logo for a facility ~~logos for facilities~~ visible from the ramp terminal may be omitted.

(2) The business sign on a ramp sign shall be a duplicate of the corresponding logo ~~[Business signs on ramp signs shall be duplicates of the corresponding logos]~~ installed along the main roadway, but reduced in size.

(3) A ramp sign for a service facility not visible from the ramp terminal may include the distance to the service facility. Direction to the service facility shall be indicated by an arrow. ~~[Ramp signs shall include distances to the service facilities. Directions shall be indicated by arrows.]~~

(4) Ramp signing may be used on ramps at double-exit interchanges.

Section 7. Business Signs. (1) Each business sign shall have a legend and border. However, if the business identification symbol or trademark is ~~[symbols or trademarks are]~~ used alone for a business sign, the border may be omitted.

(2) Each business sign on the specific information panel shall be contained within a forty-eight (48)-inch (1219.2-millimeter) wide and

thirty-six (36)-inch (914.4-millimeter) high rectangular background area which includes the border, if required.

(3) The principal legend shall be legible from the main traveled way of the highway under normal driving conditions.

(4) A symbol or trademark shall be reproduced in the colors and general shape consistent with customary use and an integral legend shall be in proportionate size.

(5) A message, symbol, or trademark which resembles any official traffic control device shall be prohibited.

(6) The vertical and horizontal spacing between business signs on specific information panels shall not exceed eight (8) inches (203.2 millimeters) and twelve (12) inches (304.8 millimeters), respectively.

(7) The required reflectivity, material composition, and adhesiveness of the business signs are set forth in the "LOGO PROGRAM SPECIFICATIONS" form 99-133 last revised by the Kentucky Transportation Cabinet in April 1991. ~~[This form is incorporated by reference as a part of this administrative regulation.]~~

(8) If a business ceases to exist or is not in operation for thirty (30) days, the business sign shall be immediately covered or removed as circumstances of each closing or cessation of business dictate.

(9) Any business which operates on a seasonal basis shall make provisions for removing or covering business signs during the off season. A business ~~[Businesses]~~ of this type shall notify the Department of Highways' contractor in writing thirty (30) days before the opening or closing occurs.

(10) In the absence of an official trademark or logo, the official name as indicated in partnership agreements, incorporation documents, or otherwise documented may be substituted on the business sign.

(11)(a) With the exception of "Open 24 Hours" or "24 Hours," descriptive advertising words, phrases or slogans shall not be allowed on a business sign; i.e., ~~["Open 24 Hours,"]~~ "Joe's 24-Hour Market," "Free Coffee," "Credit Cards Accepted," etc.

(b) Descriptive words which are part of the official name of the business shall be permitted on a business sign; i.e., "hotel," "motel," "inn," "lodge," "restaurant," "cafe," "cafeteria," "diner," or others with a similar meaning.

(c) The word "Diesel" on a "GAS" business sign shall be permitted.

(12) If there is more than one (1) eligible business at an interchange with the same business symbol, brand, trademark or logo, more than one (1) business symbol, brand, trademark or logo with the same design may be placed on a specific information panel or on a ramp sign to indicate the distances to the individual businesses.

(13)(a) The Transportation Cabinet shall review and approve the design of a "TOURIST ACTIVITIES" business sign prior to its placement on a panel.

(b) The Transportation Cabinet shall not approve the design of a business sign which would be difficult to comprehend by the traveling public at highway speeds and under normal atmospheric conditions.

Section 8. Business Criteria, ~~[and]~~ Eligibility, and Priority. (1) ~~[In the absence of adequate motorist service business signs to fill a specific information panel with primary motorist service signs, secondary motorist service business signs may be allowed on those unfilled panels.]~~

(2) If a space is not available for the primary motorist service, a secondary motorist service may be considered if space is available on the specific information panel for that type of service.

(3) Secondary motorist services shall not be considered until all businesses with a primary motorist service have been allowed an opportunity to have their business signs placed on the specific information panel pertaining to that type motorist service.

(4) In selecting secondary services, the same criteria as required for primary motorist services shall be used to determine their qualification for a business sign.

(5)(a) A business within a three (3) mile (4.83 kilometer) limit in

(a) The information panel is fully utilized; and

(b) It files an application by April 1; [(e)] [If an eligible (a new qualifying) business which has a higher priority pursuant to Section 8 of this administrative regulation (comes into existence nearer the interchange or intersection) than one which already has a business sign displayed on a fully utilized specific information panel applies by April 1 to have its business sign displayed and is approved for the program, the (now) business with the higher priority shall be allowed to (may) have its business sign displayed at the beginning of the next contract year.]

(2) The business with the lowest priority [farthest from the interchange] shall have its business sign removed at the end of the current contract year [if the closer business has applied to have its business sign displayed and has been approved for the program].

[(d) A qualifying business or activity which has been identified on an official highway guide sign shall have a lower priority to have its business sign displayed than any other qualifying business or activity.]

Section 10. Fees. (1) [(8)(a)] The qualifying business shall pay to the department's contractor an annual fee of \$600, in advance, for each business sign placed on the fully controlled access highway for gas, food, and lodging and \$300 for camping and tourist activities.

(b) The annual fee for the first year shall accompany the initial application.

(c) If the first contract [lease] is for less than one (1) year, the first year's annual fee shall be prorated on a monthly basis with each portion of a month the business sign is up requiring payment of one-twelfth (1/12) of the fee.

(d) The yearly renewal fee and application for renewal shall be due forty-five (45) days prior to the annual renewal date.

(e) The payment of this fee guarantees that the business sign will be displayed for one (1) contract year or portion of the first contract year as long as the business does not violate any part of its [their] agreement with the Department of Highways' contractor.

(2) [(9)] If a sign [or signs] for a business is removed or covered for any reason, a fee of \$100 shall be charged for the reinstallation or uncovering of the sign for each business at each interchange.

(3) [(40)] The qualifying business shall be responsible for damage to its business sign [damages to business signs] caused by an act [acts] of vandalism or natural causes requiring repair or replacement of a business sign [signs].

(4) [(44)] A business sign shall provide a new or renovated business sign if the displayed sign [not be displayed which]:

(a) Would misinform the traveling public; or

(b) Is unsightly, badly faded, or in a state of dilapidation. [In these instances the business shall provide a new or renovated business sign.]

Section 11. [(40-)] Trailblazing Signs For Campgrounds. (1) Only those campgrounds within fifteen (15) miles (24.15 kilometers) of the centerline of a fully controlled access highway shall be eligible for new trailblazing signs.

(2) Only one (1) specific service trailblazing sign shall be erected for each business with a logo. This sign shall be placed a minimum of 300 feet (91.5 meters) in advance of the intersection from which the camping service is available.

(3) A trailblazing sign shall not be erected or displayed if the business is visible from a point on the fully controlled access highway within 300 feet (91.5 meters) prior to intersection.

Section 12. [(44-)] Measurements. (1) Measurements in the selection of qualified businesses for business signs shall be from the juncture of the center line, measured between the center edges of the main traveled way of the fully controlled access road and the center line of a nonlimited access crossroad.

(2) Selection of businesses for display of business signs shall begin at the point of measurement described in subsection (1) of this

section to the nearest point of vehicle travel to the exit from the crossroad or public thoroughfare to the particular motorist service.

Section 13 [(42-)] Business Sign Contract. (1)(a) A Highway Logo Program Agreement [business sign contract] between a participating business and the department's contractor shall be approved by the Transportation Cabinet prior to the erection of a business sign.

(b) Each business sign and contract shall be subject to review by the Transportation Cabinet at any time.

(c) Failure to comply with any of the requirements set forth herein including nonpayment by the participating business shall be cause for the revocation of a business sign contract.

(d) If the contract is revoked for cause, the prepaid fees for a contract year or portion thereof, shall not be refunded.

(2) If the Department of Highways or its contractor determines that a contract, business, or business sign does not comply with the requirements of this administrative regulation, the Department of Highways' contractor shall notify the business in writing of the violation.

(3) If the business fails to comply with the requirements of this administrative regulation within fifteen (15) days after receiving the notification, the Department of Highways' contractor shall take immediate action to cancel the contract and remove, replace, or cover the business signs.

(4) If, in a single contract year, a business has been issued a notice pursuant to subsection (2) of this section and is again in noncompliance with this administrative regulation, the Department of Highways' contractor shall take immediate action to cancel the contract and remove, replace, or cover the business signs.

Section 14. [(43-)] Appeal to the Commissioner of Highways for Exemption. (1) The Commissioner of Highways may grant an exemption to a business from the necessity of complying with a requirement [any of the requirements] set forth in this administrative regulation provided:

(a) It is determined by the commissioner that the exemption is in the public interest;

(b) The business conforms to the Federal Highway Administration standards for specific information signs; and

(c) That a business which conforms to all the requirements set forth in this administrative regulation shall be given a preference over a business not conforming to all of the requirements in qualifying for placement of a business sign on a specific information panel.

(2) An appeal of the denial of a [Any] request for an exemption by a business to the Commissioner of Highways shall be filed in the form of an appeal as prescribed for in Section 16 [(45)] of this administrative regulation.

Section 15. [(44-)] Encroachment Permits. The Department of Highways' contractor shall apply for an encroachment permit pursuant to 603 KAR 5:150 for each new specific information panel [service sign] proposed to be erected, modified, or removed from state-owned right-of-way.

Section 16. [(45-)] Appeal of Department of Highways Action. (1) A [Any] business or person aggrieved by the action taken by the Department of Highways or its contractor in administering this administrative regulation may request a formal hearing before the Commissioner of the Department of Highways.

(2) The request for the formal hearing shall:

(a) Be filed in writing with the Commissioner, Department of Highways, 501 High Street, Frankfort, Kentucky 40622; and

(b) Set forth the nature of the complaint and the grounds for the appeal.

(3)(a) Upon receipt of a request for a hearing, the general counsel of the Transportation Cabinet shall assign the matter to a hearing examiner. [request the Attorney General's Office to assign a hearing

certificate holder will be able to prepare a defense.

1. The statement shall also notify the certificate holder of the date, time and location of the hearing.

2. The statement of charge(s) shall include or be accompanied by:

a. A copy of KRS 161.120;

b. 704 KAR 20:585;

c. A statement that a failure to appear at the hearing, in person or by counsel, shall constitute a waiver of the right to a hearing and that the hearing officer or board may proceed upon the charge(s) without a hearing and in the absence of the certificate holder; and

d. A statement that the certificate may be revoked or suspended without a hearing upon written agreement by the certificate holder to voluntarily surrender his certificate(s).

(5) Service. The written statement of charges shall be served personally or by certified mail. Service by certified mail shall be effective if a statute or administrative regulation requires the certificate holder with a revocation complaint pending before the board to file his current address with the board and to notify the board of any change in address, and if a certified letter containing the statement of charge(s) is mailed, addressed to the certificate holder at the latest address on file with the board.

(6) Amendment of charges. At any time before the matter is submitted for final decision, the statement of charge(s) may be amended or supplemented. All parties shall be notified of the filing of an amended or supplemental charge(s). If the amended or supplemental statement of charge(s) presents new charges, the certificate holder shall be afforded a reasonable opportunity not less than thirty (30) days to prepare his defense. Any new charges shall be deemed controverted and any objections to the amended or supplemental charges shall be in writing and shall be noted in the record.

(7) The hearing shall be conducted pursuant to KRS 161.120(3)(a).

(8) The executive secretary of the board shall determine the date, time and place of the hearing pursuant to KRS 161.120(3)(a). Unless otherwise ordered or agreed, the hearing shall be held at the Kentucky Department of Education, Capital Plaza Tower, 500 More Street, Frankfort, Kentucky.

Section 4. Notice Returned or Undeliverable. If the notice of charges and hearing date is returned as undeliverable and the board is otherwise unable to serve the notice of charges and hearing date on the certificate holder, the charges supporting the revocation proceeding shall not be dismissed. The fact of the pending revocation proceeding and the supporting charges shall be noted in the certificate holder's certification record on file with the Office of Teacher Education and Certification and shall be communicated to all Kentucky school superintendents, to all state directors of teacher education and certification and to the NASDTEC CAA Clearinghouse operated by the National Association of State Directors of Teacher Education and Certification.

Section 5. Continuances. (1) A certificate holder may request a continuance of the scheduled revocation hearing for good cause shown. The request shall be in writing and shall state the reason for the continuance. The request shall be filed with the board, through the office of the executive secretary, at least five (5) days prior to the scheduled hearing. Copies of the request for continuance shall be mailed to all parties by the certificate holder. The executive secretary shall forward a copy of the request for continuance to the hearing officer.

(2) An objection to a requested continuance shall be filed in writing and shall state the reason for the objection. Any objection shall be filed with the board, through the office of the executive secretary, at least five (5) days prior to the scheduled hearing. Copies of the objection to request for continuance shall be mailed to all parties, including the hearing officer appointed by the board, if any.

(3) A continuance may be granted for good cause shown.

(4)(a) If the scheduled revocation hearing is to be heard before a hearing officer appointed by the board, the request for continuance shall be ruled on by the hearing officer. At the direction of the hearing officer, the executive secretary shall sign and transmit to all parties an interim order either granting or denying the continuance. If the continuance is granted, the interim order shall state the date on which the hearing has been rescheduled or that the hearing has been continued generally until further orders.

(b) If the scheduled revocation hearing is to be conducted by the board, the request for continuance shall be ruled on by the executive secretary of the board.

Section 6. Prehearing Procedures. (1) All motions, requests or filings shall be in writing, filed with the board through the office of the executive secretary, and served on all parties. The executive secretary shall forward copies of motions, requests or filings to the hearing officer.

(2) An interim order by the hearing officer shall be signed and transmitted by the executive secretary to all parties upon the direction of the hearing officer. Interim orders shall not be reviewable by the board except on final review.

(3) If a certificate holder retains counsel to represent him at the revocation hearing, the attorney shall file a written entry of appearance. All future notices, correspondence and orders shall be transmitted to that attorney and all future filings, motions or requests shall be submitted by that attorney on behalf of the certificate holder.

(4) A certificate holder with a pending revocation complaint shall submit written notice to the board through the office of its executive secretary of any change in address during the pendency of revocation proceedings.

(5) A list of witnesses who may be called to testify shall be filed with the executive secretary of the board by each party at least five (5) days prior to the hearing. Failure of either party to file a witness list within the prescribed time shall restrict the party to calling witnesses for rebuttal only.

(6)(a) Subpoena and subpoena duces tecum forms shall be issued at the request of any party by the chief state school officer. Copies of the subpoena forms shall be mailed to the certificate holder with the Statement of Charges and Notice of Hearing. Preparation and service of the subpoena and compliance with the subpoena shall be the responsibility of the party requesting the subpoena.

(b) Witnesses appearing pursuant to KRS 161.120(3)(b) shall receive fees and mileage in the same amount and under the same circumstances as prescribed by law for witnesses in a civil action. Fees, mileage and expenses shall be paid by the party at whose request the witness is subpoenaed. The certificate holder shall be informed of fees and mileage expenses prescribed by law for witnesses.

(7) Deposition of witnesses.

(a) The testimony of any material witness may be taken by deposition for good cause shown and upon written authorization by the hearing officer or by the executive secretary of the board if the full board is scheduled to conduct the hearing.

(b) The party requesting the deposition shall file a written request setting forth the name and address of the witness whose testimony is desired, a showing of the nature and materiality of the testimony, a showing that the witness will be unable or cannot be compelled to attend, and shall request an interim order requiring the witness to appear and to testify by deposition. The cost of the deposition shall be paid by the party requesting the deposition.

(c) The request for deposition shall be filed no less than ten (10) days prior to the hearing. Any objections shall be filed no less than five (5) days prior to the hearing. Copies of the request and any objection shall be mailed to all parties.

(8) The hearing officer may schedule a prehearing conference to define the issues, determine which facts, if any, can be stipulated,

A copy shall be mailed by means of certified mail, return receipt requested, by the executive secretary to each party or upon his attorney if represented by counsel.

(3) Any party may submit written exceptions to the hearing officer's findings of fact and recommended order. Exceptions shall be filed with the board through the office of the executive secretary within ten (10) days following receipt of the recommended order. The hearing officer for good cause shown may order the period enlarged if request is made before expiration of the period originally prescribed. The length of the written exceptions shall be limited to ten (10) pages unless otherwise extended by permission of the hearing officer upon motion for extension by either party.

(4) Exceptions not timely filed shall be noted and made a part of the record, but shall not be considered by the board in making its final decision. For the purpose of this section, written exceptions shall be considered to have been timely filed if postmarked on the date due.

Section 9. Board Review and Final Action. (1)(a) The board may adopt or reject the recommended order of the hearing officer in its entirety, or may increase or reduce the proposed period of revocation or suspension and adopt the balance of the recommended order.

(b) If the recommended order is rejected by the board as provided in paragraph (a) of this subsection, the board may decide the case upon the record, with or without taking additional evidence or may remand the case to the hearing officer for further action as deemed appropriate and ordered by the board. If additional evidence is introduced before the board, board members shall not vote on the final disposition of the case unless the member heard the additional evidence. The taking of additional evidence shall be completed no more than forty-five (45) days after the hearing officer's recommended order is submitted to the board for final action. The taking of additional evidence under this subsection shall not be construed as a violation of the time frame within which the original hearing under KRS 161.120(3)(a) shall take place.

(c) The board shall consider the hearing officer's recommended order at its next regularly scheduled public meeting following the filing of the recommended order and the parties' written exceptions.

(2) Following consideration by the board, a final order shall be entered disposing of the revocation matter within five (5) days following the public meeting, unless within that time the board commences proceedings to take additional evidence.

(3) If the board hears the case, the board shall issue its final decision within five (5) days following submission of the case. The order shall be prepared immediately upon final decision by the board, entered and served at the direction of the board by the executive secretary to the board. Copies of the order shall be served on all parties personally or by certified mail by the board through the office of its executive secretary. The final decision of the board shall become effective when the board enters the written final decision.

(4) Form of the decision. The decision shall be in writing and shall contain findings of fact, conclusions of law, a determination of the issues presented and penalty, if any.

Section 10. Defaults. The certificate holder's failure to appear at the hearing shall constitute a waiver of the right to a hearing. The board or hearing officer may take action based upon the respondent's express admissions, the entry of a guilty plea or upon a finding of guilty in a criminal court of law, or upon evidence contained within the administrative record without a hearing and in the absence of the certificate holder.]

Section 3. [14.] Revocation or Suspension Upon Voluntary Surrender. (1) The board may revoke or suspend a teaching certificate upon a voluntary surrender of the certificate.

(2) The revocation or suspension of the teaching certificate shall be for a defined period of time or for an indefinite period, and shall [may] be according to specified terms and conditions best adapted to

protect the health, welfare and safety of school children and to rehabilitate or educate the certificate holder.

(3) [(2)] The executive secretary to the board, or designee, may negotiate the terms and conditions of the revocation or suspension upon voluntary surrender.

(4) [(3)] A revocation or suspension upon voluntary surrender shall not be final until approved by the board.

(5) The revocation or suspension shall:

(a) Set forth findings of fact and [The written approval of the boards shall be in setting forth] the terms and conditions of the revocation or suspension upon voluntary surrender; and

(b) Provide [The written document shall further state] that the certificate holder agrees that:

1. He is ineligible to hold a teaching certificate;

2. [that] The surrender of the certificate is for cause; [shall set forth findings of fact] and

3. [that] He [the certificate holder] has surrendered the certificate voluntarily, knowingly, and intelligently.

(6) The revocation or suspension [written document] shall be signed by the certificate holder, his attorney, if any, the chairman of the board, and [the attorney for] the board's prosecutor.

Section 4. [12.] Reinstatement and Reissuance of Certificate. (1)

An [Any] individual whose certificate has been revoked may file a written petition seeking reissuance of the teaching certificate which shall state the reasons the applicant believes himself to be suitable for reissuance.

(2) An [Any] individual whose certificate has been suspended shall complete a written application for certification prior to the reissuance date of the certificate. [The board may schedule a hearing to determine if the applicant is suitable for reissuance of the teaching certificate. The hearing may be held before the board or before a hearing officer appointed by the board. If the petition is heard before a hearing officer, the hearing officer shall submit a written report to the full board stating findings of fact and a recommendation as to whether the certificate shall be reissued.]

(3) The burden of proving suitability for reissuance of a revoked certificate shall rest on the applicant seeking reinstatement.

(4) If [When] reissuing a certificate, the board [The board's final decision shall state the reasons for denial of reinstatement or reissuance, and] may include terms and conditions that the board reasonably deems appropriate to impose as a condition of reissuance.

(5) [In addition to meeting the requirements of KRS 161.120(5);]

An applicant [Applicants] for reissuance of a revoked or suspended certificate shall satisfy all current educational requirements for the certificate.

[Section 13. Contempt. If any person disobeys or refuses any lawful order or refuses to respond to a subpoena or thereafter refuses to be examined, or is guilty of misconduct during the hearing, the board may certify the facts to the circuit court in and for the county where the proceedings were held and petition the circuit court to issue an order compelling the witness to obey the order of the board or to respond to the subpoena to appear and testify before the board. If the person disobeys the circuit order, the board may petition the circuit court for an order directing the person to appear before the court and to show cause why he should not be held in contempt. The order and a copy of the petition shall be served on that person. The same proceedings shall be held, the same penalties may be imposed and the person charged may purge himself of the contempt in the same way, as in the case of a person who has committed a contempt in the trial of a civil action before the circuit court.]

Section 5. [14.] Application of Hearing Procedures in Sections 4 through 13 of this Administrative Regulation to Denial of [Initial or Renewal] Application for a Certificate. After denying [(1)] The due

exceed the presumed monthly value of in-kind support and maintenance for recipients residing in nonmedical institutions as defined by the Social Security Administration.

(b) The Director of the Carl D. Perkins Comprehensive Rehabilitation Center or a designee may make a hardship exception to the maintenance contribution if agreed upon with the referring counselor.

(6) ~~[(4)]~~ Ninety (90) percent of the 1990 Kentucky median gross income as adjusted to family size shall be used as the criterion for the agency economic needs test in figuring the excess monthly household income.

Section 3. Order of Selection. If the commissioner determines that the agency shall be unable to provide services to all eligible applicants, the agency shall implement the order of selection.

(1) A client previously declared eligible for and receiving vocational rehabilitation services under an individualized written rehabilitation program shall not be affected if the agency implements an order of selection.

(2) The order of selection shall not regulate the provision of information and referral services.

(3) On implementation of the order of selection, the agency shall continue to accept referrals of and applications from individuals with disabilities.

(4) The order of selection shall not regulate the provision or authorization of assessment for determining eligibility.

(5) An applicant shall be declared eligible or ineligible as appropriate.

(6) A client entering accepted status after implementation of the order of selection shall be assigned to a priority category. If the priority category is open, the individual may be served. If the priority category is closed, the individual's case shall be held in accepted status until the priority category assigned is opened or the order of selection is lifted.

(7) The order of selection policy shall permit immediate reclassification into a higher priority category if circumstances justify the reclassification.

(8) If the department is unable to provide services to all eligible individuals with severe disabilities, the department shall serve eligible individuals with a most severe disability first and then serve eligible individuals with a severe disability on a first-applied, first-served basis, as established by the date of application.

(9) The order of selection described in this section shall be followed with the categories to be served designated at the time of implementation.

(10) The order of selection system shall have six (6) priority categories as follows:

(a) Priority I - eligible individuals with a most severe disability.

(b) Priority Category II - eligible individuals with a severe disability who have serious limitations in three (3) functional capacities.

(c) Priority Category III - eligible individuals with a severe disability who have serious limitations in two (2) functional capacities.

(d) Priority Category IV - eligible individuals with a severe disability who have serious limitations in one (1) functional capacity.

(e) Priority Category V - eligible individuals with a nonsevere disability that results in permanent functional limitations.

(f) Priority Category VI - all other eligible individuals whose disability is nonsevere.

SAM SERRAGLIO, Commissioner

RODNEY CAIN, Secretary

APPROVED BY AGENCY: April 1, 1997

FILED WITH LRC: April 2, 1997 at 1 p.m.

WORKFORCE DEVELOPMENT CABINET

Department for the Blind

(As Amended)

782 KAR 1:020. Definition of terms for 782 KAR Chapter 1.

RELATES TO: KRS ~~[163.450 to]~~ 163.470 ~~[, 29 USC 701 et seq., 34 CFR Part 361]~~

STATUTORY AUTHORITY: KRS 163.470(5) ~~[, 29 USC 701 et seq., 34 CFR 361.41, 361.48, 361.49]~~

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 163.470(5) requires the department to establish and implement policies and procedures for carrying out the program of services for the blind. This administrative regulation is necessary to establish definitions for the terms used in 782 KAR Chapter 1.** ~~[KRS 163.470(6) requires the Department for the Blind to implement policies and procedures for carrying out programs of services for persons of the Commonwealth who are blind or visually impaired. Under its state plan for vocational rehabilitation authorized under Title I of the Rehabilitation Act of 1973, as amended, the department is required to establish policies and procedures for the conduct of its programs. This administrative regulation provides definitions of terms relating to 782 KAR 1:030, 782 KAR 1:040 and 782 KAR 1:050.]~~

Section 1. Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Applicant" means an individual who submits an application for vocational rehabilitation services.

(2) **"Communication" means the ability to effectively exchange information through:**

(a) Spoken words;

(b) Written words;

(c) Sign language;

(d) Braille;

(e) Concepts;

(f) Gestures; or

(g) Another means.

(3) "Comparable benefits" means ~~[any]~~ service, benefit or financial assistance available to an eligible individual from a program other than the department which meets, in whole or part, the cost of services to be provided under an individualized written rehabilitation program.

(4) ~~[(3)]~~ "Correction" means the best visual functioning using conventional eyeglasses or contact lenses as prescribed by an ophthalmologist or optometrist.

(5) ~~[(4)]~~ "Counselor" means a vocational rehabilitation counselor of the department who is responsible to maintain a counseling relationship with an applicant or eligible individual in order to determine eligibility for, plan, coordinate and authorize an individualized written rehabilitation program of services.

~~[(5) "Department" means the Department for the Blind.~~

~~[(6) "Eligible individual" or "client" means an applicant for vocational rehabilitation services who the department determines is an individual with a disability who requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.]~~

(6) "Eligible individual" or "client" means an applicant for vocational rehabilitation services who:

(a) Is determined by the department to have a disability; and

(b) Needs vocational rehabilitation services to:

1. Prepare for;

2. Enter;

3. Engage in; or

4. Retain gainful employment.

(7) "Eligible individual with the most severe disability" means an eligible individual whose:

(a) Impairment seriously limits four (4) or more functional

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~~(f) Standard industry codes used by members enrolled in the health insurance plan, and number of the members covered by each code, if applicable.~~

(4) The following shall be attached under separate cover to each Association Uniform Data Collection Form filed with the department and clearly marked proprietary:

(a) Insurer and association underwriting eligibility requirements; and

(b) Method of allocation of the rate within the association; and

(c) Standard Industry Codes used by members enrolled in the health insurance plan.

Section 3. ~~[Beginning January 1, 1997 and for each quarter thereafter, associations shall report at the end of each quarter the number of members newly enrolled in the health insurance plan that had previous health insurance coverage.~~

Section 4.] (1) Except as provided in subsection (2) of this section, an [Any] association subject to this administrative regulation who fails to file a quarterly report in the time period prescribed by Section 2(2) of this administrative regulation shall [may] be fined up to \$100 per day for each day that the association fails to file the report with the Department of Insurance.

(2) If an association demonstrates good cause for a late filing, the commissioner shall waive the fine.

Section 4. Incorporation by Reference. (1) "Association Uniform Data Collection Form", May, 1997 Edition, Department of Insurance, is incorporated by reference.

(2) It may be inspected, copied, or obtained from the Department of Insurance, 215 W. Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

~~[Section 5. The Association Uniform Data Collection Form (November 1996) is incorporated by reference and can be obtained from the Department of Insurance, 215 W. Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. until 4:30 p.m.]~~

GEORGE NICHOLS III, Commissioner

LAURA M. DOUGLAS, Secretary

APPROVED BY AGENCY: February 28, 1997

FILED WITH LRC: March 6, 1997 at 4 p.m.

CABINET FOR HEALTH SERVICES Department for Public Health Division of Epidemiology (As Amended)

902 KAR 2:020. Disease surveillance. ~~[Reportable diseases.]~~

RELATES TO: KRS 211.180, 214.010, 333.130

STATUTORY AUTHORITY: KRS 194.050, 211.090(3), 214.010, 333.130

NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources, established and created the Cabinet for Health Services, changed the name of the Department for Health Services to Department for Public Health, and placed the Department for Public Health and all its programs under the Cabinet for Health Services. KRS 211.180 requires [mandates] the Cabinet for Human Resources to implement a statewide program for the detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that [as] may be controlled. This

administrative regulation requires that [is being promulgated to require] notification be made to the local health department and the Department for Public Health, of diseases and conditions of public health importance, in order to facilitate [This notification facilitates] rapid public health action to control diseases, and permit [permits] an accurate assessment of the health status of the Commonwealth. [This administrative regulation is being promulgated to achieve uniform reporting of selected diseases.]

Section 1. ~~[Definitions. (1) "Priority notification" means notification as required in Sections 2 and 4 of this administrative regulation shall be made within one (1) business day.~~

~~(2) "Routine notification" means notification as required in Sections 2 and 5 of this administrative regulation shall be made within five (5) business days.~~

~~(3) "Urgent notification" means notification as required in Sections 2 and 3 of this administrative regulation shall be made immediately in a time period not greater than twenty four (24) hours, except as provided by Section 3(2) of this administrative regulation.~~

Section 2.] Notification Standards. (1) A health professional licensed under KRS Chapters 311 through 314, and a health facility licensed under KRS Chapter 216B, shall give notification as provided by subsection (3) of this section, if:

(a) A health professional makes a probable diagnosis of a disease listed in Section 2, 3, or 4 of this administrative regulation; and

(b) The diagnosis is supported by:

1. "Case Definitions for Infectious Conditions under Public Health Surveillance"; or

2. A reasonable belief that the disease is present. [Notification shall be given by a health professional licensed under KRS Chapters 311 through 314, and a health facility licensed under KRS Chapter 216B, when that professional makes a probable diagnosis of a disease listed in Sections 3, 4 or 5 of this administrative regulation, and is] either as defined in "Case Definitions for Public Health Surveillance" or by reasonable suspicion of the diagnosis.]

(2)(a) A single report by a hospital of a condition diagnosed by a test result from the hospital laboratory shall constitute notification on behalf of the hospital and its laboratory.

(b) A hospital may designate an individual to report on behalf of the hospital's laboratory and the hospital's clinical facilities. [A single report by a hospital of a condition diagnosed by a test result from the hospital laboratory shall meet the requirements of subsections (1) and (5) of this section. The hospital may designate a single individual to report on behalf of both the laboratory and the hospital's clinical facilities.]

(3) The notification shall be given to the:

(a) [The] Local health department serving the jurisdiction in which the patient resides; or

(b) [The] Department for Public Health.

(4) Except as provided by [for in] Section 3(2) of this administrative regulation, the reporting professional shall furnish the:

(a) Name, address, and telephone number of the patient; and

(b) [as well as] Clinical, epidemiologic, and laboratory information pertinent to the disease.

(5) Upon the confirmation of a laboratory test result which indicates infection with an agent associated with one or more of the diseases or conditions listed in Section 2, 3, or 4 [3, 4 or 5] of this administrative regulation, the director of a clinical laboratory licensed under KRS Chapter 333 shall:

(a) Report the result to the:

1. [The] Local health department serving the jurisdiction in which the patient resides; or

2. [The] Local health department in which the laboratory is located, if that local health department is agreeable to distribute reports on residents of other jurisdictions; or

(d) May seek assistance from the Department for Public Health.

Section 6. [7-] Laboratory Surveillance. (1) (a) In addition to the reports required by Sections 1 through 4 of this administrative regulation, laboratory results shall be reported for each disease specified in subsection (2) of this section as follows:

1. Name, birth date, county of residence of the person with the disease; and

2. Specific laboratory information pertinent to the result.

(b) The format of the report shall be an alphabetical listing of each person for whom a report is submitted that contains the information specified by paragraph (b) of this subsection. [In addition to making the reports as specified in Sections 2 through 5 of this administrative regulation, laboratories licensed under KRS Chapter 333 shall report on a weekly basis, the following laboratory results, in line-listed or other mutually acceptable format, to the Department for Public Health:]

(2) ~~Reports shall contain the name, birth date, county of residence, and specific laboratory information pertinent to the result.~~

~~(3)~~ The following diseases shall be reported in accordance with subsection (1) ~~and (2)~~ of this section.

- (a) Salmonella isolates;
- (b) Campylobacter isolates;
- (c) Cryptosporidium oocysts;
- (d) Influenza virus isolates.

(4) Upon request by the Department for Public Health, a clinical laboratory within a hospital licensed under KRS Chapter 216B, or a laboratory licensed under KRS Chapter 333, shall report:

(a) Numbers of isolates and information regarding the antimicrobial resistance patterns of the isolates;

(b) [The report shall be] Made at intervals agreed upon between the laboratory and the department, not less frequently than three (3) months, for the following:

- 1. [(a)] Streptococcus pneumoniae;
- 2. [(b)] Staphylococcus aureus;
- 3. [(c)] Enterococcus species; or
- 4. [(d)] Other organism specified in a request that [which] includes a justification of the public health importance of the organism.

Section 7. [8-] Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS) Surveillance. (1) Health professionals licensed under KRS Chapters 311 through 314, health facilities licensed under KRS Chapter 216B, and laboratories licensed under KRS Chapter 333, shall report:

(a) A positive serologic test result for HIV infection; or

(b) A diagnosis of AIDS that meets the definitions of AIDS established in:

1. "Adult HIV/AIDS Confidential Case Report Form"; or

2. "Pediatric HIV/AIDS Confidential Case Report Form". [An absolute CD 4 cell test result of less than 200 cells per cubic millimeter, or a relative CD4+ percentage of less than fourteen (14) percent of total lymphocytes; or

~~(c) Other test results which the Centers for Disease Control and Prevention (CDC) determine to constitute a diagnosis of AIDS when combined with a positive HIV antibody test; or~~

~~(d) [A diagnosis of AIDS as defined by CDC.]~~

(2) HIV infection and AIDS diagnoses shall be reported within five (5) ~~seven (7)~~ business days and, whenever possible, on the "Adult HIV/AIDS Confidential Case Report form" or the "Pediatric HIV/AIDS Confidential Case Report form". ~~[These forms are available from the HIV/AIDS Program, Department for Public Health.]~~

(a) Reports for residents of Jefferson, Henry, Oldham, Bullitt, Shelby, Spencer, and Trimble Counties shall be submitted to the HIV/AIDS Surveillance Program of the Jefferson County Health Department.

(b) Reports for residents of all other Kentucky counties shall be

submitted to the HIV/AIDS Surveillance Program of the Kentucky Department for Public Health, or as directed by the HIV/AIDS project coordinator.

~~(3) [Reports of CD4+ cell test results, regardless of county of residence, shall be reported on a monthly basis to the HIV/AIDS Program of the Department for Public Health or as directed by the HIV/AIDS surveillance coordinator.]~~

~~(4)~~ Reports for persons with HIV infection without a diagnosis of AIDS shall be identified by the initials of the patient's first and last name and shall include;

- (a) Date of birth;
- (b) Gender;
- (c) Race;
- (d) Risk factor, as identified by CDC, if known;
- (e) County of residence;
- (f) Name of facility submitting the report;
- (g) Date and type of tests performed;
- (h) Results of tuberculosis testing, if available;
- (i) Identifying and locating information for the person's spouse, if applicable.

~~(4)~~ ~~[(5)]~~ Reports of AIDS cases shall include the patient's full name and the information in subsection (4)(a) through (h) of this section; and

- (a) The patient's complete address;
- (b) CD4+ cell count, if known;
- (c) Opportunistic infections diagnosed;
- (d) Date of onset of illness.

~~(5)~~ (a) [(6)] Reports of AIDS shall be made whether or not the patient has been previously reported as having HIV infection.

(b) If the patient has not been previously reported as having HIV infection, the AIDS report shall also serve as the report of HIV infection.

~~[(7) Reports of all CD4+ test results shall include the patient's name and:~~

- ~~(a) Date of birth;~~
- ~~(b) Gender;~~
- ~~(c) Name of health professional ordering the test;~~
- ~~(d) Date the test was performed or ordered;~~
- ~~(e) The absolute cell count or relative percentage.]~~

Section 8. [9-] Reporting of Communicable Diseases in Animals.

(1) ~~[Every veterinarian licensed under KRS Chapter 321,]~~ Upon arriving at a probable diagnosis in an animal of a condition known to be communicable to humans, a veterinarian licensed under the provisions of KRS Chapter 321 shall report the occurrence within one (1) business day to:

(a) The local health department in which the animal is located; or

(b) If the local health department cannot be reached, the Department for Public Health.

(2) Upon the confirmation of a laboratory test result which indicates infection of an animal with an agent associated with a condition known to be communicable to humans, the director of a clinical laboratory licensed under KRS Chapter 333 shall, within one (1) business day, report the result to the:

(a) ~~[The]~~ Local health department serving the jurisdiction in which the animal is located; or

(b) ~~[To the]~~ Department for Public Health.

(3) The local health department:

(a) Shall investigate the report and carry out public measures appropriate to the condition;

(b) Shall notify the Department for Public Health of the occurrence, in writing, within five (5) business days; and

(c) May seek assistance from the Department for Public Health.

Section 9. Asbestosis, Coal Worker's Pneumoconiosis, and Silicosis. (1) A reporting provider shall submit the following information relating to a person diagnosed with asbestosis, coal

tion.

(4) Information required in report. Except for diseases listed in Section 1(3) of this administrative regulation and human immunodeficiency virus (HIV), all reports shall contain the name and address of the patient as well as pertinent clinical, laboratory, and epidemiological information. Reports of human immunodeficiency virus (HIV) shall be identified by a code (such as coundex plus birth date, or initials plus birth date). The code shall always be the same for a given patient but, in and of itself, shall not identify the patient. All reports shall include birthdate, sex, race, and county of residence. Reports of AIDS (acquired immunodeficiency syndrome) and human immunodeficiency virus (HIV) infections shall include the following risk factors, if known:

- (a) Male to male sexual contact;
 - (b) History of injecting drug use;
 - (c) Homophilia;
 - (d) Receipt of blood products;
 - (e) Heterosexual contact with paragraphs (a) through (d) of this subsection; and
 - (f) Birth to an infected mother.
- (5) Reporting of communicable diseases in animals. It shall be the duty of every person having knowledge of the existence of an animal of any species apparently afflicted with rabies, anthrax, eastern or western equine encephalitis, leptospirosis, brucellosis, tuberculosis, psittacosis, or other disease known to be communicable to man to report the pertinent information within twenty-four (24) hours to the local health department in the county in which the animal is located.

Section 3. Transmission of Reports to the Department for Health Services. Case reports described in Sections 1 and 2 of this administrative regulation shall be transmitted from local health departments to the Department for Health Services within three (3) days of receipt, or sooner if an epidemic is suspected or assistance is needed. If there is no local health department or if for any reason the local health department is unable to receive or forward any report of a reportable disease, the report shall be submitted directly to the Department for Health Services.]

RICE C. LEACH, MD, Commissioner

JOHN H. MORSE, Secretary

APPROVED BY AGENCY: March 5, 1997

FILED WITH LRC: March 6, 1997 at 3 p.m.

CABINET FOR HEALTH SERVICES
Office of Inspector General
Division of Licensing and Regulation
(As Amended)

902 KAR 20:008. License procedures and fee schedule.

RELATES TO: KRS 216.2925, 216B.010 to 216B.130, 216B.990
STATUTORY AUTHORITY: KRS 216.530, 216B.042, 216B.105,

EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 and 216B.105 mandate that the Cabinet for Health Services [Human Resources] regulate health facilities and health services. This administrative regulation provides requirements for obtaining a license to operate a health facility and establishes the fee schedule for a license. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Office of Inspector General and its programs under the Cabinet for Health Services.

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Health Services. ["Volunteer service" means an ambulance service in which none of the drivers or attendants receive any compensation for their work.]

(2) "Inspecting agency" means the Division of Licensing and Regulation in the Office of the Inspector General, Cabinet for Health Services [Human Resources].

[(2) "Commission" means the Commission on Health Economics Control in Kentucky.]

Section 2. Licenses. (1) No person shall operate any health facility in this Commonwealth without first obtaining the appropriate license therefor.

(2) The license shall be conspicuously posted in a public area of the facility.

(3) All applications for licensure shall be filed with the Office of the Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621.

(4) All applicants for licenses shall, as a condition precedent to licensure or relicensure, be in compliance with the applicable administrative regulations relating to the particular health facility:

(a) Compliance with licensure administrative regulations shall be ascertained through on-site inspections of the health facility. **Except for health facilities subject to KRS 216.530, licensure inspections may be unannounced.**

(b) Representatives of the inspecting agency shall have access to the health facility [Health service] during the hours that the facility operates.

(c) Any regulatory violation identified during such inspections will be transmitted in writing to the health facility by the inspecting agency.

(d) The health facility shall submit a written plan for the elimination or correction of the regulatory violations to the inspecting agency within ten (10) days.

1. Such plan shall specify the date(s) by which each of the violations will be corrected.

2. Following a review of the plan, the inspecting agency shall notify the health facility in writing of the acceptability of the plan.

3. In instances where a portion or all of the plan is unacceptable, the inspecting agency shall specify the reasons for the unacceptability.

4. In such cases, the health facility shall modify or amend the plan and resubmit it to the inspecting agency within ten (10) days.

(5) All licensees shall, as a condition of licensure or relicensure, be in compliance with the following reporting requirements unless otherwise exempted [by statute]. All licensees shall have submitted completed annual [routine] reports and data submissions [approved by the Commission on Health Economics Control in Kentucky] and any special reports required by the cabinet [commission] concerning health services provided, health manpower employed, or utilization of health services within forty-five (45) days of the date the request is mailed. Completed [routine] semiannual reports required [approved] by the cabinet [commission] shall be submitted within thirty (30) days of the date the request is mailed. Licensees shall be notified of reporting requirements no later than October 1 of the year preceding the report year. [the content of routine (e.g., annual and semiannual reports) reports as follows:

(a) Licensees shall be notified of the content of reports for calendar year 1986 and subsequent years no later than October 1 of the previous year.

(b) The cabinet shall recommend the content of the reports to the commission no later than the date of the regularly scheduled September meeting of the commission.]

(6) Unannounced inspections shall be conducted on complaint allegations. Such inspections shall be conducted utilizing the procedures outlined under subsection (4) of this section.

(7) All licenses shall remain in effect for one (1) year from [expire on December 31 following] the date of issuance unless otherwise expressly provided in the license certificate.

(8) Licenses may be renewed upon payment of the prescribed fee and compliance with the applicable provisions of the licensure

CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Environmental Health and Community Safety
(As Amended)

902 KAR 47:080. Training and certification requirements for persons who perform lead-hazard detection or lead-hazard abatement.

RELATES TO: KRS 211.900 through 211.905, 211.990, 211.994, 217.801

STATUTORY AUTHORITY: KRS 211.090, 211.180, 211.9061 through 211.9079, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources, establishes and creates the Cabinet for Health Services, changes the name of the Department for Health Services to Department for Public Health, and places the Department for Public Health and its programs under the Cabinet for Health Services. KRS 211.9063 authorizes the Department for Public Health to promulgate administrative regulations relating to the training, testing requirements and procedures for certification of persons who perform or offer to perform lead-hazard detection or lead-hazard abatement in target housing or child-occupied facilities.

Section 1. Definitions. As used in this administrative regulation:

(1) "Accredited training provider" means a training provider that has been accredited by the Department for Public Health to provide training for persons engaged in lead hazard detection and abatement activities.

(2) **"Child-occupied facility" is defined by KRS 211.9061(1).** ~~["Certified" means that a person engaged in lead-hazard detection or abatement activities has successfully completed the required training through an accredited training provider, or qualified under other department recognized training, completed other requirements established by the department, and has been issued a document of certification.~~

(3) ~~The definition of "child-occupied facility" shall be governed by KRS 211.9061.~~

(3) [(4)] "Department" means the Department for Public Health.

(4) **"Discipline" means one (1) of the following types of lead-hazard assessment and abatement activities:**

- (a) **Lead-hazard abatement worker;**
- (b) **Lead-hazard inspector;**
- (c) **Lead-hazard risk assessor;**
- (d) **Lead-hazard supervisor; or**
- (e) **Lead-hazard project designer.**

(5) ~~["Discipline" means one (1) of the specific types or categories of lead-hazard assessment and abatement activities for which persons may receive certification, i.e., lead-hazard abatement worker, lead-hazard inspector, lead-hazard risk assessor, lead-hazard supervisor and lead-hazard project designer.~~

(6) "EPA" means the U.S. Environmental Protection Agency.

(6) [(7)] "Large scale" means an abatement project with ten (10) or more residential dwellings.

(7) [(8)] "Lead-hazard" means a [any] condition that would result in adverse human health effects through [causes] exposure to lead from lead-contaminated dust, soil, water, or paint that is deteriorated or [which is] present in accessible, friction, [on accessible surfaces, friction surfaces,] or impact surfaces [that would result in adverse human health effects].

(8) **"Lead-hazard abatement" is defined by KRS 211.9061(4).**

[(9)] The definition of "lead-hazard abatement" shall be governed by KRS 211.9061.

(9) [(10)] "Lead-hazard abatement worker" means a person who **is certified by the department to perform physical lead hazard abatement activities.** ~~[performs physical lead-hazard abatement~~

~~activities and is certified by the department to perform the activities.]~~

(10) [(11)] "Lead-hazard company" means a firm that [which] performs lead-hazard activities using employees certified by the department in the discipline appropriate to the activities. ~~[and when conducting those activities employs only persons that are certified by the department in the appropriate lead-hazard disciplines.]~~

(11) **"Lead-hazard detection" is defined by KRS 211.9061(3).**

[(12)] The definition of "lead-hazard detection" shall be governed by KRS 211.9061.

(12) [(13)] "Lead-hazard inspection" means a surface-by-surface examination to determine the presence of lead hazards ~~[and the provision of a report explaining the findings].~~

(13) [(14)] "Lead-hazard inspector" means a person who is certified by the department to:

(a) Conduct lead-hazard inspections; and

(b) Collect samples. ~~[performs lead-hazard inspections, collects samples, and is certified by the department to perform the activities.]~~

(14) [(15)] "Lead-hazard project designer" means a person who is certified by the department to prepare the following items for lead hazard abatement projects pursuant to Section 8 of 902 KAR 47:100:

(a) Abatement project plans;

(b) Abatement reports; and

(c) Occupant protection plans. ~~[prepares abatement project plans, reports, occupant protection plans for lead-hazard abatement projects, and is certified by the department to perform the activities.]~~

(15) [(16)] "Lead-hazard risk assessment" means an on-site investigation to determine the existence, nature, severity, location of lead hazards ~~[and the provision of a report by the person or firm conducting the risk assessment, explaining the results of the investigation and options for reducing the potential for lead exposure].~~

(16) [(17)] "Lead hazard risk assessor" means a person who is certified by the department to:

(a) Conduct lead-hazard inspections;

(b) Conduct risk assessments; and

(c) Collect samples. ~~[conducts risk assessments and collects samples, in addition to conducting lead-hazard inspections, and is certified by the department to perform the activities.]~~

(17) [(18)] "Lead-hazard supervisor" means a person who is certified by the department to:

(a) Supervise lead-hazard abatement activities;

(b) Prepare pursuant to Section 8 of 902 KAR 47:100:

1. Abatement plans;

2. Abatement reports; and

3. Occupant protection plans for small scale lead-hazard abatement projects. ~~[in addition to supervising lead-hazard abatement activities, prepares abatement plans, reports, and occupant protection plans for small scale lead-hazard abatement projects, and is certified by the department to perform the activities.]~~

(18) [(19)] "Person" means an [any natural or judicial person including any] individual, corporation, partnership, [or] association, or any other group or organization.

(19) [(20)] "Small scale" means an abatement project with less than ten (10) residential dwellings.

(20) **"Target housing" is defined by KRS 211.9061(5).**

[(21)] The definition of "target housing" shall be governed by KRS 211.9061.

(21) **"Third-party examination" means an examination:**

(a) Approved by the department or its designated agent; and

(b) Shall not include course examination administered by an accredited training provider.

[(22)] "Third party exam" means an exam approved by the department that is administered by the department or its designated agent. This does not include course exams administered by an accredited training provider.

Section 2. [Scope and] Application. This administrative regulation

(c) Qualified for equivalent certification under reciprocity from another state as per conditions indicated in KRS 211.0060(1).

(2) When a training course was completed, or certification by another state for reciprocity qualifications, was obtained prior to July 1, 1995, the person shall provide documentation of the following:

(a) Successful completion of an EPA model or department accredited refresher training course; and

(b) The refresher training course was completed after July 1, 1996.

(3) A person seeking certification shall also provide documentation that he has successfully completed a third party exam, when required under the specific discipline, and met or exceeded other educational experience identified as follows:

(a) Lead hazard inspector discipline requires successful completion of an accredited training course for inspectors, and the completion of a third party exam for the lead hazard inspector discipline. Experience requirements include one (1) of the following:

1. A high school diploma or equivalent; or

2. One (1) year's experience in a profession related to lead, asbestos, environmental remediation work, or building construction.

(b) Lead hazard risk assessor discipline requires the completion of an accredited training course for inspectors, prior to successful completion of an accredited risk assessor course, and successful completion of a third party exam, for the lead hazard risk assessor discipline. Experience requirements include one (1) of the following:

1. A bachelor's degree and one (1) year of experience in a profession related to lead, asbestos, environmental remediation work, or building construction;

2. An associate degree and two (2) years of experience in a profession related to lead, asbestos, environmental remediation work, or building construction;

3. Certification as an industrial hygienist, professional engineer, registered architect, or registered sanitarian or certification in another related engineering health environmental field (e.g., safety professional, environmental scientist); or

4. A high school diploma (or equivalent), and at least three (3) years of experience in a profession related to lead, asbestos, environmental remediation work, or building construction.

(c) Lead hazard supervisor discipline requires successful completion of an accredited training course for supervisors, and the completion of a third party exam, for the lead hazard risk supervisor discipline. Experience requirements include one (1) of the following:

1. One (1) year of experience as a certified lead hazard abatement worker; or

2. At least two (2) years of experience in a profession related to lead, asbestos, environmental remediation work, or building construction.

(d) Lead hazard project designer requires successful completion of an accredited training course for supervisors, and the completion of a third party exam, for the lead hazard supervisor discipline. Experience requirements include one (1) of the following:

1. A bachelor's degree in engineering, architecture, or a related profession, and one (1) year of experience in building construction and design, or a related field; or

2. Four (4) years of experience in building construction and design, or a related field.

(e) Lead hazard worker discipline requires successful completion of an accredited training course for workers, but has no additional testing, experience, or education requirements.

(4) Certain documents shall be provided to the department by the applicant as evidence of meeting certification requirements of a specific discipline. These documents are as follows:

(a) Official academic transcripts, as evidence of meeting the educational requirements;

(b) Resumes, letters of reference, or documentation of work experience as evidence of meeting the work experience requirements; and

(c) Course completion certificates from lead specific or other related training courses, issued by training providers, as evidence of meeting the training requirements; and

(d) Certified record of the successful passing of a third party examination.

(5) In order for a lead hazard company to be certified by the department, the company shall submit a list of department certified employees and their certification numbers. The company shall also provide a notarized affidavit indicating that their employees involved in lead hazard activities will follow the work practice standards identified in 002-KAR 47:100.

Section 5. Renewal and Recertification Requirements. (1) To maintain certification in a particular discipline, a certified person shall:

(a) Apply to department for recertification sixty (60) days prior to end of the two (2) year certification period;

(b) Provide documentation of successfully completed the appropriate accredited refresher training course and submit a valid copy of the completion certificate; and

(c) Submit the renewal fee, which is the same amount as the initial certification fee, as indicated in Section 6 of this administrative regulation.

(2) When the person has failed to apply for recertification or failed to complete the refresher course during the two (2) year certification period, recertification shall be denied.

(3) In order for the person to regain certification he shall be required to:

(a) Complete and pass the basic discipline course identified in Section 11 of 002-KAR 47:000; and

(b) Shall apply for certification under the procedures specified in Sections 3 and 4 of this administrative regulation.

(4) In order for a lead hazard company to maintain certification, as a lead hazard company, it shall do the following:

a. Pay the certification fee; and

b. Submit a current notarized affidavit certifying that their employees involved in lead hazard activities have had additional training, and continue to conform with the work practice standards identified in KAR 47:100.]

Section 6. Recertification. (1)(a) An application for recertification shall be made sixty (60) days prior to the end of a certification period.

(b) An applicant for recertification shall submit:

1. The fee established by Section 7 of this administrative regulation for the discipline for which recertification is requested; and

2. Documentation of successful completion of an accredited refresher course, for the discipline, that was taken after the date of certification.

(c) Recertification shall be denied, if an applicant has failed to:

1. Apply for recertification; or

2. Complete the accredited refresher course during the two (2) year period following certification.

(d) If recertification has been denied, if may be restored, if an applicant who has been denied application has:

1. Provided documentation of completion of a departmental accredited refresher course; and

2. Applied under the initial certification procedure established by Section 3 of this administrative regulation.

(2) A lead hazard company shall apply for recertification by submitting:

(a) The fee established by Section 7 of this administrative regulation; and

(b) An current listing, as of the date of recertification, of certification numbers identifying the employees engaged in lead-hazard activities; and

~~[(9) "Discipline" means one (1) of the specific types or categories of lead hazard assessment and abatement activities for which persons may receive certification, i.e., lead hazard abatement worker, lead hazard inspector, lead hazard risk assessor, lead hazard supervisor and lead hazard project designer.]~~

~~(7) [(40)] "EPA" means the U. S. Environmental Protection Agency.~~

~~(8) [(44)] "Hands-on skills assessment" means:~~

~~(a) Activities that [which] tests the trainees' ability to satisfactorily perform work practice standards and procedures established by [identified in] 902 KAR 47:100; and~~

~~(b) Includes a written evaluation of the trainee's performance of the activities.~~

~~[(12) "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead hazards or potential hazards, and the establishment and operation of management and resident educational programs.]~~

~~(9) [(43)] "Large scale" means an abatement project with ten (10) or more residential dwellings.~~

~~(10) "Lead-hazard" means a condition that would result in adverse human health effects through exposure to lead from lead-contaminated dust, soil, water, or paint that is deteriorated or present in accessible, friction, or impact surfaces.~~

~~[(14) "Lead-hazard" means any condition that causes exposure to lead from lead-contaminated dust, soil, water, or paint that is deteriorated or which is present on accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.]~~

~~(11) "Lead-hazard abatement" is defined by KRS 211.9061(4).~~

~~[(15) The definition of "lead hazard abatement" shall be governed by KRS 211.9061.]~~

~~(12) [(46)] "Lead-hazard abatement worker" means a person who is certified by the department to perform physical lead-hazard abatement activities. [performs physical lead-hazard abatement activities and is "certified" by the department to perform the activities.]~~

~~(13) "Lead-hazard detection" is defined by KRS 211.9061(3).~~

~~[(17) The definition of "lead hazard detection" shall be governed by KRS 211.9061.]~~

~~(14) [(48)] "Lead-hazard inspection" means a surface-by-surface examination to determine the presence of lead hazards [and the provision of a report explaining the findings].~~

~~(15) [(49)] "Lead-hazard inspector" means a person who is certified by the department to:~~

~~(a) Conduct lead-hazard inspections; and~~

~~(b) Collect samples. [performs lead hazard inspections, collects samples, and is "certified" by the department to perform the activities.]~~

~~(16) [(20)] "Lead-hazard project designer" means a person who is certified by the department to prepare the following items for lead hazard abatement projects pursuant to Section 8 of 902 KAR 47:100:~~

~~(a) Abatement project plans;~~

~~(b) Abatement reports; and~~

~~(c) Occupant protection plans for lead-hazard abatement projects. [prepares abatement project plans, reports, occupant protection plans for lead hazard abatement projects, and is "certified" by the department to perform the activities.]~~

~~(17) [(24)] "Lead-hazard risk assessment" means an on-site investigation to determine the existence, nature, severity, and location of lead hazards [and the provision of a report by the individual or firm conducting the risk assessment, explaining the results of the investigation and options for reducing the potential for lead exposure].~~

~~(18) [(22)] "Lead-hazard risk assessor" means a person who is certified by the department to:~~

~~(a) Conduct lead-hazard inspections;~~

~~(b) Conduct risk assessments; and~~

~~(c) Collect samples. [conducts risk assessments and collects samples, in addition to conducting lead hazard inspections, and is "certified" by the department to perform the activities.]~~

~~(19) [(23)] "Lead-hazard supervisor" means a person who is certified by the department to:~~

~~(a) Supervise lead-hazard abatement activities;~~

~~(b) Prepare, pursuant to Section of 902 KAR 47:100:~~

~~1. Abatement plans;~~

~~2. Abatement reports; and~~

~~3. Occupant protection plans for small scale lead-hazard abatement projects. [in addition to supervising lead hazard abatement activities, prepares abatement plans, reports, occupant protection plans for "small scale" lead hazard abatement projects, and is certified by the department to perform the activities.]~~

~~(20) "Person" means an individual, corporation, partnership, association, or any other group or organization.~~

~~[(24) "Principal instructor" means the individual who has the primary responsibility for organizing and teaching a particular course.]~~

~~(21) [(25)] "Small scale" means an abatement project with less than ten (10) residential dwellings.~~

~~(22) "Target housing" is defined by KRS 211.9601(5).~~

~~[(26) The definition of "target housing" shall be governed by KRS 211.9061.]~~

~~(27) "Training curriculum" means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.]~~

~~(23) [(28)] "Training hour" means at least fifty (50) minutes of actual teaching, including:~~

~~(a) Time devoted to lecture;~~

~~(b) Learning activities;~~

~~(c) Small group activities;~~

~~(d) Demonstrations;~~

~~(e) Evaluations; and~~

~~(f) Hands-on experience.~~

~~(24) [(29)] "Training manager" means the individual responsible for administering a training program and monitoring the performance of principal and guest instructors.~~

~~[(30) "Training program" or "training course" means a planned training curriculum for a specific work discipline involved in lead-hazard detection or abatement activities.]~~

~~[(31) "Training provider" or "provider" means a person or firm who is applying to the department to obtain accreditation to provide one (1) or more training programs for work disciplines in lead hazard detection and abatement.]~~

Section 2. Application. The provisions of this administrative regulation shall govern application, qualifications, and fees for the accreditation of training programs on or after January 1, 1997, for persons who will be engaged in lead-hazard detection and abatement in target housing or child-occupied facilities in the Commonwealth on and after July 1, 1997. [Seep. This administrative regulation contains requirements for the application procedures, qualifications, and fee schedule for accreditation of training programs for persons engaged in lead-hazard activities relating to detection and abatement in target housing or child-occupied facilities in the Commonwealth beginning January 1, 1997.]

Section 3. Initial Accreditation of Training Programs. A training provider shall submit:

(1) A fee of \$200, in the form of a check or money order made payable to the Kentucky State Treasurer, for each training course, unless he is exempted by:

(a) Federal law or regulation; or

(b) State law or administrative regulation;

(2) His name, address, and telephone number;

(3) A list of training courses proposed for accreditation;

(4) As applicable:

skills assessment, and receive a passing score of seventy (70) percentile on the course test in order to pass the course and receive a course completion certificate.

(3) The provider shall also ensure the issuance of the unique course completion certificate to each individual who passes the training course. The course completion certificate shall include the following:

- (a) Name, unique identification number, and address of the individual;
- (b) Title of the particular course that the individual has completed;
- (c) Date of course completion or test passage; and
- (d) Name, address, and telephone number of the training provider.

Section 7. ~~[6. Requirement of a]~~ Training Manager Qualifications. (1) ~~The [For a]~~ training provider shall not [to] obtain accreditation to offer lead-hazard training courses, unless he employs [shall employ] a training manager who has ~~[one (1) of the following qualifications]:~~

- (a) Two (2) or more years of experience, education, or training in teaching adults; or
- (b) A bachelor or graduate degree in:
 - 1. Building construction technology;
 - 2. Engineering;
 - 3. Industrial hygiene;
 - 4. Safety;
 - 5. Public health;
 - 6. Education;
 - 7. Business administration; or
 - 8. Program management; or
- (c) Two (2) or more years experience managing an occupational health and safety training program specializing in environmental hazards.

(2) ~~[In addition, the training manager shall have]~~ Experience in the construction industry, in one (1) of the following areas:

- 1. ~~[concerning]~~ Lead or asbestos abatement;
- 2. Painting;
- 3. Carpentry;
- 4. Renovation;
- 5. Remodeling;
- 6. Occupational safety and health; or
- 7. Industrial hygiene.

Section 8. Training Manager Qualifications and Duties. (1) The training manager shall designate a qualified principal instructor to:

- (a) Organize the course; and
- (b) Oversee the teaching of course materials.

(2) ~~[7. Responsibilities of the Training Manager. (1) It shall be the responsibility of the training manager to review the qualifications of and to designate a qualified principal instructor to organize the course and oversee the teaching of all course materials.]~~ The ~~[qualifications of the]~~ principal instructor shall ~~[are as follows]:~~

- (a) Have [Demonstrated] experience, education, or training in teaching workers or adults; and
- (b) Have successfully completed at least sixteen (16) hours of an ~~[any]~~ EPA-model or department accredited lead-specific training; and
- (c) Have [Demonstrated] experience, education, or training in:
 - 1. Lead or asbestos abatement;
 - 2. Painting;
 - 3. Carpentry;
 - 4. Renovating;
 - 5. Remodeling;
 - 6. Occupational safety and health; or
 - 7. Industrial hygiene.
- (3) ~~[(2)]~~ The training manager shall ~~[also have the following~~

responsibilities]:

- (a) Designate guest instructors as needed to provide:
 - 1. Instruction specific to the lecture;
 - 2. Hands-on activities; or
 - 3. Work practice components of a course; and

(b) 1. Maintain ~~[Shall also be responsible for conducting the following activities which concern course activities and course evaluation:~~

~~1. Maintaining]~~ the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics;

2. Maintain ~~[Maintaining]~~ the validity and integrity of the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics; and

3. Insure ~~[Insuring]~~ that the course test was developed in accordance with the course test blueprint submitted with the training accreditation application.

(c) ~~[The training manager shall also]~~ Develop and implement a quality control plan that ~~[The plan]~~ shall:

- 1. Be used to maintain and improve the quality of the training program over time; and
- 2. ~~[This plan shall]~~ Contain, at least, the procedures for the ~~[following elements]:~~

a. [1. Procedures for] Periodic revision of training materials and the course test to reflect innovations in the field; and

b. [2. Procedures for the] Training managers annual review of principal instructor competency.

(d) Ensure ~~[The training manager shall also be responsible for ensuring]~~ that the training provider complies ~~[at all times]~~ with ~~[all of]~~ the requirements of this administrative regulation.

Section 9. ~~[8.]~~ Supportive Documentation. (1) The [Certain] documents specified in subsection (3) of this section shall be recognized by the department as evidence that the training managers and principal instructors have the education, work experience, training requirements or experience.

(2) The documentation:

(a) May be with the submitted of application for accreditation; and

(b) Shall be provided to the department upon request.

(3) The documentation shall include:

(a) For documentation of the evidence requirements: official academic transcripts;

(b) For documentation of the work experience requirement:

- 1. Resumes;
- 2. Letters of reference; or
- 3. Other documentation of work experience;

(c) For documentation of the training requirements: certificates from:

1. Train-the-trainer courses; or

2. Lead-specific training courses. ~~[The supportive documentation is not required to be submitted when applying for accreditation, but shall be retained by the training provider and shall be provided to the department upon request. These documents include the following:~~

~~(a) Official academic transcripts, as evidence of meeting the education requirements; and~~

~~(b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirement; and~~

~~(c) Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.]~~

Section 10. ~~[9.]~~ Inspection Requirements. (1) The training provider shall allow representatives of the department to conduct unannounced on-site audits and monitoring of the training programs.

(2) The department shall if needed, use other ~~[indirect]~~ methods

requirements established by this section.

(2) A training provider may also seek accreditation to offer refresher training courses. To obtain accreditation to offer refresher training courses, the provider shall meet the following minimum requirements:

(a) The training provider shall have been [also be] accredited by the department to teach the related full-length course[~~, in order to qualify for accreditation of the related refresher course.~~].

(b) A [Each] refresher course shall teach the curricula topics of the full-length [courses. In addition, the] course and [study] shall include:

1. An overview of current safety practices relating to lead-hazard activities in general, including [as well as] specific information pertaining to the appropriate discipline;

2. Current laws and regulations relating to lead-hazard abatement, inspection, assessment activities in general, including [as well as] specific information pertaining to the applicable discipline; and

3. Current technologies relating to lead-hazard activities in general, including [as well as] specific information pertaining to the applicable discipline.

(c) 1. The project designer course shall last a minimum of four (4) hours.

2. Other courses shall last a minimum of eight (8) hours. [Each course shall, except for the project designer course, shall last a minimum of eight (8) hours. The project designer course shall last a minimum of four (4) hours.]

(d) For each course offered, the training provider shall conduct:

1. If applicable, a hands-on assessment; and

2. At the completion of the course, a course test.

(3)(a) A training provider may apply for accreditation of a refresher course when he applies for accreditation of the corresponding full-length training course.

(b) A training provider who applies for accreditation of a refresher course shall meet the program requirements established by this administrative regulation.

~~[(2) A training provider may apply for accreditation of a refresher course concurrently when applying for accreditation of the corresponding full-length training course as described in Section 11 of this administrative regulation. If so, the department shall use the approval procedure as described in Section 3 of this administrative regulations. In addition, the provider shall meet other program requirements specified in this administrative regulation.]~~

Section 14. Renewal of Accreditation [13. Reaccreditation] of Training Programs. (1) Accreditation for a course shall be for a two (2) year period following issuance. [Unless reaccredited, a training provider's accreditation for a course (including refresher training accreditation) shall expire two (2) years after issuance.]

(2) Sixty (60) days before the expiration of accreditation for a course, a training provider shall:

(a) Apply for renewal of accreditation; and

(b) Submit a renewal fee of \$150 per course. [A training provider seeking reaccreditation for that course shall submit the renewal fee payment of \$150, and apply to the department no later than sixty (60) days before their accreditation expires.]

(3) A [The] training provider shall submit the following information:

(a) The training provider's name, address, and telephone number;

(b) A list of courses for which the training provider is applying for renewal of [they are applying for re]accreditation;

(c) A description of any changes or updates to the training facility or equipment since the last application was approved; and

(d) A statement signed by the program manager stating;

1. The training provider has complied with applicable [complies at all times with all] accreditation requirements established by [indicated in] this administrative regulation, as applicable; and

2. The recordkeeping and reporting requirements of this administrative regulation shall be followed.

(4) [(6)] Upon request, the training provider shall allow the department to audit the training provider to verify the contents of the application for renewal of accreditation [reaccreditation].

(5) Documentation shall be reviewed and approved or denied pursuant to the provisions of Section 5 of this administrative regulation. [(6) The documentation submitted for reaccreditation shall be reviewed and either approved or disapproved under procedures indicated in Section 4(1) through (3) of this administrative regulation.]

(6) If a training provider fails to apply for renewal of accreditation for a training course as required by the provisions of this section, the training provider shall apply for accreditation of the training course as provided by Section 3 of this administrative regulation.

~~[(7) When the training provider has failed to apply for reaccreditation for the course(s) during the two (2) year certification period, it shall be required to become accredited for the training course(s), under the requirements, procedures and fee schedule, specified in Section 3 of this administrative regulation.]~~

Section 15. Recordkeeping Requirements. (1) An accredited training provider shall maintain, update annually, and make available to the department upon request the following records:

(a) The [All] documents specified in Section 8 of this administrative regulation that establish [demonstrate] the qualifications of the training manager and principal instructors;

(b) Current curriculum, course materials, and documents reflecting [any] changes made to these materials;

(c) The course test blueprint;

(d) Information regarding how the hands-on assessment is conducted, including:

1. Who conducts the assessment;

2. How the skills are graded;

3. What facilities are used; and

4. The pass or fail rate.

(e) The quality control plan;

(f) Results of:

1. The student's hands-on skills assessments and course tests; and

2. A record of each student's course completion certification; and

(g) [Any] Other material not listed in paragraphs (a) through (f) of this subsection that was submitted to the department when the provider applied for accreditation.

(2) The training provider shall notify the department in writing within thirty (30) days of:

(a) An address change;

(b) 1. Transfer [or transference of] the records to the new training provider's address; and

2. The address of the new training provider.

(3) The training provider shall retain the documentation for a minimum of three (3) years and six (6) months at the specified location(s).

Section 16. Notice to Suspend, Revoke, Deny or Modify Accreditation. (1) The department shall immediately suspend, revoke, deny or modify the accreditation of a [for any] training program, if [when] the department determines [finds] that the training provider has failed [fails] to comply with the requirements for initial or [accreditation and] continued accreditation established by [in] this administrative regulation.

(2) If [When] the department determines [finds cause] to suspend, revoke, deny or modify the accreditation of the training provider, it shall notify the affected entity in writing of the following:

(a) The legal and factual basis for the suspension, revocation, denial, or modification;

(b) The commencement date and duration of the suspension, revocation, or modification;

(c) Action, if any, that [which] the affected certified person may

contains an area or mass concentration of lead at or in excess of clearance levels.

(20) [(22)] "Lead-contaminated soil" means bare soil on residential real property and on the property of a child-occupied facility that contains lead at or in excess of levels specified in Section 2(2)(b) of this administrative regulation [identified in EPA regulations and guidelines].

(21) "Lead-hazard" means a condition that would result in adverse human health effects through exposure to lead from lead-contaminated dust, soil, water, or paint that is deteriorated or present in accessible, friction, or impact surfaces.

(22) "Lead-hazard abatement" is defined by KRS 211.9061(4).

~~[(23) "Lead-hazard" means any condition that causes exposure to lead from lead-contaminated dust, soil, water, or paint that is deteriorated or present in accessible surfaces, friction or impact surfaces, that would result in adverse human health effects.~~

~~(24) The definition of "lead-hazard abatement" is governed by KRS 211.9061-]~~

(23) [(25)] "Lead-hazard abatement worker" means a person who is certified by the department to perform physical lead-hazard abatement activities. [performs physical lead-hazard abatement activities and is "certified" by the department to perform the activities.]

(24) [(26)] "Lead hazard activities" means [in] the [case of target housing and child-occupied facilities,] inspection, screening, risk assessment, and abatement of lead hazards.

(25) "Lead-hazard detection" is defined by KRS 211.9061(3).

~~[(27) The definition of "lead-hazard detection" is governed by KRS 211.9061-]~~

(26) [(28)] "Lead-hazard inspection" means a surface-by-surface examination to determine the presence of lead hazards [and the provision of a report explaining the findings].

(27) [(29)] "Lead-hazard inspector" means a person who is certified by the department to:

(a) Conduct lead-hazard inspections; and

(b) Collect samples. [performs lead-hazard inspections, collects samples, and is "certified" by the department to perform the activities.]

(28) [(30)] "Lead-hazard project designer" means a person who is certified by the department to prepare the following items for a lead hazard abatement projects in accordance with requirements pursuant to Section 6 of this administrative regulation:

(a) Abatement project plans;

(b) Abatement reports; and

(c) Occupant protection plans. [prepares abatement project plans, reports, occupant protection plans for lead-hazard abatement projects, and is "certified" by the department to perform the activities.]

(29) [(31)] "Lead-hazard risk assessment" means an on-site investigation to determine the existence, nature, severity, location of lead hazards[, and the provision of a report by the person or firm conducting the risk assessment, explaining the results of the investigation and options for reducing the potential for lead exposure].

(30) [(32)] "Lead-hazard risk assessor" means a person who is certified by the department to:

(a) Conduct lead-hazard inspections; and

(b) Conduct risk assessments; and

(c) Collect samples. [conducts risk assessments in addition to conducting lead-hazard inspections and sample collection, and is "certified" by the department to perform the activities.]

(31) [(33)] "Lead-hazard screen" means a risk assessment activity that involves reduced [limited] paint and dust or other potential lead-hazard sampling.

(32) [(34)] "Lead-hazard supervisor" means a person who is certified by the department to:

(a) Supervise lead-hazard abatement activities; and

(b) Prepare in accordance with requirements pursuant to Section 6 of this administrative regulation:

1. Abatement plans;

2. Abatement reports; and

3. Occupant protection plans for small scale lead-hazard abatement projects. [in addition to supervising lead-hazard abatement activities, prepares abatement plans, reports, and occupant protection plans for "small scale" lead-hazard abatement projects, and is "certified" by the department to perform the activities.]

(33) [(35)] "Living area" means an area of a residential dwelling used by one (1) or more children age six (6) or under[, including but not limited to living rooms, kitchen area, dens, play rooms, and children's bedrooms].

(34) [(36)] "Multifamily dwelling" means a ["target housing"] structure that contains more than one (1) separate residential dwelling unit, that [which] is used or occupied, or intended to be used or occupied, as the home or residence of one (1) or more persons.

(35) "Paint in poor condition" means deteriorated paint on:

(a) A large surface, such as a wall, ceiling, floor, or door:

1. Ten (10) square feet on exterior components; or

2. Two (2) square feet on interior components; or

(b) A small surface, such as a window sill, baseboard, soffit, or trim that is more than ten (10) percent of the surface area.

~~[(37) "Paint in poor condition" means more than ten (10) square feet of deteriorated paint on exterior components with large surface areas; or more than two (2) square feet of deteriorated paint on interior components with large surface areas (walls, ceilings, floors, doors); or more than ten (10) percent of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (window sills, baseboards, soffits, trim).]~~

(36) [(38)] "Permanently covered soil" means:

(a) Soil that [which] has been separated from human contact by the placement of a barrier consisting of solid, [relatively] impermeable materials, such as pavement or concrete; and

(b) Does not consider as permanent grass, mulch, and other landscaping materials [are not considered permanent covering].

(37) [(39)] "Person" means an [any natural or judicial person including any individual,] corporation, partnership, [or] association, or any other group or organization.

(38) [(40)] "Quality assurance inspection" means an inspection conducted by the department to determine whether a lead abatement activity complies with:

(a) Certification requirements;

(b) Work practices; and

(c) Performance standards. [or the department's representative at the conclusion of the abatement for the purpose of determining if the lead abatement activity and process complied with certification requirements, work practices and performance standards.]

(39) [(41)] "Recognized laboratory" means an environmental laboratory recognized by EPA accredited pursuant to Section 405 (b) of Toxic Substance Control Act, 15 USC 2601 ["TSCA"], as being capable of performing an analysis for lead compounds in paint, soil, dust and water.

(40) [(42)] "Reduction" means measures designed to reduce or eliminate human exposure to lead hazards [through methods including interim controls and abatement].

(41) [(43)] "Residential dwelling" means ["target housing"] that is one (1) of the following:

(a) A detached single family dwelling unit, including attached structures or adjacent such as porches and stoops; or

(b) A single family dwelling unit in a structure that contains more than one (1) separate residential dwelling unit including attached or adjacent structures, that [which] is used or occupied, or intended to be used or occupied as the home or residence of one (1) or more persons.

(42) [(44)] "Room" means an enclosed or semienclosed space within a residential dwelling or a child-occupied facility.

(43) [(45)] "Small scale" means an abatement project with less than ten (10) residential dwellings.

(44) "Target housing" is defined by KRS 211.906(5).

~~[(46) The definition of "target housing" is governed by KRS~~

1. Physical characteristics of a residential dwelling, or child-occupied facility; and

2. Occupant use patterns that may cause lead exposure to one (1) or more children, age six (6) or under.

(b) Conduct a visual inspection of the residential dwelling, or child-occupied facility to:

1. Determine if deteriorated paint is present; and

2. Locate at least two (2) dust sampling locations;

(c) Test for the presence of lead on each surface with deteriorated paint, that the lead-hazard risk assessor has determined to have a distinct painting history;

(d)1. Collect in residential dwellings, two (2) composite dust samples from rooms where one (1) or more children, age six (6) or younger, are most likely to come in contact with dust:

a. One (1) from the floors;

b. One (1) from the windows; and

2. Collect in a multifamily dwelling, one (1) additional sample from the common areas, where one (1) or more children, age six (6) or younger, are most likely to come in contact with dust.

(e) Take paint chip or dust samples pursuant to the EPA technical methodologies required by Section 2(2)(b) and (c) of this administrative regulation;

(f) Analyze paint chip or dust samples as provided by Section 10 of this administrative regulation.

(g) Prepare a lead-hazard screening report that shall include:

1. The applicable information required by Section 5(6) of this administrative regulation; and

2. If warranted, recommendations for a follow-up risk assessment and other appropriate actions.

(4) A copy of a lead-hazard screening report shall be submitted to the department within thirty (30) days after the completion of the lead-hazard screening assessment.

[Section 5. Lead-hazard Screening. (1) Work-practice standards and procedures for lead-hazard screening shall be as follows:

(a) A lead-hazard screen shall be conducted only by a person certified by the department as a risk assessor; and

(b) When conducting a lead-hazard screen the risk assessor shall:

1. Collect background information regarding the physical characteristics of the residential dwelling or child-occupied facility, and occupant use patterns that may cause lead exposure to one (1) or more children, age six (6) or under;

2. Conduct a visual inspection of the residential dwelling or child-occupied facility to determine if any deteriorated paint is present, and locate at least two (2) dust sampling locations;

3. Test for the presence of lead on each surface with deteriorated paint, which is determined by using documented methodologies to be in poor condition and to have a distinct painting history;

4. Collect two (2) composite dust samples. One (1) from the floors and the other from the windows, in rooms where one (1) or more children, age six (6) or younger, are most likely to come in contact with dust; and

5. Collect additional samples in multifamily dwellings and child-occupied facilities. Composite dust samples shall be collected from common areas where one (1) or more children, age six (6) or younger, are most likely to come into contact with dust.

(e) All collected paint chip or dust samples shall be taken using documented methodologies that incorporate adequate quality control procedures using the EPA guidelines, identified in Section 3 of this administrative regulation, and shall be analyzed under the conditions indicated in Section 11 of this administrative regulation.

(2) In addition to performing the specified work practices and activities, the risk assessor shall prepare a lead-hazard screen report, which shall include the following information:

(a) The information required in a risk assessment report as specified in Section 6(2)(a) through (e) of this administrative regula-

tion. Additionally, any background information collected pursuant to Section 6(1)(b)2 of this administrative regulation shall be included in hazard screen report; and

(b) Recommendations, when warranted, for a follow up risk assessment, and when appropriate, any further actions.

(3) A copy of the lead-hazard screen report shall be maintained by the certified individual for the time period specified in Section 13 of this administrative regulation. In addition, a copy of the report will be submitted to the department within thirty (30) days after the completion of the assessment.]

Section 5. [6.] Lead-hazard Risk Assessments. (1) Risk assessment work practice standards and procedures shall comply with the provisions of this section.

(2) A risk assessment shall be conducted by a certified risk assessor.

(3) A risk assessor shall:

(a) Conduct a visual inspection of a residential dwelling or child-occupied facility to:

1. Locate deteriorated paint;

2. Assess the extent and causes of the deterioration of paint; and

3. Inspect for other potential sources of lead hazard;

(b) Collect information regarding the physical characteristics and occupant use patterns of the residential dwelling or child-occupied facility that may cause lead exposure to one (1) or more children, age six (6) or younger;

(c) Examine the locations specified in this subsection for the presence of lead by using the EPA and HUD technical methodologies required by Section 2 of this administrative regulation:

1. Deteriorated paint that the risk assessor has determined is in poor condition, and has a distinct painting history; and

2. Other surfaces or sites that the risk assessor has determined are potential lead hazards by use of the technical methodologies required by Section 2 of this administrative regulation;

(d) Collect dust samples from windows and floors, where one (1) or more children, age six (6) or younger are most likely to come into contact with dust, using technical methodologies required by Section 2 of this administrative regulation, as follows:

1. In all living areas in residential dwellings; and

2. In multifamily dwellings:

a. Common areas that are adjacent to the residential dwelling or child-occupied facility from which samples have been taken; and

b. Other common areas in the building.

3. In child-occupied facilities, in:

a. Each room, hallway or stairwell; and

b. Other common areas. [Work practice standards and procedures for risk assessments shall be as follows:

(a) A risk assessment shall be conducted only by a person certified by the department as a risk assessor; and

(b) When conducting a lead-hazard screen the risk assessor shall:

1. Conduct a visual inspection for risk assessment of the residential dwelling or child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and review for other potential sources of lead hazards;

2. Collect background information regarding the physical characteristic of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead exposure to one (1) or more children, age six (6) or younger;

3. Examine the following locations and conduct sampling, using EPA and HUD guidelines indicated in Section 3 of this administrative regulation, for presence of lead:

a. Deteriorated paint, which is determined to be in poor condition

replaced with soil that is not lead-contaminated.

(b) If soil is not removed, the lead-contaminated soil shall be permanently covered.

(9) Abatement of paint containing lead shall be conducted as follows:

(a) Open-flame burning or torching of the paint shall be prohibited.

(b) Machine sanding or grinding, or abrasive blasting or sandblasting, of the paint shall be prohibited, unless conducted using a high efficiency particulate air exhaust control that removes particles of three-tenths (0.3) microns or larger from the air at 99.97 percent or greater efficiency.

(c) Dry scraping of the paint shall be permitted:

1. In conjunction with heat guns; or

2. Around electrical outlets; or

3. In the treatment of defective paint spots that total no more than:

a. Two (2) square feet: on all surfaces within a room; or

b. Twenty (20) square feet: on all the exterior surfaces.

(d) A heat gun shall not be operated on the paint at temperatures that exceed 1,110 degrees Fahrenheit. [Standards and procedures for lead hazard abatement activities shall be as follows:

(1) Before any abatement activity shall be conducted, an abatement permit and fee, abatement and occupant protection plan, shall be required to be provided to the department of its representative. This information is further identified as follows:

(a) An abatement permit shall be obtained from and issued by the department under the procedures indicated in Section 14 of this administrative regulation;

(b) The fee payment shall be according to the fee schedule indicated in Section 15 of this administrative regulation;

(c) The abatement plan shall be a detailed written description of the abatement, including anticipated start and finish date, abatement methods to be used, locations of rooms and components where abatement will occur, and reason for selecting particular abatement methods for each component;

(d) The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement, and shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead hazards; and

(e) The written abatement and occupant protection plans shall be prepared by specific department certified persons depending on the following conditions:

1. When the project is considered a small scale project either a certified project officer or a certified supervisor shall be approved to prepare the plans; or

2. When the project is considered a large scale project only the project designer may prepare the plans.

(2) Lead hazard abatement activities shall be conducted only by persons certified by the department. A certified supervisor or certified project designer shall be available to the lead abatement workers at all times while abatement is being conducted, and shall be on-site during all work site preparation and during the postabatement cleanup of work areas.

(3) The abatement permit holder shall ensure that all permitted abatement and postabatement activities are conducted according to the requirements of this administrative regulation and all other federal, state, and local requirements.

(4) When conducted, soil abatement shall be conducted in one (1) of the following ways:

(a) When soil is removed, the lead-contaminated soil shall be replaced with soil that is not lead-contaminated; or

(b) When soil is not removed, the lead-contaminated soil shall be permanently covered.

(5) The following work practices shall be restricted during an abatement of paint containing lead:

(a) Open flame burning or torching of the paint is prohibited;

(b) Machine sanding or grinding, or abrasive blasting or sandblasting of the paint is prohibited unless used with a high efficiency particulate air (HEPA) exhaust control which removes particles of three tenths (0.3) microns or larger from the air at 99.97 percent or greater efficiency;

(c) Dry scraping of the paint is permitted only in conjunction with heat guns, or around electrical outlets, or when treating defective paint spots total no more than two (2) square feet in any one (1) room or totaling no more than twenty (20) square feet on exterior surfaces; and

(d) Operating a heat gun on paint is permitted only at temperatures below 1100 degrees Fahrenheit.]

Section 7. [8.] Postabatement Clearance Procedures. (1) Postabatement clearance procedures shall be performed [only] by a certified inspector or certified risk assessor.

(2)(a) Following an abatement, a visual inspection shall be made [performed] to determine if deteriorated painted surfaces or visible amounts of dust, and debris or residue are [still] present.

(b) If [When] deteriorated painted surfaces or visible amounts of dust are present, they shall [these conditions must] be eliminated prior to initiation [the continuation] of [the] clearance procedures.

(3)(a) Following the visual inspection and [any] postabatement cleanup that is required, clearance sampling for lead-containing dust shall be conducted.

(b) Clearance sampling shall [may] be conducted by employing single-surface or composite sampling techniques.

(4) Dust samples for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures that are specified in Section 2 of this administrative regulation, and shall be taken a minimum of one (1) hour after completion of final postabatement cleanup activities.

(5) Rooms, hallways, stairwells or other sites selected for sampling shall be selected according to documented methodologies that are specified in Section 2 of this administrative regulation.

(6) The following postabatement clearance activities shall be conducted [as appropriate] based upon the extent or manner of abatement activities conducted in or to the residential dwelling or child-occupied facility:

(a) After an abatement with containment between abated and unabated areas is conducted, the number of samples shall be:

1. One (1) window, if there is a window; and

2. One (1) from the floor of four (4) rooms; for abated areas of four (4) or more rooms; or

3. One (1) from the floor of all rooms if less than four (4) rooms are available; and

4. One (1) on the floor outside the containment area. [After conducting an abatement with containment between abated and unabated areas, the number of samples and sites to be selected are as follows:

1. A minimum of one (1) dust sample shall be taken from one (1) window (when available) and a minimum of one (1) dust sample shall be taken from the floor of no less than four (4) rooms, hallways or stairwells within the containment area.

2. In addition, a minimum of one (1) dust sample shall be taken from the floor outside the containment area; or

3. When there are less than four (4) rooms, hallways or stairwells within the containment area, then all rooms, hallways and stairwells shall be sampled.]

(b) After the completion of an abatement with no containment, the number of samples shall be:

1. One (1) dust sample taken from one (1) window, if there is a window; and

2. One (1) dust sample taken from the floor of each room. [After conducting an abatement with no containment, the number of samples and sites to be selected are as follows:

administrative regulation shall be retained by the permit holder or other certified individual who prepared the report or plan for three (3) years. [All reports or plans required by this administrative regulation shall be maintained by the abatement permit holder or other certified individual who prepared the report for no fewer than three (3) years. The abatement permit holder or certified individual also shall provide copies of these reports to the building owner or other individual who contracted for the services.]

Section 13. [44.] Abatement Permit Application and Clearance Procedures. (1) The following items shall be submitted to the department by an applicant for a lead-abatement permit:

(a) Copy of certificate identifying that the person has been certified by the department;

(b) "Lead-hazard Abatement Permit Application", Form DFS-355;

(c) An abatement plan; and

(d) The fee established by Section 14 of this administrative regulation.

(2) A local government shall provide the department an annual accounting of abatement activities, at least thirty (30) days before July 1, each year, in order for the department to consider and make fee adjustments.

(3)(a) If [A certified person shall submit the following:

(a) Form DFS-355 (01/97) "Lead-hazard Abatement Permit Application" (01/97), which is herein incorporated by reference. This form is on file in the Office of the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, and available for public inspection and copying, Monday through Friday, 8 a.m. to 4:30 p.m.

(b) An abatement plan; and

(c) Fee payment, as indicated in Section 15 of this administrative regulation, submitted in the form of check or money order, to be made payable to the Kentucky State Treasurer.

(2) There shall be a fee adjustment consideration, for local governments as indicated in KRS 211.0067, when a certified employee of local government is performing a lead-hazard abatement activity for that agency. The local government shall provide the department an annual accounting of abatement activities, at least thirty (30) days before July 1 each year, in order for the department to consider the reduction. The adjustment shall also take into consideration programmatic costs, and at minimum the departmental cost to conduct regulatory quality assurance inspections.

(3) On receipt of the application, the appropriate information and fee, the department shall respond according to the time requirements indicated in KRS 211.0063(6).

(4) When the application is approved, the abatement services shall proceed. When an application is not approved an [a written notification of nonacceptance shall be provided to the] applicant shall be notified in writing of the disapproval and the reasons therefor.

(b) The applicant shall correct the deficiency stated in the department's notice of disapproval. [unacceptable conditions of the application, accompanying information, or permit fee, indicated in notification by department before the abatement service is approved.]

(c) The applicant [then] shall resubmit his [the] application after correction of the deficiency stated in the department's notice of disapproval as provided by the provisions [according to the procedures specified in subsection (1)] of this section.

(5)(a) On completion of the abatement project a [the] permit holder shall notify the department of the completion of the abatement services and clearance testing.

(b) The department shall conduct a quality assurance inspection of a minimum of ten (10) percent of the abatement jobs for which permits issued have been on a random basis.

(c) An abatement permit holder shall provide the department with access to the facility to conduct a quality insurance inspection. [These inspections shall be conducted to determine

compliance with state, federal, and local requirements. It is the responsibility of the abatement permit holder to provide the department access to the facility for conducting the quality assurance inspection.]

(6) A quality assurance inspection shall be conducted in the same manner as specified in Sections 7 and 10 of this administrative regulation for clearance review, sampling, and postabatement clearance procedures. [The quality assurance inspection for the department shall be conducted by the department or its agent. The inspection and required sample collection shall be conducted in the same manner as specified under clearance review, sampling, and required in postabatement clearance procedures in Section 8 of this administrative regulation.]

(7) If action levels of paint are found, or collected dust samples exceed clearance levels, the components making up the failed sample shall be:

(a) Recleaned; or

(b) Otherwise lead-hazard abated; and

(c) Retested. [When the inspection findings of the department indicate that action levels of paint are found, or collected dust samples, exceed the clearance levels, all the components represented by the failed sample shall be recleaned, or otherwise lead hazard abated, and retested until clearance levels are met.

(8) The permit holder shall not begin construction and renovation activities after the abatement services are concluded, until the department reports to the permit holder that the abatement project passed the quality assurance inspection; or when the department fails to conduct the inspection within the time requirements in KRS 211.0063(6).]

(8) A [(9) The] permit holder shall pay [be responsible for paying] a reinspection fee of \$100 for each reinspection required because he failed [due to failure] to pass a [the] department's quality assurance inspection.

(9) [(49)] An abatement permit shall be valid for up to a period of two (2) years [one (1) year] after the issue date the permit. When the lead-hazard abatement activity has not been completed by that date, a certified person shall be required to apply for a new permit under all of the requirements of this section.

Section 14. [45.] Permit Fee Schedule. The fee for a lead-hazard [an] abatement permit shall be:

(1) With containment: \$225;

(2) Without containment: \$100, plus twenty-five (25) dollars for each room in the target housing or child-occupied facility; and

(3) Exterior abatement: \$125. [made under the following conditions to the department in the amount:

Abatement in residential _____ Fees
and child-occupied facilities _____

With containment _____ \$225

Without containment _____ \$100 plus \$25

_____ per potentially

_____ contaminated room

Exterior abatement _____ \$125]

Section 15. [46.] Administrative Hearings. [When] An administrative hearing relating to the subject matter of [is required under conditions which concern compliance with] this administrative regulation [the hearing] shall be conducted in accordance with 902 KAR 1:400.

Section 16. Incorporation by Reference. (1) The following material is incorporated by reference.

(a) U.S. Department of Housing and Urban Development, "Guidelines for the Evaluation and Control of Lead-based Paint

405.465.

(m) the following information:

- a. The absent parent's last known address; and
- b. The name and address of the new employer, if known.

(k) The noncustodial [absent] parent, or obligor, shall keep the child support agency informed of his current employer, if he has access to health insurance coverage at a reasonable cost, and the health insurance policy information.

(n) [(t)] The child support agency shall extend the withholding system to include withholding from wages derived in this state although the support order was issued by another state.

1. Within twenty (20) days of determining that withholding is appropriate for an interstate case, the initiating state shall notify the child support agency of the state where the noncustodial [absent] parent, or obligor, is employed to implement interstate withholding.

2. The notice shall contain:

- a. The amount requested to be withheld;
- b. The arrearage amount; and
- c. A copy of the child support and medical support order.

3. The state where the support order was entered shall provide the information necessary for withholding within thirty (30) days of the receipt of the request.

4. The state of the employer of the noncustodial parent, or obligor's employer [absent parent's employer] shall:

- a. Send notice to the noncustodial [absent] parent, or obligor, within fifteen (15) calendar days of locating the noncustodial [absent] parent, or obligor, or his employer;
- b. Provide the noncustodial [absent] parent, or obligor, with the opportunity to contest the withholding; and
- c. Send notice to his employer and to the noncustodial [absent] parent, or obligor.

5. The child support agency shall notify the state in which the custodial parent resides when the noncustodial [absent] parent, or obligor, is no longer employed in the state and provide the state with both the noncustodial [absent] parent's, or obligor's, and new employer's name and address, if known.

6. Except for when the withholding shall be implemented in the state where the support order is filed, the laws and procedures of the state where the noncustodial [absent] parent, or obligor, is employed shall apply.

(o) [(m)] The child support agency shall terminate wage withholding [proceedures] when there is no longer a current order of support and all arrearages have been satisfied.

(2) Withholding of unemployment compensation.

(a) The child support agency, through an agreement with the state employment security agency, shall provide withholding of a child support obligation from a noncustodial [an-absent] parent, or obligor, receiving unemployment compensation under the following conditions:

1. A noncustodial [An-absent] parent, or obligor, who is delinquent and owes child support may voluntarily sign an agreement to withhold child support from unemployment compensation benefits.

2. The employment security agency shall commence withholding if:

- a. An agreement is signed by the noncustodial [absent] parent, or obligor; or
- b. A notice of claim of intent to withhold is completed by the child support enforcement agency when the noncustodial [absent] parent, or obligor, fails to sign an agreement to withhold within fifteen (15) calendar days; and
- c. No mistake in fact or law is proven which causes the noncustodial [absent] parent, or obligor, to be found not owing.

(b) Withholding of unemployment shall not exceed fifty (50) percent of the benefit amount unless:

1. Ordered by a court of competent jurisdiction; or
 2. Requested by the noncustodial [absent] parent, or obligor.
- (3) Federal tax refund (offset).
- (a) Past-due child support, medical support payments (if a

specified dollar amount is included in the order) maintenance, and foster care related support shall qualify for offset if:

1. There is a court ordered or administratively established support obligation;

2. There has been an assignment of support to the child support agency;

3. The arrearage equals at least \$150 and shall have been delinquent at least three (3) months;

4. The arrearage shall be owed for a child or for a child and the parent with whom the child is presently living;

5. The child support agency shall determine the amount of the arrearage and have a copy of the payment record. If there is no payment record, the child support agency shall have an affidavit signed by the custodial parent attesting to the amount of support paid.

6. The child support agency shall verify the accuracy of the noncustodial [absent] parent's, or obligor's, name and Social Security number.

(b) Past due child support, medical support or maintenance in a nonpublic assistance case shall qualify for offset if:

1. There is a court ordered or administratively established support obligation and the child support agency is enforcing the order;

2. The arrearage shall be equal to no less than \$500 dollars and may not include fees, court costs, or any other non child support debt owed to the state or to the family;

3. The child support agency shall have verified the accuracy of the arrearage and have a copy of the support order, including modifications and a copy of the payment record. If there is no payment record, the child support agency shall have an affidavit signed by the custodial parent attesting to the amount of support paid;

4. The arrearage shall be owed on behalf of a child who lives with the client and who is a minor as of December 31 of the year in which the case is submitted for offset;

5. The child support agency shall calculate an assigned arrearage;

6. The child support agency shall verify the accuracy of the noncustodial [absent] parent's, or obligor's, name and Social Security number.

(4) State income tax refund (offset).

(a) A K-TAP [An-AFDC], foster care, or medical support arrearage which is owed by any person who is required to provide medical support for a child who is eligible for medical assistance (if a specified dollar amount is included in the order) related child support arrearage shall qualify for offset if:

1. There is an arrearage on a legally established child and medical support obligation;

2. The noncustodial [absent] parent's, or obligor's, name and Social Security number are known;

3. The arrearage is at least twenty-five (25) dollars; and

4. The arrearage has been verified as accurate.

(b) A nonpublic assistance support arrearage shall qualify for offset if criteria specified in Section 2(3)(b) of this administrative regulation is met and arrearages are not less than \$150.

Section 3. Kentucky Transitional Assistance Program (K-TAP) [Aid to Families with Dependent Children (AFDC)] Accounts Distribution. (1) A child support payment collected on behalf of a recipient of K-TAP [AFDC] shall:

(a) Be made payable to the child support agency; and

(b) Be reported to the K-TAP [AFDC] agency within ten (10) working days of the end of the month in which the support is received.

(2) A child support payment that makes the K-TAP [AFDC] family ineligible for K-TAP [AFDC] shall be reported to the child support agency by the K-TAP [AFDC] agency.

(a) If the family is ineligible for a K-TAP [an-AFDC] payment, the child support agency shall:

1. Distribute the amount of child support collected; and

agencies when subsequent location efforts are successful.

~~[(4) An absent parent whose case shall not be certified for federal tax refund intercept but may be reported to a consumer reporting agency shall receive prior notice of the past due amount of child support and of the right to request an administrative review within thirty (30) days of the receipt of the notice.~~

~~(a) If the preoffset letter is returned and location services are unsuccessful, that individual shall be deleted from the list sent by the child support agency.~~

~~(b) If location services are successful, his name may be added to an updated list.~~

~~(c) An identifying list of absent parents is forwarded to the credit reporting agency the January following the certification year.]~~

~~(3) [(5)] Denial or suspension of driver's license.~~

~~(a) The cabinet shall as provided by KRS 186.570(2): [As a remedy of last resort when all other civil remedies either do not apply or have been tried and have failed, including judicial remedies, the cabinet shall:]~~

1. Identify a case with a verified arrearage equal to one (1) year's obligation amount which accrued beginning January 1, 1994, or thereafter; and

2. Contact the contracting official to determine if the contracting official intends to pursue judicial action.

3. If the contracting official determines that judicial action will not be taken, advise the contracting official of the intent of the agency to proceed with the referral to revoke or deny a driver's license.

4. [2.] Send by first class mail to a noncustodial [an absent] parent, or obligor, who holds a valid Kentucky driver's license and who has the ability to pay support:

a. A notice of intent to request denial or suspension of a driver's license; and

b. A noncustodial [An absent] parent, or obligor, answer to notice of intent.

5. [3.] Notify the noncustodial [absent] parent, or obligor, that the only basis for resolution of the dispute shall be:

a. The arrearage is incorrect and does not equal or exceed the amount of support owed for one (1) year;

b. The wrong individual has been identified;

c. A bond is posted for the total arrearage which has accrued since January 1, 1994;

d. A payment agreement is entered into by the noncustodial [absent] parent, or obligor, to pay current support, plus a specified monthly payment amount on the total arrearage which has accrued since January 1, 1994. The monthly payments shall be:

(i) Fifty (50) percent if the arrearage owed is less than \$1,000; or

(ii) \$500 plus twenty-five (25) percent of the amount over \$1,000 if the arrearage is not less than \$1,000 and not greater than \$2,000; or

(iii) \$750 plus ten (10) percent of the amount over \$2,000 if the arrearage is \$2,000 or more; or

e. The noncustodial [absent] parent, or obligor, pays the total arrearage which has accrued since January 1, 1994.

(b) To assure delivery of the notice of intent, the cabinet shall refer the case for parent locator service if the notice is returned and the forwarding address is unknown;

(c) If the noncustodial [absent] parent, or obligor, requests a dispute hearing by contesting the arrearage based upon a mistake of fact and returns the noncustodial [absent] parent, or obligor, answer to notice of intent form within twenty (20) calendar days of the notification date, the cabinet shall:

1. Within ten (10) working days of the noncustodial [absent] parent's, or obligor's, response, schedule and hold an interview with the noncustodial [absent] parent, or obligor;

2. Attempt to resolve the dispute at the time of the interview; and

3. Forward the noncustodial [absent] parent's, or obligor's, written request for a hearing to the agency responsible for conducting the dispute hearing.

(d) The child support agency shall inform the agency responsible for conducting the hearing that:

1. A resolution has been reached as a result of the interview and a written request from the noncustodial [absent] parent, or obligor, to withdrawn the hearing request shall be sent; or

2. A resolution to the dispute has not been reached and the hearing request remains in effect.

(e) Upon the decision made by the agency conducting the hearing, and within twenty (20) calendar days of the hearing officer's decision, the child support agency shall notify the Transportation Cabinet of the request for the denial or suspension of the driver's license, unless:

1. The noncustodial [absent] parent, or obligor, makes full payment of the total arrearage that may have accrued since January 1, 1994;

2. The noncustodial [absent] parent, or obligor, enters into a payment agreement to pay current support, plus the specified amount on the total arrearage which accrued since January 1, 1994 as determined by paragraph (a)5d [(a)3d] of this subsection; or

3. The noncustodial [absent] parent, or obligor, posts a bond for the total arrearage which has accrued since January 1, 1994.

(f) If the case does not qualify for submittal to the Transportation Cabinet, a notice to deny or suspend the driver's license shall not be sent.

(g) If the noncustodial [absent] parent, or obligor, does not contest the arrearage or after the interview and hearing process, the case qualifies for submittal to the Transportation Cabinet, the Cabinet for Families and Children shall refer the name of the noncustodial [absent] parent, or obligor, to the Transportation Cabinet for the denial or suspension of the driver's license, unless:

1. The noncustodial [absent] parent, or obligor, makes full payment of the arrearage within twenty (20) calendar days of the interview by the Cabinet for Families and Children;

2. The noncustodial [absent] parent, or obligor, posts a bond within twenty (20) calendar days of the interview for the total arrearage which accrued since January 1, 1994; or

3. The noncustodial [absent] parent, or obligor, enters into a payment agreement to pay current support, plus the specified amount on the total arrearage which has accrued since January 1, 1994 as determined by paragraph (a)3d of this subsection.

(h) The Cabinet for Families and Children shall notify the Transportation Cabinet to reinstate or reissue a previously suspended or revoked driver's license if:

1. The noncustodial [absent] parent, or obligor, makes full payment of the arrearage;

2. The noncustodial [absent] parent, or obligor, posts a bond for the total arrearage amount; or

3. The noncustodial [absent] parent, or obligor:

a. Makes a good faith payment which equals three (3) months' current support; and

b. Enters into a payment agreement to pay the specified amount on the remaining arrearage which has accrued since January 1, 1994 as determined by paragraph (a)3d of this subsection.

Section 10. Appeal Procedure. An obligor may request a dispute hearing in accordance with KRS 405.490 or 405.450 as described in 904 KAR 2:400, Section 4.

Section 11. Material Incorporated by Reference. (1) Forms necessary for the collection and distribution of child support and medical support are incorporated effective February 15, 1995. These forms include:

(a) CS-44, revised 2/97; [CS-111, revised 5/89];

(b) CS-63, revised 2/97 [issued 2/05];

(c) CS-78, revised 2/97 [5/89];

(d) CS-111, revised 2/97;

(e) CS-122, revised 7/96;

student status pursuant to [as specified in] Section 1(4) of this administrative regulation shall be ineligible to participate unless they meet at least one (1) of the following criteria:

(a) Shall be engaged in paid employment for a minimum of twenty (20) hours per week or, if self-employed, shall be employed for a minimum of twenty (20) hours per week and receive weekly earnings at least equal to the federal minimum wage multiplied by twenty (20) hours; or

(b) Shall participate in a state or federally financed work study program during the regular school year; or

(c) Shall be responsible for the care of a dependent household member under the age of six (6); or

(d) Shall be responsible for the care of a dependent household member who has reached the age of six (6) but is under age twelve (12) where the cabinet has determined that adequate child care is not available to enable the individual to attend class and to satisfy the work requirements of paragraphs (a) and (b) of this subsection; or

(e) Shall receive benefits from the Kentucky Transitional Assistance Program (K-TAP) [Aid-to-Families-with-Dependent-Children Program (AFDC)];

(f) Shall be assigned to or placed in an institution of higher learning through a program pursuant to [under]:

1. 29 USC 1501;
2. 7 USC 2015; or
3. 19 USC 2296;

(g) Shall be enrolled in an institution of higher learning as a result of participation in a work incentive program pursuant to [under] 42 USC 681; or

(h) Is a single parent with responsibility for the care of a dependent household member under age twelve (12).

(6) Social Security number (SSN).

(a) Households applying for or participating in the Food Stamp Program shall comply with SSN requirements by providing the SSN of each household member or applying for one prior to certification.

(b) Failure to comply without good cause shall be determined for each household member and shall result in an [such] individual's disqualification from participation in the Food Stamp Program until this requirement is met.

(7) Work registration. All household members shall be required to comply with the work registration requirements, unless exempt, pursuant to [as described in] 904 KAR 3:042 [3:044], Food Stamp Employment and Training Program.

(8) Work requirement.

(a) An individual shall not [No individual shall] be eligible to participate in the Food Stamp Program as a member of any household if, during the preceding thirty-six (36) month period, excluding any period prior to December 1, 1996, the individual received food stamp benefits in any state or territory of the United States, for not less than three (3) months, consecutive or otherwise, during which the individual did not:

1. Work twenty (20) hours or more per week, averaged monthly;
2. Participate in and comply with the requirements of the Employment and Training Program component pursuant to 7 USC 2015(d) for twenty (20) hours or more per week, other than:

- a. A job search component; or
- b. A job search training component;

3. For twenty (20) hours or more per week, participate in and comply with the requirements of a program pursuant to:

- a. 29 USC 1501 [4540] et seq.; or
- b. 19 USC 2296; or

4. Pursuant to 904 KAR 3:042, participate in and comply with the requirements of the following workfare programs:

a. The Work Experience Program component of the Food Stamp Employment and Training Program; or

b. The Community Service Program.

5. Receive food stamp benefits pursuant to paragraph (b), (c) or (d) of this subsection.

(b) Paragraph (a) of this subsection shall not apply to an individual if the individual is:

1. Under eighteen (18) or over fifty (50) years of age;
2. Medically certified as physically or mentally unfit for employment;

3. A parent or other member of a household with responsibility for a dependent child under the age of eighteen (18);

4. Exempt from work registration pursuant to 904 KAR 3:042, Section 2; or

5. Pregnant.

(c) Paragraph (a) of this subsection shall not apply if, pursuant to an approved waiver by the Food and Consumer Service, the county or area in which the individual resides:

1. Has an unemployment rate of over ten (10) percent; or
2. Does not have a sufficient number of jobs to provide employment.

(d) Subsequent eligibility.

1. An individual denied eligibility under paragraph (a) of this subsection shall regain eligibility to participate in the Food Stamp Program if, during a thirty (30) day period, the individual meets the conditions of paragraph (a)1, 2, 3, or 4 of this subsection.

2. An individual who regains eligibility pursuant to subparagraph (d)1 of this paragraph shall remain eligible as long as the individual meets the requirements of subparagraph 1 of this paragraph.

(e) Loss of employment or training.

1. An individual who regains eligibility under paragraph (d)1 of this subsection and who no longer meets the requirements of paragraph (a)1, 2, 3, or 4 of this subsection, through no fault of their own, shall remain eligible for a consecutive three (3) month period, beginning on the date the individual first notifies the cabinet that the individual no longer meets the requirements of paragraph (a)1, 2, 3, or 4 of this subsection.

2. An individual shall not receive any benefits under subparagraph 1 of this paragraph for more than a single three (3) month period in any thirty-six (36) month period.

(f) Nothing in this section shall make an individual eligible for food stamp benefits if the individual does not meet all other technical and financial eligibility criteria pursuant to 7 USC 2011 et seq.

(9) Quality control. Refusal to cooperate in completing a quality control review shall result in termination of the participating household's benefits.

JOHN L. CLAYTON, Commissioner

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: February 24, 1997

FILED WITH LRC: March 11, 1997 at 3 p.m.

CABINET FOR FAMILIES AND CHILDREN
Division of Family Services
Department for Social Services
(As Amended)

905 KAR 5:040. Standards for state-funded spouse abuse shelters.

RELATES TO: KRS 194.535, 209.030(7)[, 209.160]

STATUTORY AUTHORITY: KRS 194.050(1), 194.535(1), 209.030(1), EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 209.030(1) authorizes the Cabinet for Families and Children [Human Resources] to adopt administrative regulations, procedures, guidelines and policies to provide for the protection of adults. [KRS 209.160 authorizes additional funds from marriage licenses to be used for spouse abuse shelters.] KRS 194.535 authorized the cabinet to adopt administrative regulations setting forth the requirements for initial training courses for staff of agencies providing protective shelter

Section 4. Physical Facilities. (1) The spouse abuse shelter shall comply with applicable local, state and federal building, fire, safety and health codes.

(2) The spouse abuse shelter shall be of sound construction and suitable for residential use.

(3) The spouse abuse shelter shall:

- (a) Be dry;
- (b) Be adequately heated, ventilated, and lighted;
- (c) Have windows, doors, stoves, heaters, furnaces, pipes, and ventilating fans protected;
- (d) Have screening provided for windows and doors unless air-conditioned;

- (e) Have floors free from splinters and easily cleaned; and
- (f) Have gas heaters and stoves properly ventilated.

(4) A recreation area with comfortable furnishings in sufficient quantity to accommodate the number of children and adults using it shall be provided.

(5) Bedrooms shall:

- (a) Be equipped with a bed for each client, of adequate size, with suitable springs, mattress, pillow, and bedding; and
 - (b) Have adequate closet space and individual drawer space.
- (6) The spouse abuse shelter and grounds shall be well maintained.

(7) Each spouse abuse shelter shall maintain a security system to provide for the physical safety of the client.

Section 5. Medical and Dental. The spouse abuse shelter shall assure that access to emergency medical and dental services are available within the community or within close proximity.

Section 6. Meals. The spouse abuse shelter shall provide clients with three (3) meals per day, each including foods from at least three (3) of the four (4) basic food groups.

Section 7. Services. (1) The spouse abuse shelter shall maintain and provide services on a continuing basis and for as many hours as are necessary to meet the needs of eligible persons.

(2) Staff of the spouse abuse shelter shall ~~are to~~ apprise clients of resources available from the spouse abuse shelter or by referral which may assist them in the solution of their problems.

(3) Upon entrance into the spouse abuse shelter, or if receiving a spouse abuse related service, the following minimal information shall be obtained and recorded in a permanent record:

- (a) Name, date of birth, sex, address, marital status;
- (b) Names and date of birth of accompanying dependents;
- (c) Identification of reason for intake;
- (d) Identification of physical injury;
- (e) Medical attention provided;
- (f) Identification of physical condition or ailment which may impact upon services to be offered the client; and
- (g) Prior contacts with a spouse abuse shelter.

(4) Immediately following gathering the information required in subsection (3) of this section, the information shall be reported to the offices of the department located within the county where the spouse abuse shelter exists. This report shall constitute compliance with the provisions of KRS 620.030(2) and 209.030(2).

(5) Upon completion of the gathering of information as required in subsection (3) of this section, a service plan shall be developed for each individual and accompanying dependents setting forth a summary of services needed by the individual and available within the spouse abuse shelter and community.

(6) Referral of the client for services outside the spouse abuse shelter shall be documented and maintained in the client's permanent case record. Service coordination with other agencies shall also be documented in the case record.

(7) Daily program activities shall be offered with emphasis upon each client's physical, intellectual and social needs.

(8) The spouse abuse shelter shall have and enforce a policy which prohibits possession of weapons, alcohol or nonprescribed drugs while in the shelter.

(9) The spouse abuse shelter shall keep client medication in a locked cabinet. Spouse abuse shelter staff shall not dispense nor administer medication but allow each client to take their own medication as prescribed. Shelter staff shall also keep a record of medication taken by a client during their stay at the spouse abuse shelter.

(10) Cruel or unusual punishment shall not be used.

(11) Each spouse abuse shelter shall develop and implement procedures to provide for the movement to more appropriate accommodations for those clients:

- (a) Who present a danger to self or others; or
- (b) Who refuse to comply with spouse abuse shelter rules.

(12) Each spouse abuse shelter shall establish written procedures to be given to each client upon initial contact describing the services to be rendered and a method for handling client complaints. The complaint procedure shall include an opportunity for the client to have access to the department's grievance procedure for review. The department shall have access to client records in the possession of each spouse abuse shelter for review upon the filing of a service complaint by the client.

(13) Each spouse abuse shelter shall assure that services are available to residents in the area development district in which the agency is located. A spouse abuse shelter may accept referrals on a statewide basis ~~if~~ ~~as long as~~ space is available. Each spouse abuse shelter shall cooperate with other spouse abuse agencies on a statewide basis.

(14) Each spouse abuse shelter shall develop and implement procedures for emergency and temporary shelter closure.

(15) Each spouse abuse shelter shall maintain a record of unusual incidents involving a client ~~or clients~~ and shall forward a copy of the incident report to the department.

(16) Each spouse abuse shelter shall develop and implement a plan for the provision of outreach services in counties of the area development district in which it is located.

Section 8. Records. (1) Client case records shall be maintained on each individual or family unit served by the spouse abuse shelter during the time that the client or family unit is receiving services.

(2) Client case records of each agency shall be maintained as confidential and shall not be shared with persons outside the cabinet. Records of the Cabinet for Families and Children ~~(Human Resources)~~, Department for Social Services, in the possession of an agency are strictly confidential and shall be shared with other individuals or organizations only as provided in KRS 209.140, 194.060, and 620.050 and with the prior written permission of the department.

(3) The department shall have access to the agency property and to records of services provided, including but not limited to agency financial and client case records for the purpose of auditing and monitoring.

DONNA HARMON, MSW, Commissioner

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: February 20, 1997

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104-2081.

(5) "Veteran" is defined by 38 USC 101 [in Section 101 of Title 38 of the United States Code].

Section 2. The Categorically Needy. **An individual** [All individuals] receiving [Aid to Families with Dependent Children, Title IV-E benefits, Supplemental Security Income, or] Optional or Mandatory State Supplementation shall be eligible for **Medicaid** [MA] as a categorically needy **individual** [individuals]. In addition, the following classifications of needy persons shall be included in the program as categorically needy and thus eligible for **Medicaid** [MA] participation.

(1) **A child** [Children] in a foster family care or private nonprofit child caring **institution** [institutions] dependent in whole or in part on a governmental or private agency;

(2) **A child** [Children] in a psychiatric **hospital** [hospitals], psychiatric residential treatment **facility** [facilities], or medical **institution** [institutions] for the mentally retarded;

(3) **A pregnant woman** [Pregnant women];

(4) **A child** [Children] of unemployed parents;

(5) **A child** [Children] in a subsidized **adoption** [adoptions] dependent in whole or in part on a governmental agency;

(6) **A family which** [Families who] correctly received **Medicaid** [K-TAP] for three (3) of the last six (6) calendar months and **would have been terminated from receipt of AFDC using AFDC methodologies in effect on July 16, 1996** [are terminated from receipt of K-TAP] as a result of new or increased collection of child or spousal support shall be eligible for extended Medicaid coverage for four (4) consecutive calendar months beginning with the first month the **family would have been ineligible for AFDC** [of ineligibility for K-TAP].

(7) **A family which would have been** [Families] terminated from **AFDC assistance using the AFDC methodologies in effect on July 16, 1996** [K-TAP assistance] [the Aid to Families with Dependent Children (AFDC) program] because of increased earnings, hours of employment or loss of earnings disregards;

(8) [(7)] **A child** [Children] (but not **his** [their] parents) who **would have been financially eligible for** [meet the income and resource requirements of the] Aid to Families with Dependent Children **benefits using the AFDC methodologies in effect on July 16, 1996** [program], who **was** [were] born after September 30, 1983 and who **is** [are] under the age of five (5); and effective July 1, 1987, **a child** [children] (but not **his** [their] parents) who **would have been financially eligible for** [meet the income and resource requirements of the] Aid to Families with Dependent Children **benefits using AFDC methodologies in effect on July 16, 1996** [Program], who **meets the definition of Section 1(1) of this administrative regulation** [are under eighteen (18) years of age (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19))];

(9) [(8)] **A child** [(ren)] born to a woman eligible for and receiving **Medicaid** if [medical assistance, so long as] the child[(ren)] has not reached his first birthday, resides in the household of the woman, and the woman remains (or would remain if pregnant) eligible for the [such] assistance. In this situation, an application shall be [is] deemed to have been made and the child found eligible for **Medicaid** [MA] as of the date of birth;

(10) [(9)] **An individual** [Individuals] in an **institution** [institutions] meeting appropriate patient status criteria who (if not institutionalized) would not be eligible for supplemental security income (SSI) or optional state supplementation benefits due to income, shall be eligible under a special income level which is set at 300 percent of the SSI benefit amount payable for an individual with no income. Eligibility for a similar hospice **participant** [participants] and similar **participant** [participants] in the waiver projects of home and community based services for the mentally retarded and the aged, blind or disabled shall also be determined under this provision.

Eligibility of an individual whose gross income exceeds 300 percent of the previously specified SSI benefit amount shall not be determined in accordance with this provision;

(11) [(10)] **A** qualified severely impaired **individual** [individuals] as specified in 42 USC 1396a(a)(10)(A)(i)(II) and **1396d** [Sections 2, 3 and 4 of PL 99-643] (to the extent the [such] coverage is mandatory in this state);

(12) [(11)] **An individual** [Individuals] who loses SSI eligibility but would be eligible for SSI benefits except for entitlement to or an increase in child's insurance benefits based on disability as specified in **42 USC 1383c** [Section 6 of PL 99-643];

(13) [(12)] **An individual** [Individuals] specified in **42 USC 1383c** [Section 6 of PL 99-643] who loses SSI or state supplementation payments as a result of receipt of benefits under 42 USC 402(e) or (f), would be eligible for SSI or SSP except for these [such] benefits, and **is** [are] not entitled to hospital insurance benefits under the Medicare program;

(14) [(13)] **A woman** [Women] during pregnancy (and as though pregnant through the end of the month containing the 60th day of a period beginning on the last day of pregnancy), and **an infant and child** [infants and children] under six (6) years of age, as specified in 42 USC 1396a(1)(I), **shall be** [subject to the following]:

(a) **Pregnant women, infants and children are** required to meet the income requirements for this eligibility group as specified in 907 KAR 1:640 [Income standards for Medicaid] [1:004, Resource and income standard of medically needy]; and]

(15) [(14)] If [(b) When] an eligible infant or child [eligible under this provision] is receiving covered inpatient services on a birthday which will make him ineligible due to age, the infant or child **shall** [will] remain eligible until the end of the stay for which the covered inpatient services are furnished if [so long as] the infant or child remains otherwise eligible except for age;

(16) [(15)] [(14)] Applicable with regard to determinations of eligibility for periods beginning on or after July 1, 1991, **a child** [children] born after September 30, 1983, who **has** [have] attained six (6) years of age but **has** [have] not attained nineteen (19) years of age as specified in 42 USC 1396a(1)(I); and

[(15) Effective with regard to determination of eligibility for periods beginning on or after January 1, 1991, participants in a work supplementation program under the Title IV-A program (Aid to Families with Dependent Children (AFDC)) and any child or relative of the participating individual (or other individual living in the same household as the participating individual) who would be eligible for AFDC if there was no work supplementation program; and]

(17) [(16)] Applicable with regard to determinations of eligibility for periods beginning on or after January 1, 1991, **a disabled widow, widower** [widows, widowers] and disabled surviving divorced **spouse** [spouses], who **would** [should] be eligible for SSI except for entitlement to an old-age, survivors, and disability insurance (OASDI) benefit resulting from a change in the definition of disability.

Section 3. [2-] The Medically Needy. **An individual** [Other individuals] (including **a child** [children] as shown in Section 2(8) [(1)] [(7)] of this administrative regulation), and **a pregnant woman** [pregnant women] meeting income and resource standards of the medically needy program) meeting technical requirements comparable to the categorically needy group, but with sufficient income to meet **his** [their] basic maintenance needs may apply for **Medicaid** [MA] with need determined in accordance with income and resource standards prescribed by [administrative regulations] 907 KAR 1:004 and 907 KAR 1:640 through 907 KAR 1:665 of the Cabinet for **Health Services** [Human Resources]. [Included within] The medically needy eligible groups **shall include:**

(1) **A pregnant woman** [are pregnant women] during the course of **her** [their] pregnancy; and

(2) A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance, shall continue to be eligible as

other good cause established to the satisfaction of the Medicaid program.

2. If ~~(When)~~ a family no longer has a dependent child living in the home, Medicaid ~~(medical assistance)~~ for ~~(all)~~ family members, except the former dependent child, shall be terminated the last day of the month the family no longer includes a dependent child, with the eligibility for the former dependent child~~(ren)~~ determined in accordance with usual program requirements.

3. If the family's income exceeds the income standard or does not meet the reporting requirements, except for good cause established to the satisfaction of the Medicaid program, the medical assistance shall be terminated the last day of the appropriate reporting month.

(c) Good cause shall exist ~~(exists)~~ under the following circumstances:

1. The specified relative was out-of-town for the reporting month;
2. An immediate family member living in the home was institutionalized or died during the reporting month;

3. The assistance group was the victim of a natural disaster including a ~~(such as)~~ flood, storm, earthquake or serious fire; or

4. The assistance group moved and reported the move timely, but the move resulted in a delay in receiving or failure to receive the transitional medical assistance report form.

(9) A parent, including a natural or adoptive parent, ~~(Parents)~~ may be included for assistance in the case ~~(cases)~~ of a family ~~(families)~~ with a child ~~(children including natural and adoptive parents)~~.

(a) If a parent is ~~(parents are)~~ not included in the case, one (1) other caretaker relative may be included ~~(Other relatives who may be included in the case (one (1) only) are caretaker relatives)~~ to the same extent ~~he (they)~~ would have been ~~(may be)~~ eligible in the Aid to Families with Dependent Children Program using the AFDC methodology in effect on ~~(prior to)~~ July 16, 1996.

(b) A caretaker relative shall ~~(a) These~~ include:

- 1. Grandfather;**
- 2. Grandmother;**
- 3. Brother;**
- 4. Sister;**
- 5. Uncle;**
- 6. Aunt;**
- 7. Nephew;**
- 8. Niece;**
- 9. First cousin; and**
- 10. First cousin once removed;**
- 11. A relative of the half-blood;**
- 12. Preceding generations denoted by prefixes of:**

- a. Grand;**
- b. Great;**
- c. Great-great; or**
- d. Great-great-great; and**

13. A stepfather, stepmother, stepbrother, stepsister; stepgrandmother, stepgrandfather.

(10) An applicant who is deceased shall have eligibility determined in the same manner as if he ~~were~~ ~~(was)~~ alive, in order to pay medical bills during the terminal illness.

(11) Children of the same parent, i.e., a "common" parent, residing in the same household shall be included in the same case unless this acts to preclude eligibility of an otherwise eligible household member. If a family member~~(s)~~ is pregnant, the unborn child~~(ren)~~ shall be considered as a family member~~(s)~~ for budgeting purposes.

(12) The following citizenship and residency requirements shall be applicable:

(a) To be eligible for Medicaid, an applicant or recipient shall be a:

- 1.a. Citizen of the United States; or**
- b. Effective January 1, 1997, and except as provided in paragraph (b) of this subsection, a qualified alien admitted for**

permanent residence; and

2. A resident of Kentucky meeting the conditions for determining state residency under 42 CFR 435.403. ~~(To be eligible, an applicant or recipient shall be a citizen of the United States or effective January 1, 1997, a qualified alien (or an alien legally admitted to this country or an alien who is residing in this country under color of law (except as specified in paragraph (b) of this subsection)). An alien shall have been admitted for permanent residence except as shown in paragraph (b) (paragraphs (b), (c) and (d)) of this subsection. The applicant or recipient shall also be a resident of Kentucky. Generally, this means the individual must be residing in the state for other than a temporary purpose; however, there are exceptions with regard to recipients of a state supplementary payment and institutionalized individuals. The conditions for determining state residency are specified in federal regulations at 42 CFR 435.403.)~~

(b) A nonqualified alien ~~(An alien not legally admitted to this country or residing in this country under color of law)~~ shall be eligible for medical assistance under the following circumstances and conditions:

1. Except as provided in subparagraph 2 of this paragraph, an alien shall meet all requirements for receipt of Medicaid.

2. An alien who does not receive a K-TAP or federal supplemental security income (SSI) cash payment shall:

- a. Be qualified as a categorically needy recipient; and**
- b. Meet the income, resource and categorical requirements of the applicable cash assistance program. ~~(The alien shall (must) meet all other requirements for receipt of Medicaid (medical assistance), however, an alien qualifying as a categorically needy recipient need not actually receive a K-TAP (an AFDC) or federal supplemental security income (SSI) cash payment if (so long as) the alien meets the income resource and categorical requirements of the applicable cash assistance program.)~~**

3. ~~(2-)~~ The alien shall ~~(must)~~ have (or have had within the usual period for retroactive eligibility) an emergency medical condition not related to an organ transplant procedure, defined as a medical condition (including severe pain) in which ~~(such that)~~ the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part;

4. ~~(3-)~~ Approval of eligibility shall be for a time limited period, with that ~~(such)~~ period to include the month in which the medical emergency began and the next following month, with the added provision that the eligibility period shall be extended for an appropriate period of time upon presentation to the department ~~(cabinet)~~ of acceptable documentation that the medical emergency will exist for a more extended period of time than is allowed for in the time limited eligibility period; and

5. ~~(4-)~~ The Medicaid ~~(medical assistance)~~ to which the alien shall be entitled is limited to the medical care and services (including limited follow-up) necessary for the treatment of the emergency medical condition of the alien.

~~(e) Select groups of aliens who are illegally residing in this country may qualify for legalization of residence status under Section 204 of PL 99-603. These aliens are prohibited from Medicaid eligibility for a period of five (5) years (beginning on the date temporary resident status is granted) except as follows:~~

- 1. The aged, blind or disabled may be eligible;**
- 2. Children under age eighteen (18) may be eligible;**
- 3. Pregnant women may be eligible for pregnancy-related services only; and**
- 4. All these aliens may qualify for emergency services to the extent specified in paragraph (b) of this subsection and with the limitations shown.**

~~(d) Aliens qualifying for legalization of status as seasonal agricultural workers under Section 302 of PL 99-603 shall be subject to the same coverage limitations as shown in paragraph (c) of this~~

support for her unborn child.

Section 11. ~~[4-]~~ Provision of Social Security Numbers. (1) **Except as provided in subsections (2) and (3) of this section,** each applicant for or recipient of Medicaid ~~[medical assistance]~~ shall be required to provide a social security number as a condition of eligibility ~~[except as provided in this section]~~.

(2) An individual ~~[However, no one]~~ shall ~~not~~ be denied eligibility or discontinued from eligibility due to a delay in receipt of a social security number from the Social Security Administration ~~if [when]~~ appropriate application for ~~the [such]~~ number has been made.

(3) If the specified relative refuses to cooperate with obtaining a social security number for the newborn child or other dependent children, the specified relative shall be ineligible due to failure to meet technical requirements. The newborn child or other dependent **shall** ~~[may]~~ still be eligible for Medicaid ~~[medical assistance]~~ if financial eligibility requirements are met.

JOHN H. MORSE, Commissioner, Secretary
APPROVED BY AGENCY: April 2, 1997
FILED WITH LRC: April 3, 1997 at 3 p.m.

**CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Administration and Development
(As Amended)**

907 KAR 1:381. Repeal of 907 KAR 1:380.

RELATES TO: KRS ~~[43A.340,]~~ 205.520

STATUTORY AUTHORITY: KRS ~~[43A.340,]~~ 194.050, **205.520(3)**
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. This administrative regulation **repeals** ~~[acts specifically to repeal]~~ 907 KAR 1:380 which is obsolete. A new manual, titled Ambulatory Surgical Centers Manual is incorporated in 907 KAR 1:008.

Section 1. 907 KAR 1:380, Incorporation by reference of the Ambulatory Surgical **Center** ~~[Centers]~~ Services Manual, is hereby repealed.

JOHN H. MORSE, Commissioner and Secretary
APPROVED BY AGENCY: February 13, 1997
FILED WITH LRC: February 14, 1997 at 11 a.m.

**CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Administration and Development
(As Amended)**

907 KAR 1:605. Medicaid procedures for determining initial and continuing eligibility.

RELATES TO: KRS 205.520, **42 CFR 435.530, 435.531, 435.540, 435.541, 435.914, 435.916,** 42 USC 416, 1382c, 1396a, b, d

STATUTORY AUTHORITY: KRS 194.050, 205.520(3) ~~[, 42 CFR 435.630, 435.631, 435.640, 435.541, 435.914, 435.916, 42 USC 1396a, b, d], EO 96-862~~

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services ~~[Human Resources]~~ has responsibility to administer the Medicaid Program. Executive

Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. KRS 205.520 **authorizes** ~~[empowers]~~ the cabinet, by administrative regulation, to comply with **a** ~~[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 **establishes** ~~[sets forth]~~ provisions relating to determining initial and continuing eligibility for assistance under the Medicaid Program.

Section 1. Definitions. "Partnership" **is** ~~[means as]~~ defined in 907 KAR 1:705.

Section 2. Eligibility Determination Process. (1) **Except as provided in subsection (3) of this section,** eligibility shall be determined prospectively~~[, except that for retroactive coverage eligibility shall be determined pursuant to subsection (3) of this section]~~. To receive or continue to receive assistance, a household shall meet technical and financial eligibility criteria **pursuant to this section and** Section 3 of this administrative regulation and as **established** ~~[set forth]~~ in 907 KAR ~~[4:004 and]~~ 1:011, 907 KAR 1:640 and 907 KAR 1:645 for the appropriate month of coverage.

(2) Each decision regarding eligibility or ineligibility for Medicaid shall be supported by facts recorded in the case record.

(a) The applicant or recipient shall be the primary source of information and shall be required to:

1. Furnish verification of financial and technical eligibility as **required by** ~~[set forth in]~~ 907 KAR ~~[4:004 and]~~ 1:011, 907 KAR 1:640, and 907 KAR 1:645; **and**

2. Give written consent to those contacts necessary to verify or clarify **a** ~~[any]~~ factor pertinent to the decision of eligibility.

(b) **The department may schedule an appointment with an applicant or recipient to receive specified information as proof of eligibility. Failure to appear for the scheduled appointment or to furnish the requested information shall be considered a failure to present adequate proof of eligibility if the applicant or recipient was informed in writing of the scheduled appointment and the required information.** ~~[If [When] informed in writing of the appointment or necessary information to be provided, failure of the applicant or recipient to appear for a scheduled interview or present required information at the time requested shall be considered a failure by the applicant or recipient to present adequate proof of eligibility.]~~

(3) Retroactive eligibility for Medicaid shall be effective no later than the third month prior to the month of application if:

(a) A Medicaid service was received; ~~[and]~~

(b) Technical and financial eligibility requirements were met as **established** ~~[set forth]~~ in 907 KAR ~~[4:004 and]~~ 1:011, 907 KAR 1:640 and 907 KAR 1:645; **and**

(c)1. The applicant resides in a nonpartnership county; **or**

2. ~~[(d)]~~ The applicant resides in a county served by a partnership and meets one (1) of the excluded categories as **established** ~~[set forth]~~ in 907 KAR 1:705.

(4) Eligibility for qualified medicare beneficiary (QMB) coverage shall be effective the month after the month of case approval if technical and financial eligibility requirements were met as **established** ~~[set forth]~~ in 907 KAR ~~[4:004 and]~~ 1:011, 907 KAR 1:640 and 907 KAR 1:645.

Section 3. ~~[2-]~~ Continuing Eligibility. (1) The recipient shall be responsible for reporting within ten (10) days **a** ~~[any]~~ change in circumstances which may affect eligibility. In addition, eligibility shall be redetermined:

(a) ~~[(1)]~~ Every twelve (12) months; **or**

(b) If ~~[(2) When]~~ a report is received or information is obtained about a change in circumstances.

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following information:

1. Number of referrals and referral sources since last DEIC meeting;
2. List of current service provider including deletions and additions from last meeting;
3. Report on identified gaps related to services and location; and
4. A highlight of the month's activities that include the public awareness activities.

(b) Solicit advice from the DEIC, district technical assistance teams, and lead agency on child find, service options and other issues relevant to the First Steps Program.

~~(6)~~ ~~(6)~~ The POE staff shall act on all referrals for First Steps services.

(a) Upon receiving a telephone or written referral, POE staff shall:

1. Determine if the family is aware that a referral is being made; and

2. Do an initial screening to determine if the referral is appropriate based on:

a. Establishing that the child's age is between birth and three (3) years old;

b. Ensuring the family's residence is within the assigned district; and

c. Confirming that there is a developmental concern.

(b) If the initial screening finds the referral to be inappropriate, the POE shall give the referral source the appropriate resource to refer the child and family to the services that meet that child's needs. These resources include:

1. Public schools;
2. The Department for Social Services;
3. Medical services; or
4. Another POE.

(c) If it is determined that the referral is appropriate, POE staff shall contact the family by telephone or letter within five (5) working days for the purpose of:

1. Briefly informing them of First Steps' services;
2. Advising them that all services are voluntary; and
3. Ascertaining whether the family would like more information and an initial visit scheduled.

(d) If a family is interested, the POE staff shall schedule a visit and send the family a letter to confirm the date, time and location of the visit.

(e) If a family is not interested, the family shall be informed by the POE staff that they can contact the POE at any time to reinstate the referral and the POE staff shall:

1. Document in the child's record, the refusal of services; and
2. Send a letter to the referral source explaining refusal of services by the family.

(f) If efforts to contact the family by telephone and in writing fail, in order to bring closure to the referral the POE staff shall send a follow-up letter within ten (10) working days of the referral encouraging the family to contact the POE at anytime to:

1. Initiate services; or
2. To ask further questions.

(g) Within fifteen (15) working days the POE staff shall send, in writing, an acknowledgment to the referral source that the referral was received and the status of the processing of the referral, if known at the time.

~~(7)~~ ~~(6)~~ At the initial visit to the family, the POE staff shall:

- (a) Identify the purpose of the visit;
- (b) Explain the First Steps services;
- (c) Explain the family rights by giving the family the "Family Rights Handbook" and review the statement of assurances;
- (d) Obtain signature of parent on statement of assurance;
- (e) Obtain release of information for medical or developmental information from parent;

(f) Determine willingness to participate in First Steps services or refusal of services;

(g) Interview family to help them determine priorities, resources and concerns;

(h) Complete developmental and social history form;

(i) Determine next action needed with family to determine eligibility of child;

(j) Discuss evaluation and service options that include:

1. Convenience;
2. Funding sources; and
3. Family preference.

(k) Establish potential date for developing Individualized Family Service Plan (IFSP);

(l) Discuss options for a primary service coordinator; and

(m) Collect data necessary for billing.

~~(8)~~ ~~(7)~~ All children referred to First Steps because of suspected developmental delay or established risk condition shall have the hearing checklist completed prior to the initial IFSP meeting.

~~(9)~~ ~~(8)~~ The POE staff shall use the following to assist in the determination of hearing status:

(a) If the referral is a birth to three (3) year old child who is "at risk" as indicated on the Kentucky High Risk Hearing Registry and the "at risk" indicator is the only reason they were referred to First Steps, and no audiological screen has been done, the child and family shall be notified to contact their pediatrician or a clinic for an audiological screen to determine hearing status.

(b) If the referral is a birth to three (3) year old child who is suspected of having a hearing problem, but not suspected of having any developmental problems, the family shall be notified to contact their pediatrician or a clinic for an audiological screen to determine hearing status.

(c) If the referral is a birth to three (3) year old child with a diagnosis of significant hearing loss, as specified ~~approved~~ by KRS 200.645(10) ~~the state~~, the child is considered to have an "established risk" diagnosis and the child shall be eligible for First Steps services and the referral process continues.

(d) If a birth to three (3) year old child who is suspected of having a hearing loss, with no verification of degree of loss or diagnosis, and suspected of having delays in developmental areas, POE staff shall initiate the evaluation for First Steps, which should include an audiological evaluation.

(e) If a birth to three (3) year old child is referred because of suspected developmental delay or established risk condition, but no apparent hearing problems, the POE shall complete the hearing checklist prior to IFSP meeting.

~~(10)~~ ~~(9)~~ POE staff shall coordinate the evaluation process for eligibility determination within the federally mandated time line of forty-five (45) days from receipt of referral.

(a) The POE staff shall gather existing documentation that will be used to determine eligibility; and

(b) Shall ensure that all releases are completed and on file.

~~(11)~~ ~~(10)~~ The POE staff shall make appropriate referrals to secure needed evaluations of the child's medical and developmental status. Medicaid eligible children shall have the approval of their Medicaid primary care physician to assure reimbursement of services.

~~(12)~~ ~~(11)~~ The POE staff shall ensure that referrals for needed assessments shall be completed and that those reports shall be made available for initial the IFSP.

(a) The POE staff shall make the appropriate referrals for needed assessments prior to initial IFSP.

(b) The POE staff shall request copies of completed assessment reports to be included in the child's record and used in the development of initial IFSP.

(c) The POE staff shall send all future assessment reports to the primary service coordinator.

~~(13)~~ ~~(12)~~ The POE staff shall coordinate and ensure completion of the initial individualized family service plan (IFSP) meeting within federally mandated time line of forty-five (45) calendar days from receipt of referral.

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Section 2. Material Incorporated by Reference. (1) Incorporated by reference Hearing Check List may be reviewed during regular working hours (8 a.m. to 4:30 p.m.) in the Office of the Commissioner, Department of Mental Health and Mental Retardation Services, 100 Fair Oaks Dr., Frankfort, Kentucky 40621. Copies may also be obtained from that office.

(2) Incorporated by reference District Early Intervention Committee Report may be reviewed during regular working hours (8 a.m. to 4:30 p.m.) in the Office of the Commissioner, Department of Mental Health and Mental Retardation Services, 100 Fair Oaks Dr., Frankfort, Kentucky 40621. Copies may also be obtained from that office.

(3) Incorporated by reference Family Rights Handbook may be reviewed during regular working hours (8 a.m. to 4:30 p.m.) in the Office of the Commissioner, Department of Mental Health and Mental Retardation Services, 100 Fair Oaks Dr., Frankfort, Kentucky 40621. Copies may also be obtained from that office.

ELIZABETH REHM WACHTEL, Commissioner

JOHN H. MORSE, Secretary

APPROVED BY AGENCY: March 20, 1997

FILED WITH LRC: March 21, 1997 at 11 a.m.

CABINET FOR HEALTH SERVICES Department for Mental Health and Mental Retardation Services Division of Mental Retardation (As Amended)

908 KAR 2:120. Kentucky Early Intervention Program evaluation and eligibility.

RELATES TO: 20 USC 1471-1485

STATUTORY AUTHORITY: KRS 200.650-676, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services is directed by KRS 200.650 to 200.676 to administer all funds appropriated to implement provisions, to enter into contracts with service providers, and to promulgate administrative regulations. This administrative regulation sets forth the provisions for evaluation and eligibility policies pertaining to First Steps, Kentucky's Early Intervention Program. Executive Order 96-862, effective, July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Mental Health and Mental Retardation and First Steps, Kentucky's Early Intervention Program, under the Cabinet for Health Services.

Section 1. Evaluation. (1) Every child shall have an evaluation or assessment as a part of his permanent record;

(a) A primary evaluation shall occur within forty-five (45) days after receipt of the referral; or

(b) If primary evaluation does not occur within forty-five (45) days due to illness of the child or a request by the parent, the delay circumstances shall be documented.

(2) The primary level evaluation is the first level in a multi-level system that shall be utilized to determine eligibility:

(a) The primary level is used when there are no existing evaluations available within the allowed time limits;

(b) Primary level evaluations shall provide evaluation in all five (5) developmental areas;

(c) The primary evaluation shall be provided by an approved team consisting of a physician or nurse practitioner and a developmental evaluator;

(d) Primary evaluation shall be multidisciplinary and shall minimally include:

1. A medical component completed by a physician or a nurse practitioner that includes:

a. A history and physical examination; and

b. A hearing and vision screening; and

c. A child's medical evaluation that shall be current according to the following:

(i) For children under twelve (12) months of age, the medical evaluation shall have been performed within three (3) months prior to referral to First Steps; and

(ii) For children twelve (12) months to three (3) years of age, the medical evaluation shall be performed within six (6) months prior to referral;

2. A developmental component completed by a qualified developmental evaluator that utilizes standardized measures and the results interpreted to the family.

(3) Verification of a child's eligibility for services shall be based upon the review by parents and professionals at the initial IFSP meeting;

(4) Reevaluations shall be provided when a child's eligibility warrants review or a new condition is suspected or becomes apparent;

(a) The need for reevaluation is determined by the IFSP team;

(b) Reevaluations shall be obtained at the level of evaluation determined to be needed by the IFSP team ~~(and initial evaluation provider)~~.

(5) An intensive evaluation is the second level in a multi-level system that shall be utilized to determine eligibility:

(a) A child shall be referred for an intensive level evaluation when:

1. A primary evaluator identifies a need for further developmental testing necessary to clarify a diagnosis or further define the child's developmental status.

2. A child doesn't meet eligibility guidelines at the primary level, but a primary evaluator or the family still have concerns that the child is developing atypically and a determination of professional judgement is needed.

3. When a concern of the child's condition warrants the review of records of the primary evaluation.

(b) An intensive level evaluation shall be provided by an approved team consisting of:

1. A board certified developmental pediatrician; or

2. A pediatrician who has experience in the area of early childhood development; and

3. One (1) or more qualified developmental professionals.

(6) A tertiary level evaluation is the third level in a multilevel system that shall be utilized to determine eligibility:

(a) A child shall be referred for a tertiary level evaluation when:

1. Diagnostic information is needed in specific areas.

2. The intensive team's review of records and the results of the primary evaluation indicate that the complexity of the problems warrant a more comprehensive neurodevelopmental evaluation that is not available at the intensive level.

(b) The tertiary team level evaluation is a comprehensive neurodevelopmental evaluation for the purpose of:

1. Establishing a definitive diagnosis;

2. Providing evaluation of the infant or young child with complex neurological and developmental problems; and

3. Making specific recommendations regarding treatment and service planning.

(c) The tertiary team evaluation shall be provided by an approved team at a tertiary medical center. The team shall include:

1. A board certified developmental pediatrician; and

2. A psychologist, with experience in early childhood development.

3. Others as identified.

(7) Family rights must be respected and procedural safeguards followed in providing evaluation services:

(a) Written parental consent shall be obtained before conducting an evaluation or assessment.

(b) If a parent or guardian refuses to allow a child to undergo a

Health Services is directed by KRS 200.650 to 200.676 to administer all funds appropriated to implement provisions, to enter into contracts with service providers, and to promulgate administrative regulations. This administrative regulation sets forth the provisions of assessment and the Individualized Family Service Plans used in First Steps, Kentucky's Early Intervention Program. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Mental Health and Mental Retardation and First Steps, Kentucky's Early Intervention Program, under the Cabinet for Health Services.

Section 1. Assessment. (1) Assessment shall be the on-going procedure used by qualified personnel throughout the period of a child's eligibility to identify:

- (a) The child's unique strengths and needs;
- (b) The services appropriate to meet those needs;
- (c) The family's resources, priorities and concerns which shall be:
 1. Voluntary on the part of the family;
 2. Family-directed; and
 3. Based on information provided by the family through personal interview; and
- (d) The supports and services necessary to enhance the family's capacity to meet the developmental needs of their child;
- (2) Every child determined eligible by established risk shall have an assessment in all five (5) areas of development:
 - (a) Within the first forty-five (45) days; or
 - (b) If assessment does not occur within forty-five (45) days due to illness of the child or a request by the parent, the delay circumstances shall be documented;
 - (3) Information gathered in the assessment shall be used to develop the individualized family service plan (IFSP);
 - (4) Every child enrolled in First Steps shall receive assessment as an integral part of service delivery throughout the period of the child's enrollment in the program;
 - (5) Prior to the annual review of the IFSP a formal assessment shall be performed and prior to the meeting a report provided to the primary service coordinator and family. For the six (6) month review of the IFSP, a summary of progress and on-going assessment information shall be provided to the primary service coordinator and the family before the meeting.

Section 2. Individualized Family Service Plan. (1) The IFSP is a contract with the family and providers.

(2) The following principles shall be adhered to in the development and implementation of the IFSP:

- (a) Infants and toddlers are uniquely dependent on their families for their survival and nurturance. This dependence necessitates a family-centered approach to early intervention;
- (b) Early intervention systems and strategies shall honor the racial, ethnic, cultural, and socioeconomic diversity of families;
- (c) The diversity of family patterns and structures. Each family has its own structure, roles, values, beliefs, and coping styles. Respect for and acceptance of this diversity is a cornerstone of family-centered early intervention;
- (d) Respect for family autonomy, independence, and decision making means that families must be able to choose the level and nature of early intervention's involvement in their lives;
- (e) Family and professional collaboration and partnerships are the keys to family-centered early intervention and to successful implementation of the IFSP process;
- (f) No one (1) agency or discipline can meet the diverse and complex needs of infants and toddlers with special needs and their families. Therefore, a team approach to planning and implementing the IFSP is necessary;
- (g) An enabling approach to working with families requires that professionals reexamine their traditional roles and practices and develop new practices when necessary that promote mutual respect

and partnerships;

(h) First Steps services shall be flexible, accessible and responsive to family-identified needs;

(i) First Steps services shall be provided according to the normalization principle that families should have access to services provided in as normal a fashion and environment as possible and that promote the integration of the child and family within the community;

(3) For a child that has been evaluated for the first time and determined eligible, a meeting to develop the initial IFSP shall:

(a) Be conducted within forty-five (45) days after the receipt of the referral; or

(b) If the IFSP does not occur within forty-five (45) days due to illness of the child or a request by the parent, the delay circumstances shall be documented;

(4) A review of the IFSP for a child and the child's family shall be conducted at least every six (6) months. A review shall be conducted more frequently if:

- (a) The family requests such a review; or
- (b) The child's conditions change; or
- (c) The service providers change;

(5) A meeting shall be conducted on at least an annual basis to evaluate the IFSP for a child and the child's family, and to revise if changes have occurred;

(6) With the approval of the family, the primary service coordinator shall arrange a conference to discuss the possible transition of the child. The conference shall be conducted at least ninety (90) days before the child's third birthday and shall include:

- (a) The family;
- (b) A representative of the local education agency and representatives of other potential settings;
- (c) The primary service coordinator as a representative of the First Steps Program;
- (d) Others identified by the family;
- (7) The IFSP shall include:

(a) Information about the child's present level of developmental functioning. Information shall cover the following domains:

1. Physical development that includes:

- a. Vision;
- b. Hearing;
- c. Fine and gross motor skills; and
- d. Health status and immunization of the child;

2. Cognitive development that include skills related to a child's mental development and includes basic sensorimotor skills, as well as preacademic skills;

3. Communication development that includes skills related to exchanging information or feelings, including receptive and expressive communication and communication with peers and adults;

4. Social or emotional development that include skills related to the ability of infants and toddlers to successfully and appropriately select and carry out their interpersonal goals. This includes:

- a. Interactions with peers and adults;
- b. Play skills;
- c. Self-concept development; and
- d. Bonding with family members;

5. Adaptive development that includes self-help skills necessary for independent functions, that include:

- a. Self-feeding;
- b. Toileting; and
- c. Dressing and grooming;

(b) Performance levels to determine strengths which can be used when planning instructional strategies to teach skills;

(c) A description of:

1. Underlying factors that may affect the child's development;
2. What motivates the child, as determined on the basis of observation, child interaction and parent report;

(d) With concurrence of the family, a statement of the family's resources, priorities and concerns related to enhancing the develop-

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

GENERAL GOVERNMENT CABINET
Real Estate Commission
(Amended After Hearing)

201 KAR 11:400. Agency disclosure requirements.

RELATES TO: KRS 324.160(1)(e)

STATUTORY AUTHORITY: KRS 324.160(1)(e), (j) 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.382

authorizes the Real Estate Commission to promulgate administrative regulations necessary to implement KRS Chapter 324. KRS 324.160(1)(e) permits the commission to take disciplinary action when a licensee acts for more than one (1) party in a transaction without the knowledge of all parties. This administrative regulation describes and requires disclosure of relationships between brokers, sales associates, and consumers.

Section 1. Definitions. (1) "Delivery" means delivery of an item to a prospective party or his broker or sales associate by:

- (a) Mail;
- (b) FAX transmission;
- (c) Messenger; or
- (d) Hand.

(2) "First contact" means the period:

(a) Before a contract containing a duty of representation and compensation is entered into by a:

1. Prospective party who does not have a broker or sales associate; and

2. A broker or sales associate who has offered to represent him.

(b) Before the beginning of discussions relating to a real estate transaction between a:

1. Prospective party who does not have a broker or sales associate; and

2. A broker or sales associate who has proposed to discuss the real estate transaction with him.

(3) "First substantial contact" means the period before a written offer to purchase is presented.

(4) "Prospective party" means a person who:

- (a) Enters a listing contract as a seller;
- (b) Enters a buyer broker agreement as a buyer; or
- (c) Seeks or uses the services of a broker or sales associate.

(5) "Prospective party who is represented by a broker or sales associate" means a person who has entered into a current listing contract, or buyer broker agreement with a broker or sales associate.

Section 2. The provisions of this administrative regulation shall not apply to:

- (1) Sales of real estate at auction; or
- (2) Property management of real estate.

(3) Commercial transactions. Commercial transaction means any transaction other than sales of single-family residential properties, multifamily properties containing four (4) units or less, single-family residential lots and agricultural property. [Commercial means any transaction other than sales of owner-occupied single family residential or agricultural property and sales of single family residential lots.]

Section 3. Prospective Party Information. (1) A broker or sales associate shall deliver to a prospective party an:

- (a) "Agency Information For Consumers Bulletin", on the first contact; and
- (b) "Agency Disclosure Form", on the first substantial contact.

(2) An "Agency Disclosure Form" shall:

(a) Be signed by each:

- 1. Prospective party to the transaction; and
 - 2. Broker or sales associate involved in the transaction; and
- (b) Identify:

1. Each prospective party known to the broker or sales associate making the disclosure except that prospective parties who intend to buy or rent for a nonowner occupant residential use who direct that their identity not be disclosed in writing, shall not be identified;

2. If a prospective party is represented by a broker or sales associate, the name of the broker or sales associate, his real estate company, and whom they represent except as provided in subparagraph 1 of this paragraph; and

3. The real estate that is the subject of the negotiation;

(c) Describe the personal, family, or business relationships between:

1. The broker or sales associate making the disclosure; and

2. Each prospective party known to the broker or sales associate when the disclosure is made;

(d) State whether the broker or sales associate making the disclosure is acting as a principal as a prospective:

- 1. Seller;
- 2. Buyer;
- 3. Lender; or
- 4. Investor.

(3) The "Agency Disclosure Form" and the "Agency Information For Consumers Bulletin" required by subsection (1) of this section shall be:

(a) The "Agency Disclosure Form Approved By Kentucky Real Estate Commission", and the "Agency Information For Consumers Bulletin Approved by Kentucky Real Estate Commission"; or

(b) An Agency Disclosure Form, and Agency Information For Consumers Bulletin, that have been developed by the broker or sales associate and approved by the commission.

(4) An "Agency Information For Consumers Bulletin" developed by a licensee:

(a) Shall consist of the material contained in the "Agency Information For Consumers Bulletin Approved by Kentucky Real Estate Commission"; and

(b) May contain the principal broker's logo and be in a format that differs from the "Agency Information For Consumers Bulletin Approved by Kentucky Real Estate Commission".

(5)(a) An "Agency Disclosure Form" or "Agency Information For Consumers Bulletin" that has been developed by the broker or sales associate, shall be submitted to the commission for approval.

(b) The general counsel of the commission shall:

- 1. Review the form or bulletin;
- 2. Make a recommendation to the commission that the form or bulletin be approved or disapproved; and
- 3. Inform the broker or sales associate of the commission's decision.

Section 4. Commission Review of Licensee Documents. The commission shall:

- (1) Review licensee listing agreements, buyer broker agreements, and purchase agreements;
- (2) Approve agreements that it determines contain the information required by this administrative regulation; and
- (3) Inform licensees of commission action.

Section 5. Incorporation By Reference. (1) The following documents are incorporated by reference:

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(2) "Collaborative practice agreement" means a written document jointly approved by the advanced registered nurse practitioner and at least one (1) physician which defines the scope of prescriptive authority for the advanced registered nurse practitioner. In this context, collaboration refers to the relationship between the advanced registered nurse practitioner and physician(s) in the provision of prescription medication. The collaboration includes both autonomous and cooperative decision-making, with advanced registered nurse practitioners and physicians contributing their respective expertise.

Section 2. The practice of the advanced registered nurse practitioner shall be in accordance with the standards and functions defined in the scope and standards of practice statements for each specialty area as adopted by the board. The board has adopted the following scopes and standards of practice of those national organizations recognized pursuant to 201 KAR 20:056, Section 3(2):

(1) American Nurses' Association, The Scope of Practice of the Primary Health Care Nurse Practitioner, 1985, Standards of Practice for the Primary Health Care Nurse Practitioner, 1987;

(2) American Nurses' Association, a Statement on Psychiatric - Mental Health Clinical Nursing Practice and Standards of Psychiatric - Mental Health Clinical Nursing Practice, 1994;

(3) American Nurses' Association, Statement on the Scope of Medical-Surgical Nursing Practice, 1980;

(4) American Nurses' Association, The Role of the Clinical Nurse Specialist, 1986;

(5) American Association of Nurse Anesthetists, Scope of Practice, 1992 Standards for Nurse Anesthesia Practice, 1989, and Patient Monitoring Standards, 1992;

(6) American College of Nurse-Midwives, Standards for the Practice of Nurse-Midwifery, 1993;

(7) Association of Women's Health, Obstetric and Neonatal Nurses and National Association of Nurse Practitioners in Reproductive Health, The Women's Health Nurse Practitioner: Guidelines for Practice and Education, 1996; [Nurses' Association of the American College of Obstetricians and Gynecologists (now known as the Association of Women's Health, Obstetric, and Neonatal Nurses), The OB/GYN Women's Health Nurse Practitioner, Role Definition, Competencies and Educational Guidelines, 1990;]

(8) National Association of Nurse Practitioners in Reproductive Health, Standards of Practice and Education for the Women's Health Nurse Practitioner, 1994;

(9) National Association of Pediatric Nurse Associates and Practitioners, Scope of Practice for Pediatric Nurse Practitioners, 1990, Standards of Practice for Pediatric Nurse Practitioners, 1987;

(10) [(9)] American Academy of Nurse Practitioners, Standards of Practice, 1993[;] and

[(10) American Academy of Nurse Practitioners,] Scope of Practice for Nurse Practitioners, 1993;

(11) American Nurses' Association/American Association of Critical Care Nurses, Standards of Clinical Practice and Scope of Practice for the Acute Care Nurse Practitioner, 1995; and

(12) National Association of Neonatal Nurses, Neonatal Nurse Practitioners: Standards of Education and Practice, 1992.

Section 3. In the performance of advanced registered nursing practice [aet], the advanced registered nurse practitioner shall practice in accordance with established protocol and the collaborative practice agreement, if applicable, and shall seek consultation or referral in those situations outside the advanced registered nurse practitioner's scope of practice. ~~[where practice requirements are not included in the established protocol.]~~

Section 4. Advanced registered nursing practice shall include prescribing treatments, drugs and devices and ordering diagnostic tests which are consistent with the scope and standard of practice of the advanced registered nurse practitioner.

Section 5. Advanced registered nursing practice shall not preclude the practice by the advanced registered nurse practitioner of registered nursing practice as defined in KRS 314.011(5).

Section 6. An advanced registered nurse practitioner who has a written collaborative practice agreement pursuant to KRS 314.042(8) shall file a copy of it with the board within thirty (30) days of entering it. The agreement shall include the name, address, phone number and license or registration number of both the advanced registered nurse practitioner and physician(s). It shall also include the specialty area of practice of the advanced registered nurse practitioner. Any change in the collaborative agreement shall be reported to the board within thirty (30) days.

Section 7. Prescribing without a written collaborative practice agreement shall constitute a violation of KRS 314.091(1).

Section 8. The board may make unannounced monitoring visits to an advanced registered nurse practitioner.

LINDA J. THOMAS, President

APPROVED BY AGENCY: April 18, 1997

FILED WITH LRC: April 18, 1997 at noon

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nathan Goldman, General Counsel

(1) Type and number of entities affected: Advanced registered nurse practitioners, approximately 1300.

(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: Monitoring costs amount unknown.

2. Continuing costs or savings: Monitoring costs amount unknown.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: ARNPs are required to file copies of collaborative agreements with 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: General operating 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: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Increased access to health care by the citizens of Kentucky.

(b) State whether a detrimental effect on environment and public health would result if not implemented: N/A

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account will not ~~threaten~~ [jeopardize] the solvency [financial stability] of the fund.

(b) This determination shall be made by the secretary by reviewing:

1. Fund receipts and expenditures;

2. Audit reports;

3. Actuarial studies;

4. Projected revenue; and

5. Projections on the number of tanks to be removed.

(7) Obligations from this account shall cease on June 30, 2002 [five (5) years from the effective date of this administrative regulation].

Section 4. Application. (1) The owner shall file an application for participation in this account no less than forty-five (45) days prior to the removal of the tank or tanks, ~~except as provided in Section 7 of this administrative regulation~~. Application shall be made on the Application for Tank Removal Assistance form, dated May, 1997, ~~hereby incorporated by reference. This form may be inspected and obtained at the Office of the Petroleum Storage Tank Environmental Assurance Fund, 911 Leewood Drive, Frankfort, Kentucky 40601, (502) 564-5981. The business hours of the fund are 8 a.m. to 4:30 p.m., local prevailing time~~. In addition to a complete application, the owner shall provide the following information:

(a) Verification of income level by five (5) years of income tax returns ~~[or other fund approved method]~~;

(b) A copy of the Notice of Intent to Permanently Close Underground Tank System, filed with the cabinet;

(c) Proof of tank registration with the cabinet;

(d) A copy of the contract with a State Fire Marshal approved tank remover;

(e) A site map delineating the facility boundaries and the location of all tank pits and areas to be impacted by the removal; and

(f) Color photographs of the facility and the areas to be impacted by the tank removal.

(2)(a) Within forty-five (45) days of the receipt of a complete application, the fund will issue a letter notifying the owner of its eligibility and of the amount obligated for the removal or notifying that the facility is not eligible for participation in this account.

(b) Removal of the tank system shall not begin until the approval of an obligation by the fund, ~~except as provided in Section 7 of this administrative regulation~~. Failure to comply with this requirement shall [will] result in the fund denying the reimbursement.

Section 5. Removal Costs. (1)(a) Reimbursement from this account shall be determined from the following table:

Size of Largest Tank in Pit (gallons)	Number of Tanks in Pit					Each Extra Tank up to 10
	1	2	3	4	5	
Less than 3,100	\$3,000	\$4,900	\$6,400	\$7,900	\$9,400	\$1,500
3,101 to 5,100	\$3,400	\$5,500	\$7,500	\$9,000	\$10,500	\$1,500
5,101 to 10,000	\$4,900	\$7,400	\$9,700	\$11,800	\$13,800	\$1,800
Greater than 10,000	\$5,400	\$8,600	\$11,800	\$14,000	\$16,900	\$2,200

(b) In addition to the cost listed above, the fund shall reimburse a one (1) time amount, which shall not [to] exceed \$2,000, for the preparation and submission of a Closure Assessment Report. This shall include the cost of a facility classification guide, if required by the cabinet. The fund shall also reimburse a one (1) time amount of \$350 for the mobilization and demobilization of equipment. ~~[including, if required by the cabinet, a Facility Classifi-~~

~~cation Guide.]~~

(c) If more than one (1) tank pit is located on a facility, the reimbursement shall be calculated by adding the matrix value given for each pit, plus allowable subsection (3) of this section cost.

(2) The following costs are ~~considered to be~~ included in the costs listed in subsection (1)(a) of this section:

(a) Tank system removal, cleaning and disposal;

(b) Removal of twenty-five (25) feet of associated piping outside of ~~on~~ the tank pit;

(c) Removal of the pump island and canopy ~~[islands and canopies]~~;

(d) Drumming and disposal of cleaning material;

(e) Backfilling to replace tank volume;

(f) Concrete or asphalt surface removal;

(g) Equipment and materials necessary for the removal and closure of a tank system;

(h) Preparation of any permit ~~[or permits]~~ required for tank system removal or testing;

(i) Excavation and loading of materials;

(j) Collection of samples;

(k) All labor charges relating to subsections (a) through (j) of this section.

(3) The following items are not included in subsection (1)(a) of this section costs and the ~~actual~~ costs, including labor, of these items may be added to the appropriate subsection (1)(a) of this section cost if necessary to achieve closure and the costs are reasonable:

(a) Surface replacement;

(b) Transportation, disposal and replacement of contaminated backfill;

(c) Disposal of asphalt surface material;

(d) Installation of up to three (3) ~~[down gradient]~~ monitoring wells, to the extent required by law. Cost of additional wells may be allowed if the additional wells are required in writing by the cabinet;

(e) Disposal or recycling of tank contents or waste;

(f) Removal, transportation and off-site disposal of ~~[pit]~~ water, if required by law;

(g) Laboratory analysis ~~[analytical sampling]~~, to the extent required by law; and

(h) All costs in this section shall be subject to the ranges set forth in 415 KAR 1:110.

Section 6. Claims. (1) Upon receipt of a notice from the cabinet that no further action is necessary at the facility or a notice from the cabinet of the need to perform corrective action, the owner shall submit a request for reimbursement. The owner shall submit the ~~[his]~~ claim on the Claim Payment Request for Tank Removal form established by the fund, dated May 1997, ~~hereby incorporated by reference. This form may be inspected and obtained at the Office of the Petroleum Storage Tank Environmental Assurance Fund, 911 Leewood Drive, Frankfort, Kentucky 40601, (502) 564-5981. The business hours of the fund are 8 a.m. to 4:30 p.m., local prevailing time~~.

(2) In addition to the completed claim form, the owner shall submit the following in support of the request:

(a) The Closure Assessment Report;

(b) Original invoices in support of any costs claimed under Section 5(3) of this administrative regulation; and

(c) A copy of the "no further action" notice or the notice requiring corrective action from the cabinet.

(3) ~~[(2)]~~ The fund shall review the claim requests for the following:

(a) The number and size of tanks removed;

(b) Verification of proper costs from Section 5(2) of this administrative regulation; and

(c) Review of the necessity and reasonableness of any costs claimed under Section 5(3) of this administrative regulation.

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or has been abandoned. This administrative regulation specifies the size, wording, coloration, and placement of the sign.

Section 1. Definitions. In addition to those set out in KRS 353.510, the following definitions shall apply to this administrative regulation:

(1) "NFPA" means the National Fire Protection Association.

(2) "Tank battery" means a single storage tank or group of storage tanks that are interconnected or are less than three (3) feet apart, where oil is collected from a wellhead.

Section 2. (1) An operator ~~or owner~~ shall display a printed sign on each tank battery, whether it is in active production or has been abandoned.

(2) Each sign shall, at a minimum, contain the following word and phrases:

- (a) "Danger";
- (b) "No smoking or open flame";
- (c) "Extremely flammable liquid and vapor";
- (d) "May cause flash fire";
- (e) "No trespassing"; and
- (f) "Petroleum crude oil".

(3) Symbol. A no smoking symbol with a cigarette crossed through shall be displayed on each side of the words "no smoking or open flame".

Section 3. (1) The sign shall also use the numbering system set out in the NFPA Edition 704, entitled "Standard System for the Identification of the Fire Hazards of Materials", which has a classification and marking system for identification of the fire hazards of certain materials, including petroleum crude oil. Under this system, the following classifications of petroleum crude oil are subject to the numbers and colors indicated.

(2) A "health hazards" ranking of "1" shall be identified by a black "1" in a blue square located in a square-on-point field at the nine (9) o'clock position, or the number may be colored blue at the nine (9) o'clock position without the colored square.

(3) A "flammability hazards" ranking of "3" shall be identified by a black "3" in a red square located in a square-on-point field at the twelve (12) o'clock position, or the number may be colored red in the twelve (12) o'clock position without the colored square.

(4) A "reactivity hazards" ranking of "0" shall be identified by a black "0" in a yellow square located in a square-on-point field at the three (3) o'clock position, or the number may be colored yellow in the three (3) o'clock position.

Section 4. Dimensions and Coloration of the Sign. (1) The sign shall be no smaller than seventeen (17) ~~twenty-eight (28)~~ inches in height and twenty-eight (28) ~~seventeen (17)~~ inches in width.

(2) The letter size for a sign's required wording shall be as follows:

(a) The word "danger" shall be in uniformly sized letters not less than three (3) inches ~~not more than four (4) inches~~ in height;

(b) The words "no smoking or open flame" shall be in uniformly sized letters not less than one (1) inch ~~not more than one and one-half (1 1/2) inches~~ in height; and

(c) The words set out in Section 2(2)(c) through (f) of this administrative regulation shall be in uniformly sized letters not less than one-half (1/2) inch ~~not more than one (1) inch~~ in height.

(3) The no smoking symbol with a cigarette crossed through shall be not less than one and one-half (1 1/2) inches ~~not more than three (3) inches~~ in height.

(4) The NFPA numbers shall be not less than one-half (1/2) inch ~~not more than one (1) inch~~ in height.

(5) The background color of the sign shall contrast with the foreground color of the letters and the NFPA numbers to make them clearly visible (e.g., white background and black letters).

Section 5. There shall be a minimum of one (1) sign per tank battery unless individual tanks are controlled by more than one (1) operator, in which case a sign is required for each tank. A sign shall be displayed a minimum of five (5) feet off the ground, at the most visible location from approach, and shall be maintained in proper condition and replaced when it is no longer readable, is damaged, vandalized or if it is stolen.

Section 6. Signs in Existence Prior to this Administrative Regulation. An operator having a danger sign posted on a tank or tank battery prior to the effective date of this administrative regulation may keep the existing sign posted under the following conditions:

(1) The operator shall petition the director in writing for a waiver to use a sign which is designed in a manner other than that required in this administrative regulation.

(2) Each sign shall be clearly displayed on each tank or tank battery at the most visible location from approach.

(3) ~~The existing sign shall not be painted on the tank.~~

~~(4)]~~ Each danger sign shall be replaced with the sign described in this administrative regulation when it is no longer readable, is damaged, vandalized or if it is stolen.

Section 7. Violations for Failure to Post a Sign. (1) Upon locating a tank or tank battery without a danger sign, the inspector shall issue a notice of noncompliance to the last known operator.

(2) The notice of noncompliance shall be mailed to the operator by certified mail, return-receipt requested. If the violation is not corrected by the posting of a proper sign within forty-five (45) days of his receipt of the notice of noncompliance, the operator shall be subject to the penalties set out in KRS 353.991.

Section 8. Material Incorporated by Reference. (1) The following material is incorporated by reference: NFPA Edition 704, "Standard System for the Identification of Fire Hazards of Materials", 1990 edition, Chapters 1-4 and Figure 6.1.

(2) This material may be examined or copied at the Kentucky Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky 40512, Monday through Friday, 8 a.m. to 4:30 p.m.

LAURA M. DOUGLAS, Secretary

JOHN L. FRANKLIN, Commissioner

APPROVED BY AGENCY: May 14, 1997

FILED WITH LRC: May 15, 1997 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Rick Bender

(1) Type and number of entities affected: The entities affected by this proposed administrative regulation will be those surface owners on whose property the tanks are located and the oil and gas operators of Kentucky. -

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented, to the extent available from the public comments received:

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented, to the extent available from the public comments received: The direct costs associated with this proposal are attributable to the requirement that an operator having oil production storage tanks post a danger sign on each tank or tank battery. The costs for each sign posted will be approximately \$20, each. There are approximately 9800 registered facilities in the Commonwealth, with at least one tank at each facility. Many operators have already placed safety signs and it is anticipated that this administrative regulation will have a minimum effect on them.

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

(b) A listing or description of fertilizers and soil amendments and seed or trees to be planted for each affected area requiring revegetation treatment and the types and amounts per acre of seed and trees to be planted; and

(c) A detailed drawing of the road, well location and proposed area of disturbance, which shall be in sufficient detail to allow ready identification of surface features and which shall satisfy the following requirements:

1. The surface owner's tract(s) shall be identified on the drawing, with the name of the surface owner if not listed on the legend, which drawing shall also indicate the acreage to be disturbed;

2. The drawing may be made over an enlarged section of the United States Geological Survey (USGS) 1:24000 topographic map and may be enlarged to approximately 1"=400' and be submitted on an eight and one-half (8 1/2) inch by fourteen (14) inches sheet, using the symbols set out on Form ED-10.

3. The drawing shall have a legend with the operator's and surface owner's names not listed on the map, the scale of the map, the well name and number, and the lease name.

(3) Signatory sections for the operator and surface owner shall be completed on Form ED-10 in the following manner:

(a) The name and title, if any, of the operator shall be indicated and his signature notarized, which signature shall be either that of an officer of the company or of some other person who holds a duly recorded power of attorney to execute documents, a copy of which power of attorney shall be filed with the division. If the prospective operator is an individual, the signatory shall be in the same name as the applicant's or a power of attorney to execute documents shall be submitted to the division if the signatory is someone other than the applicant;

(b) The surface owner's name shall be indicated and his signature notarized if he approves of the operations and reclamation proposal, together with any attachments submitted with it.

Section 3. Unsigned Reclamation Forms. If the owner of the surface of the severed minerals tract is unwilling or for some other reason has failed to execute Form ED-10, the operator shall file a written petition for mediation, together with the following, at the time the application for permit is filed, in accordance with KRS 353.5901:

(1) A copy of the certified mail receipt verifying that the operations and reclamation proposal, the statement required in KRS 353.5901(2)(b), and the plat were mailed to and received by the surface owner or, if not received, the original or a copy of the unclaimed envelope. A copy of the operations and reclamation proposal and the attachments enclosed in the envelope mailed to the surface owner shall also be included.

(2) If the surface owner cannot be reached at his last known address of record and certified mail is returned as undeliverable or unknown, the operator shall publish a notice of intended activity, together with a request for information on the whereabouts of the surface owner, which publication shall be made two (2) consecutive times in a local newspaper in the county where the proposed well is located and once in a newspaper of general circulation [with statewide distribution]. A copy of the notice of intended activity and request for surface owner information shall be included when the operator files his application for permit and shall include:

(a) The name and address of the operator;

(b) A brief description of the intended activity as set out in the operations and reclamation proposal;

(c) The ~~[date upon which the]~~ surface owner must respond to this notice within thirty (30) days of the first publication in the newspaper; and

(d) A statement of where interested persons may obtain additional information as to the operator's intended activity.

Section 4. Mediation of Dispute. (1) The surface owner may file with the division a request for mediation at any time after he has

received from the operator the proposed operations and reclamation proposal, but only after the operator has filed his request for mediation and not later than the time set forth in the Notice of Request for Mediation provided by the department and mailed to the surface owner. The surface owner's request to participate in mediation shall include the mediation fee, in accordance with KRS 353.5901(2)(b).

(2) If the surface owner does not file his mediation fee within the time and in the manner required in the Notice of Request for Mediation, he shall be deemed to have failed to satisfy the statutory requirements applicable to mediation, the mediator shall file a report noting such failure and recommend the acceptance of the operator's operations and reclamation proposal.

(3) Upon his receipt of a request for mediation, proof of notification or attempted notification and copies of the published notice of intended activity, if required by Section 3 of this administrative regulation, and the mediation fee required in KRS 353.5901(4), the mediator shall issue an order scheduling mediation and send it by certified mail to the well operator and all surface owners of areas to be disturbed by drilling who have not agreed to the operations and reclamation proposal.

(4) The mediator may not settle damage claims or make any determinations regarding them in his report. However, information presented by the operator or surface owner as to such factors as costs incurred by either party as a result of the projected drilling and the loss of minerals or surface damage may be utilized by the mediator in recommending the placement of roads, pits or other construction and reclamation activities in a manner which has the least adverse surface impact.

(5) If the operator withdraws his application for a permit to drill, deepen, or reopen a well after receipt by the division of the surface owner's mediation fee, that fee shall be refunded to the surface owner.

Section 5. (1) The construction of the well site, including roads, pits, tanks, lines and other areas disturbed, shall be performed by the operator in accordance with the operations and reclamation proposal. All cuts and fills shall have side slopes that are stable for the soil or fill material involved. The vertical grades shall be as low as reasonably practicable and compatible with topography.

(2) If the well produces and the site is kept open for long-term use for well servicing and for oil and gas removal, the operator shall:

(a) Maintain access roads in such a manner as to allow access by the operator without causing unreasonable settlement of the roadbed or slides of the cut slopes, and provide that maintenance in accordance with the operations and reclamation proposal;

(b) Establish drainage to adequately accept runoff from access roads, the well site and other areas in a manner which prevents unreasonable interference with the surface owner's property, roads, farming operations, and buildings, and establish that drainage in accordance with the operations and reclamation proposal;

(c) Repair access roads, the well site area, and pits damaged by events such as floods, landslides, or excessive settlement of the embankment as soon as practicable after the damage has occurred; however, the operator shall not be responsible for damage attributable to another party's use of the access road not relating to the drilling, construction or operation of the well by the operator.

Section 6. (1) The operator shall provide written notice to the division when final reclamation and plugging have been completed.

(2) The bond required in KRS 353.590(5) shall not be released until a division inspector has made an inspection of the well site one (1) year after the date of the letter of notification from the operator of final reclamation and plugging and has filed a report to the director documenting that the following have occurred:

(a) All areas disturbed by the operator have been secured in a manner to prevent runoff, sedimentation, or settlement of the roadway, sliding of cut slopes or any fill material;

3. Additional factors increasing or decreasing costs: If there is an increase in permit activity on severed mineral tracts, costs may increase, just as they would be expected to decrease if such activity decreases.

(b) Reporting and paperwork requirements: Since this agency is currently permitting and performing field inspections, little additional impact on associated reporting and paperwork activities is anticipated as a result of this proposed administrative regulation.

(4) Assessment of anticipated effect on state and local revenues: It is anticipated that this administrative regulation will have minimal effect on state and local economies, since only 70 to 100 wells will be drilled per year on lands having severed minerals, based on 1996 activity, thereby requiring operators to satisfy the requirements of this proposal.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The current budget allocated for permitting and field inspection will provide for funding of this proposed regulation. It is anticipated that no additional funding will be required.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: The requirements of this administrative regulation are necessary to better provide protection of the surface owner's property from erosion and sedimentation from an operator's drilling activity and to better provide protection of his water sources. This proposal is required to implement the mandate of KRS 353.5901.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Benefits to the surface owner will include better description of the operator's activities relating to the operations and reclamation proposal in a manner designed to prevent erosion, control drainage, establish permanent vegetative cover and correct slides and settlement problems.

(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 this administrative regulation is not implemented, the surface owner would be less able to express his concerns over the surface use and reclamation of the area proposed to be disturbed. Erosion could result and revegetation might not be performed.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This proposed administrative regulation neither conflicts with, overlaps, nor duplicates any statute, administrative regulation or government policy.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: The enactment of this proposed administrative regulation will require periodic retraining of office staff and division field inspectors in order for them to be updated on new technology and changes in well site reclamation and the drilling industry, generally.

(11) Tiering: Was tiering applied: Yes. Tiering was applied in this proposed administrative regulation. Operators are required to satisfy the requirements of this administrative regulation when their proposed drilling activity is on lands where the minerals are severed, whereas operators on lands whose minerals are unsevered from the surface will not be required to provide the reclamation forms and to satisfy the other requirements of this administrative regulation. The statutes,

most of which are set out in KRS Chapter 353, require this differential treatment of operators in order to afford greater protection to the resources of the severed surface owner. Tiering was also applied in the administrative regulation with respect to federal lands. Operators conducting drilling operations on federal lands are currently required to satisfy detailed federal requirements for reclamation. We have concluded that this administrative regulation's requirement for the preparation and submittal of an operations and reclamation proposal should be waived if the operator has a signed reclamation agreement with the federal government, thereby eliminating an extra burden on operators drilling on federal lands who would otherwise be required to satisfy the requirements of this administrative regulation.

PUBLIC PROTECTION AND REGULATION CABINET
Public Service Commission
(Amended After Hearing)

807 KAR 5:063. Filing requirements and procedures for proposals to construct ~~telecommunications~~ antenna towers for cellular telecommunications services or personal communications services.

RELATES TO: KRS ~~100.324(5)~~, 278.020, 278.650

STATUTORY AUTHORITY: KRS 278.020(1), 278.040(3), 278.650

NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) provides that the commission may **promulgate** ~~adopt, in keeping with KRS Chapter 13A,~~ reasonable administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.020(1) authorizes the commission to issue certificates of public convenience and necessity for utility construction. KRS 278.650 prescribes procedures to be followed for a proposal ~~proposals~~ to construct an antenna tower for cellular telecommunications services or personal communications services ~~towers~~ in a county containing a city of the first class which differ from those to be followed for a proposal ~~proposals~~ to construct an antenna tower for cellular telecommunications services or personal communications services ~~towers~~ outside a county containing a city of the first class. This administrative regulation prescribes filing requirements and procedures to be followed in applying for a certificate of public convenience and necessity to construct a telecommunications antenna tower for cellular telecommunications services or personal communications services.

Section 1. **(1) To apply for a certificate of public convenience and necessity**, a utility proposing to construct a telecommunications antenna tower in a county which does not contain a city of the first class shall file with the Public Service Commission the following information:

(a) [(4)] All documents and information required by 807 KAR 5:001, Sections 8 and 9(2)(a), (b), (c), (d) and (g);

(b) A copy [(2) Copies] of the utility's applications to the Federal Aviation Administration and Kentucky Airport Zoning Commission and written authorizations from these agencies as soon as they are available;

(c) A copy [(3) Copies] of the utility's application to, and authorization from, the Federal Communications Commission, if applicable;

(d) [(4)] A geotechnical investigation report, signed and sealed by a professional engineer registered in Kentucky, that includes boring logs, foundation design recommendations, and a finding as to the proximity of the proposed site to flood hazard areas;

(e) [(6)] Clear directions to the proposed site;

(f) [(6)] The lease or sale agreement for the property on which the tower is proposed to be located;

(g) The identity [(7) Identities] and qualifications of each person ~~persons~~ directly responsible for the design and construction of the proposed tower;

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REGULATORY IMPACT ANALYSIS

Contact person: Don Mills, Executive Director

(1) Type and number of entities affected: 25 facilities-based cellular and personal communications utilities currently operate in Kentucky and will be affected by the proposed 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. However, no impact of this nature is expected.

(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. However, no impact of this nature is expected.

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

1. First year following implementation: Little, if any, increase in the cost of compliance, reporting, and paperwork requirements is expected. Utilities proposing to construct wireless telecommunications facilities routinely notify nearby property owners. Moreover, any increase in expense resulting from the newspaper notice requirement will be, at least in part, offset by eliminating the filing of cost information. Such information is not necessary since the commission no longer regulates cellular rates.

2. Second and subsequent years: See answer to (2)(c)(1) above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings to the commission are expected. Regulation of tower siting will continue to be handled in the ordinary course of business.

2. Continuing costs or savings: See answer to (3)(a)(1) above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(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: No additional revenue is required to enforce or implement 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 public comments were received. However, no economic effect on any geographical area is expected.

(b) Kentucky: No public comments were received. However, no economic effect on Kentucky is expected.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods have been proposed, particularly in regard to notice requirements and commission involvement in local issues regarding sites in Jefferson County. However, the commission believes that deleting the newspaper notice requirement would be counterproductive in that fewer interested persons may become aware of potential construction. On the other hand, increasing the number of persons who must receive direct notice would add expense and unnecessary delay. Posting and publication, with direct notice to property owners within 500 feet of the proposed construction, should be sufficient to ensure that the commission will receive necessary input from those interested in proposed construction outside Jefferson County. Local concerns in Jefferson County are, pursuant to KRS 278.650, within the province of the Jefferson County Planning and Zoning Commission. The commission cannot, and does not seek to, control the procedures implemented in Jefferson County pursuant to KRS 278.650. The commission believes the regulation as proposed is the best method for insuring that wireless telecommunications facilities construction is appropriately monitored pursuant to the

requirements of KRS 278.650 and 278.020.

(8) Assessment of expected benefits: Information and documents submitted pursuant to the proposed regulation will assist the commission in determining, in areas outside a county containing a city of the first class, whether construction on the proposed site is appropriate in light of local concerns. In regard to construction proposed in a county containing a city of the first class, the regulation will ensure that the commission is informed of the local planning unit's determination as to the suitability of the proposed site and, if the planning unit rejects a proposed construction, whether commission override is warranted pursuant to KRS 278.650.

(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 duplication: No conflict, overlap, or duplication exists.

(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? Tiering has not been used because the size of the utility constructing a tower is not relevant to the considerations involved in determining whether construction at a proposed site is appropriate.

CABINET FOR FAMILIES AND CHILDREN

Department for Social Services

Division of Family Services

(Amended After Hearing)

905 KAR 2:140. Child day care programs.

RELATES TO: KRS 199.892 - 896, 45 CFR 98, 256, 257, PL 99-457 Part H, PL 94-142.2

STATUTORY AUTHORITY: KRS 194.050, 199.892, 199.899, 45 CFR 98.41, PL 104-193, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194.050 and 199.899 provide ~~provides~~ that the Secretary for the Cabinet for Human Resources shall adopt administrative regulations necessary to operate programs and fulfill the responsibilities vested in the Cabinet for Human Resources and provide uniform administration of child day care funds. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Social Services under the Cabinet for Families and Children. This administrative regulation is necessary to enable the Cabinet for Families and Children ~~[Human Resources]~~ to qualify to receive federal funds under the Social Services Block Grant, Child Care and Development Block Grant and the Transitional and At-Risk Child Care Programs and for child care services pursuant to 904 KAR 2:017. The function of this administrative regulation is to establish procedures for the implementation of child day care programs.

Section 1. Definitions. (1) "At-risk child care, (ARCC)" means child care assistance provided to non-K-TAP ~~[AFDC]~~ families who need care in order to work and who may otherwise be at risk of becoming dependent upon K-TAP ~~[AFDC]~~.

(2) "Attending a job training or educational program" means regular and scheduled participation in a program offering appropriate skills training or education, if post secondary, consistent with employment goals.

(3) "Center-based child care" means a Type I day care facility.

(4) "Certificate" means a payment mechanism provided by DSS

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not be placed on a waiting list due to the uncapped funding source.

(32) ~~[(34)]~~ "Without regard to income" means that SSBG child day care services for child protective cases shall be provided or purchased without regard to family income. In situations where the court is involved, parents may be ordered to pay for part or all of the cost of day care for their child. Voluntary payments by parents may be accepted.

Section 2. Technical Eligibility for CCDBG. A child shall be eligible for services as verified on the DSS-1A, Application for Services, herein incorporated by reference, if he:

(1) Is under the age of thirteen (13) or is under the age of eighteen (18) and:

(a) Is physically or mentally incapable of caring for himself as verified by the written determination of:

1. A physician;
2. A licensed or certified psychologist;
3. A qualified mental health professional; or
4. As accepted by a collateral agency (schools, comprehensive care center); or

(b) Is under court supervision;

(a) Resides with a family whose income does not exceed:

(a) Sixty (60) percent of the states median income for a family of the same size at time of application; or

(b) Seventy-five (75) percent of the states median income for a family of the same size at the time of reauthorization; and

(c) To the extent necessary the eligibility levels of state median income specified in paragraphs (a) and (b) of this subsection may be revised based on the availability of state and federal funds.

(3) Resides with parents who are working or attending a job training or educational program;

(4) Fee requirement.

(a) A family receiving CCDBG funds shall be required to contribute toward the payment based on the family's income as described in Section 7(3) of this administrative regulation.

(b) An individual who fails to cooperate in paying required fees may, subject to notices and hearing requirements, lose eligibility for the period of time back fees are owed, unless satisfactory arrangements are made to make full payment.

(5) Other eligibility conditions or priority requirements including childhood development and before and after school care services, may be established in addition to Sections 3(1) through (5) and 5(4) as long as they shall not:

(a) Discriminate against children on the basis of:

1. Race;
2. National origin;
3. Ethnic background;
4. Sex;
5. Religious affiliation; or
6. Disability.

(b) Limit parental rights as governed by Section 4 of this administrative regulation; or

(c) Violate provisions of Section 7 ~~6~~(4) of this administrative regulation.

Section 3. Technical eligibility for SSBG. (1) The child shall have met the requirements specified in Section 2(1) of this administrative regulation.

(2) The case records shall:

(a) Substantiate or reflect some indication of child abuse, neglect, dependency or exploitation; or

(b) Provide documentation that a family has a need for child care services and with the use of child care the need for protective services may be prevented.

(3) Working parents may be eligible if:

(a) Child care needs exist in order to allow the parent to work;

(b) The family is income eligible as specified in Section 2(2)(a)

and (b) of this administrative regulation; and
(c) ARCC and CCDBG funds are obligated.

Section 4. Technical Eligibility and Limitations for TCC. A family shall be notified of its potential eligibility for TCC when its K-TAP ~~[AFDC]~~ benefits are terminated.

(1) The following requirements shall be met during any month for which TCC is paid:

(a) The child shall have met the requirements specified in Section 2(1) of this administrative regulation or would be a dependent child except for the receipt of benefits under Supplemental Security Income (SSI) under 42 USC 1382 or foster care under 42 USC 672.

(b) Child care shall be necessary in order to permit a member of a K-TAP ~~(an AFDC)~~ family to accept or retain employment;

(c) Payments shall not be made for care provided by:

1. Parents;
2. Legal guardians;
3. Members of the assistance group; and
4. Providers not meeting applicable standards of state and local law or not enrolled pursuant to Section 7 of this administrative regulation.

~~(d) The family shall have ceased to be eligible for K-TAP [AFDC] as a result of:~~

- ~~1. Increased hours of, or increased income from, employment; or~~
- ~~2. The loss of income disregards due to the time limitations at Section 4(3)(b) of 904 KAR 2:016;~~

~~(e) The family shall have received K-TAP [AFDC]:~~

- ~~1. In at least three (3) of the six (6) months preceding the first month of ineligibility; and~~
- ~~2. At least one (1) of the three (3) months was received in the state of Kentucky.~~

~~(f) The family:~~

- ~~1. Requests TCC benefits;~~
- ~~2. Provides the information necessary for determining eligibility and fees; and~~
- ~~3. Meets application requirements.~~

(2) Time limitations.

(a) Eligibility for TCC:

1. Begins with the first month that the family is ineligible for K-TAP ~~[AFDC]~~; and

2. Continues for a period of twelve (12) consecutive months.

(b) A family may begin to receive child care in any month during the twelve (12) month eligibility period.

(3) Sanctions. The family is not eligible for TCC for any remaining portion of the twelve (12) month period if the caretaker relative:

(a) Terminates employment, unless good cause exists as follows:

1. The individual:
 - a. Is personally providing care for a child under age six (6); and
 - b. Employment will require the individual to work more than twenty (20) hours per week.

2. Child care:

- a. Is necessary for the individual to participate in the program or accept employment; and
- b. Is not available; or
- c. The available child care does not meet the special needs of the child, e.g., a child who has physical or mental disabilities.

3. The individual is unable to engage in employment or training for mental or physical disabilities, including participation in a drug or alcohol rehabilitation program.

4. Transportation is unavailable and there is no readily accessible alternative means of transportation available.

5. Travel time to work site exceeds two (2) hours daily.

6. Illness of another household member requiring the presence of the participant at home.

7. Temporary incarceration.

8. Discrimination by an employer based on age, race, sex color, disability, religious beliefs, national origin or political beliefs.

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3. [4-] The provider shall not have been convicted of crimes against children, as shown by a criminal records check conducted within the past year by the Kentucky State Police; and

4. [5-] The provider shall sign an agreement not to use any form of corporal physical discipline on the children entrusted into their care.

(c) The department may deny or terminate an agreement with an unregulated provider if conditions or circumstances at the child care premises places children at risk of abuse, neglect, or exploitation pursuant to KRS Chapter 620.

(d) If the department denies or terminates an agreement with an unregulated provider, the department shall notify the provider in writing stating the reasons for the adverse action and the provider's right of appeal.

(e) If the provider feels an action of the Department for Social Services is unfair, without reason, or unwarranted, the provider may appeal the action, in writing, to the Commissioner of the Department for Social Services, 6th Floor, 275 East Main Street, Frankfort, Kentucky 40621, within twenty (20) days after receiving the notice of the action from the department.

(f) Upon receipt of the request for hearing, the commissioner, or designee, shall appoint a hearing officer to review the record, conduct the hearing, and make recommendations upon the matter appealed. Within fifteen (15) days of the assignment, the hearing officer shall notify the provider in writing of the date, time and place of the hearing. The notice shall comply with KRS 13B.050(2) and (3).

(g) The hearing shall be conducted as governed by KRS 13B.080 and Chapter 13B.

(h) The hearing officer shall advise the parties that a recommended order shall be distributed within ten (10) days after the close of the hearing, the parties shall have fifteen (15) days from the date of the recommended order to file exceptions, and a final decision shall be rendered within thirty (30) days from the close of the hearing.

(i) The recommended order shall be filed with the commissioner, or designee, and shall comply with KRS 13B.110.

(j) Within twenty (20) days after receipt of the recommended order, the commissioner, or designee, shall render a final order, either affirming or overturning the initial decision of negative action. The final order shall comply with KRS 13B.120.

(k) If denial or termination of enrollment is upheld, the commissioner's or designee's notification shall specify the date by which the child care payments shall cease.

(2) The cabinet has established maximum child day care payments as follows:

These charts represent the local maximum payment rate on a per day/weekly basis. If care exceeds five (5) days, the rate shall be the weekly maximum payment plus the additional designated daily amount reflecting the applicable rate. Chart abbreviations are as follows: FT - full time; PT - part time; WM - weekly maximum.

KENTUCKY CHILD CARE MAXIMUM PAYMENT LEVELS

WESTERN REGION

Purchase ADD #1

County: McCracken

Urban X	Center			Group Home			Family/In Home		
Rural	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	16	65	12	12	60	11	16	55
Toddler	\$12	16	60	11	11	55	11	16	55
Preschool	\$12	14	60	11	10	55	11	16	55
School Age	\$12	9	60	11	10	55	11	16	55
Special Needs									
Child	\$12	16	60	13	13	65	10	16	50

Purchase ADD #1

Counties: Ballard, Calloway, Carlisle, Fulton, Graves, Hickman,

Marshall

Urban	Center			Group Home			Family/In Home		
Rural X	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	16	65	13	13	65	11	16	55
Toddler	\$13	16	65	13	13	65	11	16	55
Preschool	\$13	14	65	13	13	65	13	16	65
School Age	\$12	9	60	13	13	65	12	16	60
Special Needs									
Child	\$12	16	60	13	13	65	15	16	75

Pennyriple ADD #2

County: Christian

Urban X	Center			Group Home			Family/In Home		
Rural	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	16	65	12	12	60	11	16	55
Toddler	\$12	16	60	11	11	55	11	16	55
Preschool	\$12	14	60	10	10	50	11	16	55
School Age	\$11	8	55	10	10	50	11	16	55
Special Needs									
Child	\$12	16	60	13	13	65	10	16	50

Pennyriple ADD #2

Counties: Caldwell, Crittenden, Hopkins, Livingston, Lyon, Muhlenberg, Todd, Trigg

Urban	Center			Group Home			Family/In Home		
Rural X	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	16	65	13	13	65	11	16	55
Toddler	\$13	16	65	11	13	65	11	16	55
Preschool	\$13	14	65	13	13	65	13	16	65
School Age	\$12	8	60	13	13	65	12	16	60
Special Needs									
Child	\$12	16	60	13	13	65	15	16	75

Green River ADD #3

Counties: Daviess, Henderson

Urban X	Center			Group Home			Family/In Home		
Rural	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	16	65	12	12	60	11	16	55
Toddler	\$13	16	65	12	11	60	11	16	55
Preschool	\$13	14	65	12	10	60	11	16	55
School Age	\$13	10	65	12	10	60	11	16	55
Special Needs									
Child	\$13	16	65	13	13	65	11	16	55

Green River ADD #3

Counties: Hancock, McLean, Ohio, Union, Webster

Urban	Center			Group Home			Family/In Home		
Rural X	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	16	65	13	13	65	11	16	55
Toddler	\$13	16	65	13	13	65	11	16	55
Preschool	\$13	14	65	13	13	65	13	16	65
School Age	\$13	10	65	13	13	65	12	16	60
Special Needs									
Child	\$13	16	65	13	13	65	15	16	75

Barren River ADD #4

Counties: Allen, Barren, Butler, Edmonson, Hart, Logan, Metcalfe, Monroe, Simpson, Warren

Urban	Center			Group Home			Family/In Home		
Rural X	FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	16	65	13	13	65	11	16	55

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Preschool	\$13	12	65	12	10	60	15	10	75
School Age	\$13	14	65	12	10	60	12	10	60
Special Needs									
Child	\$13	16	65	12	12	60	11	11	55

Cumberland Valley ADD #13

Counties: Bell, Clay, Harlan, Jackson, Knox, Laurel, Rockcastle, Whitley

Urban		Center			Group Home			Family/In Home		
Rural X		FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$13	12	65		12	12	60	11	9	55
Toddler	\$13	12	65		12	10	60	11	6	55
Preschool	\$13	12	65		12	10	60	15	10	75
School Age	\$13	14	65		12	10	60	12	10	60
Special Needs										
Child	\$13	16	65		12	10	60	10	9	50

Lake Cumberland ADD #14

Counties: Adair, Casey, Clinton, Cumberland, Green, McCreary, Pulaski, Russell, Taylor, Wayne

Urban		Center			Group Home			Family/In Home		
Rural X		FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$16	8	80		15	15	75	15	12	75
Toddler	\$16	14	80		15	15	75	15	12	75
Preschool	\$15	13	75		15	8	75	15	12	75
School Age	\$14	16	70		13	8	65	15	12	75
Special Needs										
Child	\$14	11	70		14	14	70	15	12	75

Bluegrass ADD #15

Counties: Bourbon, Clark, Fayette, Franklin, Jessamine, Madison, Scott, Woodford

Urban X		Center			Group Home			Family/In Home		
Rural		FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$14	11	70		13	11	65	13	12	65
Toddler	\$13	14	65		12	11	60	11	12	55
Preschool	\$13	14	65		12	9	60	11	12	55
School Age	\$13	16	65		12	9	60	11	12	55
Special Needs										
Child	\$14	14	70		14	14	70	15	12	75

Bluegrass ADD #15

Counties: Anderson, Boyle, Estill, Garrard, Harrison, Lincoln, Mercer, Nicholas, Powell

Urban		Center			Group Home			Family/In Home		
Rural X		FT	PT	WM	FT	PT	WM	FT	PT	WM
Infant	\$16	11	80		15	15	75	15	12	75
Toddler	\$16	14	80		15	15	75	12	12	60
Preschool	\$15	14	75		15	9	75	15	12	75
School Age	\$14	16	70		13	9	65	15	12	75
Special Needs										
Child	\$14	14	70		14	14	70	15	12	75

(3) The cabinet shall assess a fee which the family shall pay to the provider for the cost of child day care based on the following sliding scale:

CHILD CARE FEE SCHEDULE

Income Range FAMILY SIZE - Fee per agreement per family (Monthly)

2 3 4 5 6 7 8*

0	399	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
400	499	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
500	599	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
600	699	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
700	799	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
800	899	2.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
900	999	3.25	1.15	1.00	1.00	1.00	1.00	1.00	1.00
1000	1099	4.50	2.25	1.00	1.00	1.00	1.00	1.00	1.00
1100	1199	6.00	3.50	1.60	1.00	1.00	1.00	1.00	1.00
1200	1299	7.50	5.00	3.10	1.00	1.00	1.00	1.00	1.00
1300	1399	8.00	6.00	4.60	1.60	1.00	1.00	1.00	1.00
1400	1499	8.60	7.00	6.10	2.65	2.00	1.00	1.00	1.00
1500	1599	9.25	7.75	7.00	4.05	3.05	1.25	1.00	1.00
1600	1699	9.75	8.25	7.85	5.50	4.50	2.30	1.00	1.00
1700	1799	10.25	9.75	8.35	7.10	6.25	3.50	1.50	1.50
1800	1899	10.75	10.30	9.30	8.35	7.50	5.20	2.50	2.50
1900	1999	11.25	10.60	9.30	9.30	8.80	7.00	3.80	3.80
2000	2099	11.75	11.25	9.75	9.75	9.75	8.50	5.30	5.30
2100	2199	12.25	11.75	10.25	10.25	10.25	10.00	7.10	7.10
2200	2299	12.75	12.25	10.70	10.70	10.70	10.70	8.90	8.90
2300	2399	13.25	12.75	11.25	11.28	11.25	11.25	10.80	10.80
2400	2499	13.75	13.25	11.75	11.75	11.75	11.75	11.75	11.75
2500	2599	14.25	13.75	12.25	12.25	12.25	12.25	12.25	12.25
2600	2699	14.75	14.25	12.75	12.75	12.75	12.75	12.75	12.75
2700	2799	15.25	14.75	13.25	13.25	13.25	13.25	13.25	13.25

*For family size above eight (8), the parent fee shall not increase.

(a) Except fees shall not be assessed in:

1. A child protective case under SSBG; or
2. A K-TAP (An AFDC), medical assistance or food stamp case where clients are receiving dependent care disregard.

(b) The DCW shall determine the maximum daily reimbursement rate and parent fee, not to exceed rates as specified in Section 7(2) of this administrative regulation and monitor the payment to the child care provider using the DSS-77, Day Care Billing Statement, herein incorporated by reference. If the parent fails to pay the fee the DCW shall develop a plan with the parent to pay the fee.

(c) The DCW shall advise the client to report family and financial changes that may affect authorization of payments. Reauthorizations shall be determined:

1. Every six (6) months; and
2. Upon receipt of reported changes.

(4) The Cabinet for Families and Children (Human Resources) may, except for TCC and protective service cases, establish priorities for child care services as follows:

(a) Children with special needs;

(b) Job Opportunity and Basic Skills Program or TCC participants who have children ineligible for child care payments under the programs;

(c) Families who lose eligibility in another child care program; and

(d) Other low income working parents or parents attending training or educational programs.

(5) The Department for Social Services shall exchange TCC client specific information to the Department for Social Insurance within ten (10) days of discovery.

(a) The DCW shall report the following case terminations to the local DSI, Division of Field Services Office:

1. When a TCC client quits a job without good cause;
2. Based on a TCC client's failure to pay a parent fee;
3. Based on a TCC client's refusal to cooperate with the Division of Child Support Enforcement; and
4. Client makes suitable arrangements to pay parent fee.

(b) The DCW shall report the following changes in client information to the Division for Child Support Enforcement:

1. TCC case approval for payments;
2. A child left the home;
3. Payments cease for a child;

and the provision of transitional child care benefits for those K-TAP recipients who may become potentially eligible for transitional child care if discontinuance is requested by the recipient when earnings only reduces K-TAP benefits and does not cause ineligibility of the case as currently required.

2. Continuing costs or savings: Continuing costs to the agency will include only the cost of completing the enrollment process for new providers chosen by parents and the provision of transitional child care benefits for those K-TAP recipients who may become potentially eligible for transitional child care if discontinuance is requested by the recipient when earnings only reduces K-TAP benefits and does not cause ineligibility of the case as currently required.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs but the requirement to have minimum health and safety standards for individuals caring for children provides parents with some assurance about the quality of care their children will receive.

(b) Reporting and paperwork requirements: With the required enrollment process the agency will have additional reporting and paperwork requirements to process the application for enrollment and complete the necessary follow-up to allow child care subsidy payments to enrolled providers.

(4) Assessment of anticipated effect on state and local revenues: The only anticipated effect on state and local revenues is that with the completed enrollment process the unregulated providers will be eligible for payment pursuant to the Child Care Development Block Grant, Transitional Child Care Programs, At-Risk Child Care Programs, and child care services pursuant to 904 KAR 2:017.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation is the Child Care and Development Block Grant as amended with the new welfare reform legislation.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing was scheduled during which the only comments received were from the Department for Social Insurance relative to the eligibility for K-TAP recipients.

(b) Kentucky: A public hearing was scheduled during which the only comments received were from the Department for Social Insurance relative to the eligibility for K-TAP recipients.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The other alternative method to provide minimum health and safety standards and comply with 45 CFR 98.41 was to require all providers receiving CCDBG funds as amended by the new welfare reform legislation to become certified. Since many of the unregulated providers are caring for between 1 and three children, it was determined that requiring them to become certified as governed by KRS 199.8982 could be detrimental to a parents choice of potential child care providers. The certification requirement may have curtailed the number of eligible providers available for the provision of subsidized child care to families in need.

(8) Assessment of expected benefits: Expected benefits for the enrollment process are that unregulated providers will become enrolled and be eligible for subsidies under the CCDBG, Transitional Child Care Programs, At-Risk Child Care Programs and child care services pursuant to 904 KAR 2:017. Additionally the unregulated providers through the enrollment process will comply with 45 CFR 98.41 which requires at a minimum that providers protect the health and safety of children through the prevention and control of infectious diseases including immunizations, building and physical premises safety and minimum health and safety training. Additionally the requirement to have minimum health and safety standards for individuals caring for children provides parents with some assurance about the quality of care their children will receive. Another benefit of the revisions relative to K-TAP recipients eligibility for transitional child

care benefits is that these families may move more quickly off welfare and save months of their 60 month lifetime eligibility for K-TAP.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: One effect on the public health is that the unregulated providers through the enrollment process will comply with 45 CFR 98.41 which requires at a minimum that providers protect the health and safety of children through the prevention and control of infectious diseases including immunizations, building and physical premises safety and minimum health and safety training.

(b) State whether a detrimental effect on environment and public health would result if not implemented: There is no detrimental effect as unregulated providers would be ineligible for subsidies under the CCDBG as amended by the new welfare reform legislation.

(c) If detrimental effect would result, explain detrimental effect: There would be no detrimental effect.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(a) Necessity of proposed regulation if in conflict: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(10) Any additional information or comments: There are no additional information or comments of which we are aware.

(11) TIERING: Is tiering applied? No. The change in the welfare reform law requires that unregulated providers receiving subsidies statewide are required to comply with 45 CFR 98.41 and become enrolled pursuant to this administrative regulation.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and 45 CFR 98.41

2. State compliance standards. In order to comply with the requirements of the above referenced mandate the state has established an enrollment process in order for unregulated providers to become eligible to receive payments under the Child Care Development Block Grant as amended by Public Law 104-193.

3. Minimum or uniform standards contained in the federal mandate. Pursuant to 45 CFR 98.41 providers are required to protect the health and safety of children through the prevention and control of infectious diseases including immunization, building and physical premises safety and minimum health and safety training.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No, prior to the amendment to the Child Care and Development Block Grant with PL 104-193, all unregulated providers requesting payment were required to become certified. With the expansion of the Child Care and Development Block Grant to include Title IV-A child care providers the Cabinet developed the enrollment process that will provide minimum health and safety requirements for providers of child care that are not required by statute to be licensed or certified.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

- (a) Revocation of or refusal to renew the certification;
- (b) Transfer of ownership of the assisted living residence;
- (c) Change of name of the assisted living residence; and
- (d) Closure or other termination of the residence' existence or authority to operate.

(11) A biennial compliance review is required for all certified assisted living residences. The cabinet or designee shall conduct reviews of assisted living residences to determine compliance for the issuance or reissuance of certificates. The cabinet or designee may conduct a compliance review any time there is reasonable cause or belief that a certified assisted living residence is in violation of this administrative regulation.

(12) An employee of the cabinet or designee shall have the right to enter and inspect, without prior notice, the common areas and office areas of any assisted living residence for which an application has been received or for which certification has been issued.

Section 3. Compliance Review Reports, Findings, and Responses. When a compliance review is conducted, the cabinet or designee shall prepare written findings summarizing all pertinent information obtained during the review and shall not disclose confidential, private, proprietary or privileged information obtained in connection with the review.

(1) If the cabinet or designee finds that the applicant is in compliance with this administrative regulation, the cabinet shall notify the applicant of the findings within ten (10) days after the compliance review is completed.

(2) If the cabinet or designee finds that the applicant is not in compliance with this administrative regulation, the cabinet shall forward a notice of noncompliance to the applicant. The notice shall be delivered by certified mail, return receipt requested within ten (10) days after completion of the review of the assisted living residence. The notice shall:

(a) Describe the noncompliance with particularity and include the corrective action to be taken by the applicant.

(b) Include a description of the action that shall be taken by the cabinet or designee regarding the application or certification status if the corrective action is not completed;

(3) Within ten (10) days after receiving the notice of non-compliance, the applicant shall submit a corrective action plan specifying dates by which noncompliance shall be corrected. The corrective action plan shall be submitted by certified mail, return receipt requested.

(4) If the applicant does not respond to the cabinet within the ten (10) day period or if the applicant agrees to take the corrective action but fails to complete the required corrective action within the specified time frame, the cabinet shall commence the action described in the notice of noncompliance.

(5) The cabinet or designee shall review and may deny, suspend, or revoke certification if the applicant fails to comply with certification standards set forth in this administrative regulation.

Section 4. Appeal. (1) If the cabinet or designee intends to deny, suspend, or revoke a certification, the cabinet or designee shall notify the applicant in writing stating the reasons for the adverse action and the applicant's right to appeal.

(2) Upon appeal, the applicant shall be afforded a hearing. Notice of hearing shall comply with KRS 13B.050 and shall be conducted in accordance with KRS Chapter 13B.

Section 5. General Requirements for an Assisted Living Residence. An assisted living residence shall meet the following requirements to obtain and maintain certification:

(1) Physical requirements.

(a) An assisted living residence shall provide only single occupancy (unless shared with spouse, other family member or another individual by mutual agreement) apartments with lockable doors on

the entry door of each apartment. Residents shall have exclusive rights to their apartments.

(b) Each apartment shall include:

- 1. A private bath with one (1) lavatory;
- 2. One (1) toilet;
- 3. A bathtub or shower stall; and
- 4. A kitchenette consisting of a:

a. Refrigerator;

b. Sink;

c. Cabinet area; and

d. Microwave which may not be required if the facility serves three (3) meals per day in a central dining room and has available community cooking facilities. [microwave, refrigerator, sink and cabinet area.]

(c) For those home-style residences, each tenant shall be provided:

- 1. An individual bedroom with lockable door;
- 2. A shared bathroom with one (1) other bedroom; and
- 3. The use of the community kitchen facilities.

(d) Every assisted living residence shall meet the requirements of the state sanitation, building, and fire and safety code laws and the building shall comply with administrative regulations governing use and access by persons with disabilities.

(2) Supportive service requirements. A supportive service package is required for an assisted living residence seeking certification or renewal of certification. The service package may include:

(a) Eating;

(b) Dressing;

(c) Bathing;

(d) Transferring;

(e) Toileting;

(f) Assistance with household chores;

(g) ~~[(b)]~~ Cleaning;

(h) ~~[(e)]~~ Shopping;

(i) ~~[(d)]~~ Meals;

(j) ~~[(e)]~~ Laundry;

(k) ~~[(f)]~~ Transportation;

(l) ~~[(g)]~~ Twenty-four (24) hour supervision;

(m) ~~[(h)]~~ Organized social and recreational activities;

(n) ~~[(i)]~~ A congregate meal site;

(o) ~~[(j)]~~ Barber and beauty services;

(p) ~~[(k)]~~ Sundries for personal consumption;

(q) ~~[(h)]~~ Supervision of self-administration of [administered] medications; and

(r) ~~[(m)]~~ Health ~~[related]~~ services which require a licensed, certified or cabinet-approved provider shall be arranged through and provided by such a provider.

Section 6. Tenant Rights and Agreement. (1) A lease agreement which clearly describes the rights and responsibilities of the tenant and owner shall be drawn between a certified living residence and a tenant, or his legal representative, who seeks to reside in the residence. The tenant agreement shall be signed by the tenant or his legal representative and the authorized signatory for the assisted living residence.

(a) The tenant agreement shall include the following:

- 1. Charges, expenses and other assessments for the provision of tenant services, lodging and meals;
- 2. The agreement of the tenant to make payment of the charges specified;
- 3. Arrangements for payment;
- 4. A tenant grievance procedure;
- 5. The owner's covenant to comply with applicable federal and state laws and regulations concerning consumer protection and protection from abuse, neglect and financial exploitation of the elderly and disabled;
- 6. The conditions under which the tenant agreement may be

tion will be assuming the responsibility for the certification process including receiving applications, compliance reviews and the renewal process for those assisted living residences qualifying as low-and-moderate-income residences and the Office of Inspector General will be assuming the certification processing for those assisted living residences qualifying as upper-income residences.

(4) Assessment of anticipated effect on state and local revenues: There will not be any anticipated effect on state and local revenues as these facilities may already be established or may be constructed with or without the certification process.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Office of Inspector General will absorb the cost of execution of the voluntary certification process of those assisted living residences qualifying as upper-income residences into its operating budget, and the Kentucky Housing Corporation will absorb the cost of implementation and execution of the voluntary certification process for those assisted living residences qualifying as low-and-moderate-income residences into 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: A public hearing was scheduled during which no additional public comments were received regarding economic impact on the local areas.

(b) Kentucky: A public hearing was scheduled during which no additional public comments were received regarding the economic impact on Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: We are unaware of other alternative methods to implement the voluntary certification of assisted living residences.

(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 major advantage of the voluntary certification of assisted living residences is that it could enable the Kentucky Housing Corporation and other lenders to finance and obtain federal mortgage insurance for assisted living residences, thereby providing additional residential resources for the Commonwealth's aging population.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The only detrimental effect would be the inability of the Kentucky Housing Corporation and other lenders to utilize available resources and access federal mortgage insurance programs, as may be required, to provide additional residential resources for the Commonwealth's low-and-moderate-income aging population.

(c) If detrimental effect would result, explain detrimental effect: The only detrimental effect would be the inability of the Kentucky Housing Corporation and other lenders to utilize available resources and access federal mortgage insurance programs to provide additional residential resources for the Commonwealth's low-and-moderate-income aging population.

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

(a) Necessity of proposed regulation if in conflict: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(10) Any additional information or comments: There are no additional information or comments of which we are aware.

(11) TIERING: Is tiering applied? No. This is a statewide voluntary certification process that will be effective for any entity that wants to become a certified assisted living residence.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
(Amended After Hearing)

907 KAR 1:028. Other laboratory and x-ray services.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194.050, 42 CFR 440.30, 493, 42 USC 1396(d), EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, [Human Resources] has responsibility to administer the Medicaid Program. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed 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 the provisions relating to other laboratory and x-ray services for which payment shall be made by the Medicaid Program in behalf of both the categorically needy and medically needy.

Section 1. Covered Services. (1) Laboratory services provided by a participating independent laboratory shall be limited to those procedures for which the laboratory is certified under Medicare and in accordance with 907 KAR 1:575 when prescribed by a physician, podiatrist, [or] dentist, optometrist, or a person authorized by the physician, podiatrist, [or] dentist, or optometrist, as long as the physician, podiatrist, [or] dentist, or optometrist approved the service.

(2) X-ray services (radiological services which include but are not limited to x-rays, ultrasound, computer assisted tomography and magnetic resonance imaging) shall be limited to those procedures provided by a facility licensed to provide radiological services and which meets the requirements of 42 CFR 440.30 as limited herein:

(a) The facility shall participate in the Medicare Program;

(b) The procedures shall be ordered by a licensed physician, oral surgeon, [or] dentist, podiatrist, optometrist or a person authorized by the physician, oral surgeon, dentist, [or] podiatrist, or optometrist, as long as the physician, oral surgeon, dentist, [or] podiatrist, or optometrist approved of the service;

(c) The services shall be provided under the direction or supervision of a licensed physician; and

(d) The facility shall meet the requirements of 42 CFR Part 493 with regard to laboratory certification, registration or other accreditation as appropriate.

Section 2. Material Incorporated by Reference. (1) The "Independent Laboratory and Other Lab and X-ray Services Manual" dated August 1996 shall be 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, Frankfort, Kentucky 40621.

(3) The manual shall be available for review during the normal business week, Monday through Friday, 8 a.m. through 4:30 p.m. (eastern standard time), excluding state holidays.

(4) Each participating provider shall be provided one (1) copy of the manual and appropriate manual updates following their incorporation by reference. Additional copies may be obtained from the Department for Medicaid Services upon payment of an appropriate fee in accordance with KRS 61.872. [The amendments to Section 1 of this administrative regulation shall be effective with regard to services provided on or after December 1, 1992.]

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, MAY 15, 1997

GENERAL GOVERNMENT CABINET
Kentucky Board of Social Work
(Amendment)

201 KAR 23:020. Fees. ~~[Examination; fee].~~

RELATES TO: KRS 335.080(1)(d), (g), 335.090(1)(d), (g), 335.100(1)(c), (f), 335.130(1) ~~[335.010 to 335.160, 335.990]~~

STATUTORY AUTHORITY: KRS 335.070(3), 335.080(1)(d), (g), 335.090(1)(d), (g), 335.100(1)(c), (f), 335.130(1) ~~[335.070]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.080(1)(d), 335.090(1)(d), and 335.100(1)(c) require the board to establish examination fees by promulgation of an administrative regulation. KRS 335.080(1)(g), 335.090(1)(g), and 335.100(1)(f) require the board to establish initial license fees by promulgation of an administrative regulation. KRS 335.130(1) requires the board to establish renewal fees by promulgation of an administrative regulation. This administrative regulation establishes these examination, license, and renewal fees. ~~[KRS 335.080, and 335.100 require applicants to pay an examination fee fixed by the board.]~~

Section 1. The licensed clinical social worker examination fee shall be \$140. ~~[Having satisfied all other requirements for licensure and having been approved to sit for an examination developed by the board, an applicant for license as a certified social worker shall forward to the board an examination fee in the amount of \$115.]~~

Section 2. The certified social worker examination fee shall be \$140. ~~[Having made application to the board and satisfied all other requirements for licensure and having been approved to sit for an examination developed by the board, an applicant for licensure as social worker shall forward to the board upon request an examination fee in the amount of \$115.]~~

Section 3. The licensed social worker examination fee shall be \$140. ~~[Having made application to the board and satisfied all other requirements for licensure and having been approved to sit for an examination developed by the board, an applicant for specialty certification in the area of clinical social work shall forward to the board upon request an examination fee in the amount of \$115.]~~

Section 4. The initial license fee and the renewal fee for a licensed clinical social worker license shall be \$150. ~~[The board shall administer all examinations at least twice a year.]~~

Section 5. The initial license fee and the renewal fee for a certified social worker license shall be seventy-five (75) dollars. ~~[Any candidate for licensure as a social worker or certified social worker, or for certification for independent practice who fails to pass the required examination, may be reexamined six (6) months from the date of the previous examination. The fee for reexamination shall be \$105.]~~

Section 6. The initial license fee and the renewal fee for a licensed social worker shall be fifty (50) dollars.

JANICE K. JAMES, Chair

APPROVED BY AGENCY: April 21, 1997

FILED WITH LRC: May 15, 1997 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1997, at 2 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in attending this

hearing shall notify this agency in writing by June 16, 1997, five workdays 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: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40502-0456, Telephone: (502) 564-3296.

REGULATORY IMPACT ANALYSIS

Agency Contact: David L. Nicholas

(1) Type and number of entities affected: Approximately 3500 licensed social workers Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: Minimal direct costs for licensed social workers 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: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: Licensing fees are considered state revenue.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: This regulation is being amended to comply with state law. No other alternatives were deemed appropriate.

(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 effects are anticipated on public health and environmental welfare.

2. Continuing costs or savings: No continuing costs or savings.
3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: This regulation is being amended to comply with state law. No other alternatives were deemed appropriate.

(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 effects are anticipated on public health and environmental welfare.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effects on environment and public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all licensed social workers are treated uniformly under the law.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Social Work
(Amendment)**

201 KAR 23:070. Qualifying education and qualifying experience under supervision. [~~Specialty certification.~~]

RELATES TO: 335.080(1)(c), (3), 335.100(1)(a), (b), (3) [~~335.090, 335.100~~]

STATUTORY AUTHORITY: KRS 335.070(3), 335.080(1)(c), (3), 335.100(1)(a), (b), (3) [~~335.070~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.080(1)(c) and 335.100(1)(a) provide that an applicant for a certified social worker license or a licensed clinical social worker license must have a master's degree or a doctoral degree in social work from an educational institution approved by the board. KRS 335.080(3) provides that a certified social worker may engage in the practice of clinical social work under the supervision of a licensed clinical social worker as directed by the board by promulgation of an administrative regulation. KRS 335.100(1)(b) provides that an applicant for a licensed clinical social worker license must have acquired post-master's experience under appropriate supervision as established by the board by promulgation of an administrative regulation. KRS 335.100(3) provides that a licensed clinical social

worker shall assume responsibility for and supervise the certified social worker's practice of clinical social work as directed by the board by promulgation of an administrative regulation. This administrative regulation sets forth the educational institutions approved by the board, the definitions relating to supervision, the content of a supervisory contract, and the requirements of experience under supervision. [This administrative regulation further clarifies descriptions of specialty certification and the functions evolving therefrom, in addition to clarifying terms used KRS Chapter 335.]

Section 1. Definitions. (1)(a) "Educational institution approved by the board" means graduate schools of social work accredited by the Council on Social Work Education.

(2) "Practice of [] except that the board shall evaluate credentials of foreign graduates on a case-by-case basis; and

(b) "A social work or social welfare program" not accredited by the Council on Social Work Education shall demonstrate to the satisfaction of the board that they meet the Council on Social Work Education standards for accreditation of graduate programs.

(2) Supervision for the independent practice of clinical social work means the educational process of utilizing a partnership aimed at enhancing the professional development of supervisees in providing services which focus upon the evaluation and treatment of emotional disorders and mental illness as related to the total health of the individual, and on helping with problems of living and activities designed to stimulate growth and development.

(3) "Certification for the independent practice of clinical social work" means the process whereby the board recognizes a certified social worker to have special training or competence to engage in the independent practice of clinical social work.

(4) "Independent practice of clinical social work" means that practice in which an individual who, wholly or in part, practices clinical social work outside of those settings specifically exempted by KRS 335.010, and has responsibility for his own practice and sets up his own conditions of exchange with his clients and identifies himself in any manner as a clinical social work practitioner in offering services. In addition, a social work employee of any individual, institution, or organization except those exempted by KRS 335.010 providing clinical social work services and paid by the persons, institutions or organizations rather than by direct arrangement with the client is considered within the definition of the private independent practice of clinical social work.

(5) "Clinical social work" means the practice of social work which focuses on the evaluation and treatment of emotional disorders and mental illness as related to the total health of the individual. The practice is based on knowledge of psychodynamics, human relations, crisis intervention, psychopathology, and group dynamics. Practitioners have numerous skills including those necessary for individual, marital, family and group psychotherapy, as well as other treatment modalities. The responsibility of the clinical social worker shall establish a therapeutic relationship which leads to correction of the dysfunction. This relationship includes diagnosis using professionally recognized clinical nomenclature; treatment planning which includes development, implementation, and modification of the plan; evaluation of progress; and termination of the treatment process. This relationship shall be characterized by face-to-face contact with the client system throughout the treatment process. [Because the clinical social worker holds the welfare of the client/patient in high regard, all persons seen in a therapeutic capacity shall be informed of the regulatory authority of this board. This notice shall be in a written format as specified by the board.]

(3) "Supervision" means the educational process of utilizing a partnership between a supervisor and a supervisee aimed at enhancing the professional development of the supervisee in providing clinical social work services.

(4) "Supervisor" means a licensed clinical social worker who:

(a) Provides supervision to a certified social worker pursuant to

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100 hours [of which, excepting hours of supervision received prior to December 31, 1984,] may be obtained through group supervision in groups of six (6) or fewer members. ~~It~~

~~(8) Supervision congruent with the board's code of ethical practice;~~

~~(9) Passed an examination developed by the board;~~

Section 6. Evaluation by Board. (1) ~~[4.]~~ The period of supervised experience required by KRS 335.100(1)(b) ~~[and the supervisory requirements set forth in Section 3 of this administrative regulation]~~ shall be evaluated by the board according to one (1) ~~[of the two (2), or a combination]~~ of the ~~[two (2)]~~ following methods at the option of the candidate:

(a) ~~[(1)]~~ Postexperience evaluation. The candidate submits his application along with appropriate documentation of supervision upon completion of the experience.

(b) Transitional evaluation. The candidate submits a contract for the experience already attained and for the experience yet to be attained.

(c) ~~Preapproved [(2) Preexperience]~~ evaluation. The candidate submits a contract ~~[detailed description of the plan]~~ for the experience which will be taking place over the required time period. This contract ~~[plan]~~ shall be evaluated by the board and shall be approved or disapproved within ninety (90) days of its submission. ~~[The plan shall include all of the following:~~

~~(a) The name and license number of the supervisee;~~

~~(b) The name and license number of the supervisor;~~

~~(c) The agency where the experience will be received;~~

~~(d) A detailed description of the nature of the practice, which includes all of the following:~~

~~1. The type of clients which shall be seen;~~

~~2. The type of therapies and treatment modalities which shall be used including the prospective length of treatment;~~

~~3. The type of problems which shall be treated;~~

~~(e) The nature, duration and frequency of the supervision which includes all of the following:~~

~~1. The number of hours of supervision per week;~~

~~2. The amount of group and individual supervision;~~

~~3. The methodology for transmission of case information;~~

~~(f) The conditions or procedures for termination of the supervised experience;~~

~~(g) The explicit statement that the supervisor meets the criteria set forth in Section 3(5) of this administrative regulation.]~~

(2) A certified social worker who desires to practice clinical social work pursuant to KRS 335.080(3), which does not qualify as supervised experience pursuant to KRS 335.100(1)(b), shall submit a contract. This contract shall be evaluated by the board and shall be approved or disapproved within ninety (90) days of its submission.

JANICE K. JAMES, Chair

APPROVED BY AGENCY: April 21, 1997

FILED WITH LRC: May 15, 1997 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1997, at 2 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 1997, five workdays 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: David L. Nicholas,

Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40502-0456, Telephone: (502) 564-3296.

REGULATORY IMPACT ANALYSIS

Agency Contact: David L. Nicholas

(1) Type and number of entities affected: Approximately 3500 licensed social workers Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings 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: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: This regulation is being amended to comply with state law. No other alternatives were deemed appropriate.

(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 effects are anticipated on public health and environmental welfare.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effects on environment and public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

ADMINISTRATIVE REGISTER - 4207

that clients are informed of fees and billing arrangements before rendering services.

(2) A social worker shall not bill, or permit clients or third parties to be billed, for social work services when he knows that the services were:

- (a) Not provided;
 - (b) Improperly provided;
 - (c) Provided by another individual who is not identified on the billing statement; or
 - (d) Were unnecessary.
- (3) A social worker shall not offer or accept payment or any other compensation for referral of a client.

(4) A social worker shall not accept any form of remuneration for services that involves the bartering of services.

(5) A social worker may take legal measures to collect fees if a client does not pay for services rendered as agreed provided that the social worker gives reasonable advance notice to the client and that the information to be released includes only that which is essential to process the claim.

Section 8. Confidentiality. (1) A social worker shall hold communications with a client in confidence and shall maintain records of client information in a confidential manner.

(2) A social worker may disclose client information when:

- (a) The client has signed an authorization to release information;
- (b) The social worker is required by law to disclose essential information out of a duty to protect, warn, or report;
- (c) The social worker is a defendant in a civil or criminal action or is a respondent in a disciplinary process; or
- (d) A client has raised his mental condition as an element in a civil action and the court has ordered the release of the client's information.

(3) A social worker shall disclose no more client information than is necessary to meet the requirements of law.

(4) A social worker shall remove any identifying information about the client from training manuals, professional writings, or classroom presentations.

(5) A social worker shall protect the confidentiality of a deceased client.

Section 9. Client Records. (1) A social worker shall not deceptively alter client records.

(2) A social worker shall retain and secure client records to maintain confidentiality and shall destroy records by means that ensure confidentiality.

(3) A social worker shall maintain client records for at least five (5) years from the date of termination of services, but in any case shall maintain client records until a client reaches the age of twenty (20) years.

Section 10. Dual Relationships. (1) A social worker shall not enter into a dual relationship with a client when that relationship might:

- (a) Impair the social worker's professional judgment;
- (b) Incur the risk of exploitation of the client; or
- (c) Otherwise violate a provision of this administrative regulation.

(2) If a dual relationship cannot be avoided and if it does not impair the social worker's professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation, the social worker shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation does not occur.

(3) A social worker shall not obtain or engage the services of a client when obtaining or engaging such services might:

- (a) Impair the social worker's professional judgment;
 - (b) Incur the risk of exploitation of the client; or
 - (c) Otherwise violate a provision of this administrative regulation.
- (4) A social worker shall not engage in sexual intimacy or contact

with a client or former client.

(5) A social worker shall not engage in a personal relationship or engage in sexual intimacy or contact with a member of a client's immediate family or an individual who is otherwise an intimate of the client.

(6) A social worker shall not use his professional relationship with a client or a former client to further his personal interest or personal gain.

(7) A social worker shall not enter into a professional-client relationship with a member of the social worker's immediate family, an intimate, or a personal friend unless this relationship does not pose a risk of harm to the client or to members of the client's immediate family.

(8) A social worker shall be solely responsible for acting appropriately in regard to relationships with clients or former clients. A client or a former client's initiation of a personal, sexual, or business relationship shall not justify, excuse, or provide a defense for a violation of this section.

Section 11. Referral and Termination. (1) A social worker shall refer a client for social work or other services that the social worker is unable to provide, including making a timely and appropriate referral of a client when the client's need exceeds the competency of the social worker to meet that need.

(2) A social worker shall terminate social work services when a client has attained stated goals and objectives or when a client fails to benefit from social work services.

(3) A social worker shall communicate the referral or the termination of social work services to a client.

(4) A social worker shall not terminate social work services or refer a client for the purpose of entering into a personal relationship with the client, including:

- (a) A sexual, romantic relationship;
- (b) A financial or business relationship; or
- (c) Other activities that might serve the personal political, or religious interests of the social worker.

Section 12. Research. (1) A social worker shall obtain written informed consent from a client or a client's guardian when the client is a subject of a research project.

(2) A client's consent shall comply with the requirements of federal or state law regulating research with human subjects and shall include at least the following:

- (a) The scope and purpose of the research;
- (b) The procedures used to protect the client's confidentiality interests;
- (c) The client's right to participate or to refuse to participate without any negative consequence to service delivery;
- (d) The possible risks and benefits of participation; and
- (e) The client's right to withdraw at any time from participation without negative consequence to service delivery.

(3) A social worker shall protect the privacy and anonymity of clients who are research subjects and shall inform clients of any limitations on confidentiality that might arise from participation in the research project.

Section 13. Duty to Report. A social worker who has personal knowledge of a violation of the code of ethical conduct shall report to the board the name of the offending social worker and the nature of the ethical violation. The social worker shall not report the names of clients or client identifying information unless the clients have given informed consent to him. [The following code of ethics consists of general guidelines which embody certain standards of practice for the social worker in his professional relationship. The licensee is expected to conduct his practice within the parameters of this code of ethics. The duties and responsibilities of the professional social worker as set forth herein are for purposes of illumination and not

ADMINISTRATIVE REGISTER - 4209

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections 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. This administrative regulation establishes the policies and procedures for the Kentucky State Penitentiary.

Section 1. (1)(a) Kentucky State Penitentiary policies and procedures, May 14, 1997 [~~November 13, 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 01-02-01	Public Information and Media Communications
KSP 020000-15	Legal Assistance
KSP 02-01-01	Inmate Commissary Program (<u>Amended 5/14/97</u>)
KSP 02-08-01	Inventory Records and Control [(Amended 11/13/96)]
KSP 02-11-01	Requisition and Purchase of Supplies and Equipment
KSP 02-12-01	Inmate Personal Funds
KSP 05-02-01	Management Information System
KSP 06-01-01	Inmate Records [(Amended 11/13/96)]
KSP 09-08-01	Searches and Preservation of Evidence [(Amended 11/13/96)]
KSP 10-02-01	Special Management Units: Assignment, Classification Review and Release
KSP 10-02-05	Special Security Unit [(Amended 11/13/96)]
KSP 10-04-01	Special Needs Inmates
KSP 100000-21	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 14-03-01	Marriage of Inmates
KSP 14-04-01	Legal Services
KSP 14-06-01	Inmate Grievance Procedure
KSP 15-01-01	Inmate Grooming and Dress Code (<u>Amended 5/14/97</u>)
KSP 15-03-01	Award of Meritorious Good Time
KSP 15-06-01	Due Process/Disciplinary Procedures
KSP 16-01-01	Visiting Program
KSP 16-02-01	Inmate Correspondence
KSP 16-03-02	Inmate Telephone Access (<u>Amended 5/14/97</u>)
KSP 16-04-01	Inmate Packages
KSP 17-01-01	Inmate Personal Property [(Amended 11/13/96)]
KSP 17-01-02	Disposition of Unauthorized Property [(Amended 11/13/96)]

KSP 17-01-03	11/13/96 (Renumbered from 100000-03) Procedures for Providing Clothing, Linens and Other Personal Items
KSP 17-01-04	Property Room, Clothing Storage and Property Inventory Control [(Amended 11/13/96)]
KSP 18-01-01	General Guidelines and Functions of the Classification Committee [(Amended 11/13/96)]
KSP 18-01-02	Functions of the Classification Committee
KSP 18-06-01	Classification Document [(Amended 11/13/96)]
KSP 18-10-01	Preparole Progress Report
KSP 18-11-01	Transfers to Kentucky Correctional Psychiatric Center (KCPC)
KSP 18-15-01	Protective Custody Unit [(Amended 11/13/96)]
KSP 19-04-01	Inmate Work Programs: Safety Inspections of Inmate Work Locations [(Amended 11/13/96)]
KSP 19-04-02	Unit Classification Committee: Inmate Work Assignments
KSP 19-05-01	Correctional Industries [(Amended 11/13/96)]
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
KSP 25-10-01	Discharge of Inmates by Shock Probation

DOUG SAPP, Commissioner

APPROVED BY AGENCY: May 12, 1997

FILED WITH LRC: May 14, 1997 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1997, at 9 a.m. in the State Office Building Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 1996, five (5) days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation, if requested, at the time of notification of intent to attend. A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost therefore to be borne by the requesting party. If you do not wish to be heard at the public hearing, you may submit comments on the proposed administrative regulation. Send written notification to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack T. Damron or Tamela Biggs, Staff Attorneys, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, (502) 564-2204, FAX: (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Contact person: Tamela Biggs

(1) Type and number of entities affected: 321 employees of the correctional institutions, 806 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:

ADMINISTRATIVE REGISTER - 4211

NTC 13-20-01 Infectious Disease ~~[(Amended 10/14/96)]~~
 NTC 13-20-02 Infection Control ~~[(Amended 10/14/96)]~~
 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 15-05-01 Drug Abuse and Intoxicants Testing ~~[(Added 10/14/96)]~~
 NTC 16-01-01 Mail Regulations
 NTC 16-02-01 Visiting ~~[(Amended 10/14/96)]~~
 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 Orientation
 NTC 18-01-01 Parole Progress Report
 NTC 18-02-01 Classification
 NTC 18-02-02 Classification - 48 Hour Notification
 NTC 18-03-01 Special Notice Form
 NTC 18-05-01 Transfers of Inmates
 NTC 18-05-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center
 NTC 19-01-01 Inmate Work Program (Amended 5/14/97)
 NTC 19-01-03 Temporary Leave from Job Assignment
 NTC 19-02-01 Correctional Industries
 NTC 19-02-02 Guidelines for Correctional Industries
 NTC 20-01-01 Educational Programs
 NTC 20-02-02 Live Work Projects in Vocational School Classes
 NTC 21-01-01 Library Services
 NTC 22-03-01 Conducting Inmate Organizational Meetings and Programs
 NTC 23-01-01 Religious Services
 NTC 23-03-01 Marriage of Inmates
 NTC 24-04-01 Honor Status
 NTC 24-05-01 Unit Management (Amended 5/14/97)
 NTC 25-01-01 Release Preparation Program
 NTC 25-01-02 Temporary Release/Community Center Release
 NTC 25-01-03 Graduated Release
 NTC 25-02-01 Funeral Trips and Bedside Visits
 NTC 25-03-01 Inmate Release Procedure
 NTC 26-01-01 Citizen Involvement and Volunteer Services Program

DOUG SAPP, Commissioner

APPROVED BY AGENCY: May 12, 1997

FILED WITH LRC: May 14, 1997 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1997, at 9 a.m. in the State

Office Building Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 1997, five (5) days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation, if requested, at the time of notification of intent to attend. A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost therefore to be borne by the requesting party. If you do not wish to be heard at the public hearing, you may submit comments on the proposed administrative regulation. Send written notification to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, (502) 564-2204, FAX: (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Tamela Biggs

(1) Type and number of entities affected: 287 employees of the correctional institutions, 1,124 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 1996-1998 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

ADMINISTRATIVE REGISTER - 4213

BCC 13-07-03 Immediate Medical Treatment for Person's Injured by Weapon or Chemical Agent

BCC 13-08-01 Inmate Health Screening and Evaluation

BCC 13-09-01 Prohibition on Medical Experimentation

BCC 13-10-01 Dental Services

BCC 13-11-01 Suicide Prevention and Intervention Program

BCC 13-12-01 Use of Pharmaceutical Products

BCC 13-12-02 Parenteral Administration of Medications and Use of Psychotropic Drugs

BCC 13-13-01 Inmate Health Education

BCC 13-14-01 Management of Serious and Infectious Diseases

BCC 13-15-01 Informed Consent

BCC 13-16-01 Health Records

BCC 13-17-01 Notification of Inmate Family in the Event of Serious Illness, Injury or Surgery

BCC 13-19-01 Physicians Referrals/Continuity of Care

BCC 13-20-01 Chronic and Convalescent Care

BCC 13-22-01 Psychiatric and Psychological Services, Handling of Mentally Retarded Inmates and Transfers

~~[BCC 13-23-01 First Aid Kits (Deleted 5/14/97)]~~

BCC 14-01-01 Office of Public Advocacy Attorney Visits ~~[(Amended 3/12/97)]~~

BCC 14-02-01 Law Library ~~[(Amended 3/12/97)]~~

BCC 14-04-01 Inmate Rights and Responsibilities (Amended 5/14/97)

BCC 14-06-01 Legal and Support Services for Inmates (Amended 5/14/97)

BCC 15-02-02 Room Assignment

BCC 15-03-01 Rules and Regulations for Dormitories ~~[(Amended 3/12/97)]~~

BCC 15-05-01 Extra Duty Assignments (Amended 5/14/97)

BCC 16-01-01 Inmate Furloughs (Amended 5/14/97)

BCC 16-02-01 Inmate Visiting ~~[(Amended 3/12/97)]~~

BCC 16-03-02 Outgoing Inmate Packages

BCC 16-03-03 Inmate Correspondence (Amended 5/14/97)

BCC 17-02-01 Authorized Inmate Personal Property ~~[(Amended 3/12/97)]~~

BCC 17-03-01 Processing of New Inmates From Local Jails

BCC 18-01-01 Classification: Institutional Classification and Re-classification

BCC 18-02-01 Racial Balance in Living Areas ~~[(Amended 3/12/97)]~~

BCC 19-01-01 Inmate Work Programs

BCC 19-02-01 Classification of Inmates to Governmental Service Program (Amended 5/14/97)

BCC 19-03-01 Correctional Industries (Amended 5/14/97)

BCC 20-01-01 Academic and Vocational School

BCC 20-04-01 Educational Program Evaluation

BCC 20-05-01 Educational Program Planning

BCC 20-06-01 Academic and Vocational Curriculum

BCC 21-01-01 Library Services ~~[(Amended 3/12/97)]~~

BCC 21-01-02 Audio or Video Tape Court Transcripts

BCC 22-01-01 Arts and Crafts/Production and Sale of Items

BCC 22-02-01 Privileged Trips

BCC 22-03-01 Recreational Employees

BCC 22-04-01 Recreation and Inmate Activities

BCC 22-04-02 Inmate Clubs and Organizations (Amended 5/14/97)

BCC 22-04-03 Conducting Inmate Organizational Meetings and Programs (Amended 5/14/97)

BCC 22-04-04 Recreation Program Availability (Amended 5/14/97)

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 (Amended 5/14/97)

BCC 22-09-01 Use of Inmates in Recreation Programs

BCC 23-01-01 Religious Services (Amended 5/14/97)

BCC 24-01-01 Duties and Responsibilities of Classification and

Treatment Officers (Amended 5/14/97)

BCC 24-02-01 Duties and Responsibilities of the Unit Director and Assistant to the Unit Director (Amended 5/14/97)

BCC 24-03-01 Social Services ~~[(Amended 3/12/97)]~~

BCC 25-01-01 Inmate Check Out Procedure

~~[BCC 25-02-02 Temporary Release and Community Center Release (Deleted 5/14/97)]~~

BCC 25-05-01 Supplemental Parole Progress Reports

BCC 26-01-01 Citizen Involvement and Volunteer Service Program

DOUG SAPP, Commissioner

APPROVED BY AGENCY: May 12, 1997

FILED WITH LRC: May 14, 1997 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1997, at 9 a.m., in the State Office Building Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 1997, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, Telephone Number (502) 564-2024, Facsimile Number (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Contact person: Tamela Biggs, Staff Attorney

(1) Type and number of entities affected: 92 employees of the correctional institution, 403 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 1996-1998 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

ADMINISTRATIVE REGISTER - 4215

Except where necessary for takeoff and landing, the minimum safe altitudes as defined in 14 CFR 91.119 are:

(a) Over any congested area of a city, town or settlement, or over any open air assembly of persons, an altitude of 1000 feet above the highest obstacle within a horizontal radius of 2000 feet of the aircraft;

(b) Over other than congested areas, an altitude of 500 feet above the surface except over open water or sparsely populated areas; or

(c) Over open water or sparsely populated areas, an altitude of 500 feet above any person, vessel, vehicle or structure.

(14) "Permit" means the written authorization to alter or construct a structure issued in accordance with the findings and directions of the commission pursuant to its administrative regulations.

(15) "Primary surface" means an imaginary surface longitudinally centered on a runway. If the runway has a specially prepared hard surface, the primary surface shall extend 200 feet beyond each end of that runway. If the runway does not have a ~~has no~~ specially prepared hard surface, or planned hard surface, the primary surface shall end at each end of that runway. The elevation of any point on the primary surface shall be the same as the elevation of the nearest point on the runway centerline. The width of a primary surface shall be the width prescribed below for the most precise approach existing or planned for either end of that runway:

(a) 250 feet for a utility runway having only visual approaches;

(b) 500 feet for a utility runway having nonprecision instrument approaches; or

(c) For other than a utility runway the width shall be:

1. 500 feet for a visual runway having only visual approaches;

2. 500 feet for a nonprecision instrument runway having visibility minimums greater than three-fourths (3/4) statute mile; or

3. 1,000 feet for a nonprecision instrument runway having a nonprecision instrument approach with visibility minimums as low as three-fourths (3/4) of a statute mile, and for a precision instrument runway.

(16) "Publicly-owned airport" means an airport that is open to the general public without prior request to use the airport and which is owned by a public agency, governmental body, airport board, or quasi-governmental body.

(17) "Publicly-owned airport imaginary surfaces" means the air space around an airport necessary for the safe landing and taking off of aircraft. The size of each imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end. The types of imaginary surfaces are defined in this section.

(18) "Runway" means the surface of an airport used for landing and taking off of aircraft as depicted on the airport zoning map, airport master plan or Federal Aviation Administration (FAA) form 7480-1, Notice of Landing Area Proposal. The types of runways and their approaches for airport zoning purposes are:

(a) "Nonprecision instrument runway" means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document.

(b) "Precision instrument runway" means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), microwave landing system (MLS), or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by an FAA approved airport layout plan or any other FAA planning document.

(c) "Visual runway" means a runway intended solely for the operation of aircraft using visual approach procedures, with no

straight-in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, or by any planning document submitted to the FAA by competent authority.

(d) "Utility runway" means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

(e) "Other than utility runway" means a runway that is constructed for and intended to be used by aircraft with a maximum gross weight both above and below 12,500 pounds. The aircraft may be propeller-driven, turbo-propelled, or jet-propelled.

(19) "Terminal obstacle clearance area" means that airspace needed for the initial, intermediate, final and missed approach segments of an instrument approach procedure and the circling approach in instrument departure areas for the Kentucky airports described in the "U.S. Terminal Procedures, Southeast Volume 1 of 3".

(20) "Transitional surface" means the imaginary surface at an airport which extends outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven (7) to one (1) from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

~~[Section 2. Incorporation by Reference. The publication of the Federal Aviation Administration "U.S. Terminal Procedures, Southeast Volume 1 of 3" published April 1, 1993 is incorporated by reference as a part of this administrative regulation. A copy of the U.S. Terminal Procedures, Southeast Volume 1 of 3 is on file with the administrator and may be viewed or photocopied at his office on weekdays between 8 a.m. and 4:30 p.m. eastern time. His address is Office of Aeronautics, Kentucky Airport Zoning Commission, 421 Ann Street, Frankfort, Kentucky 40622. The telephone number is (502) 564-4480.]~~

JAMES C. CODELL, III, Secretary, Chair

APPROVED BY AGENCY: April 30, 1997

FILED WITH LRC: May 14, 1997 at 1 p.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on June 23, 1997 at 2 p.m. local prevailing time in the Transportation Cabinet, Corner of High, Clinton and Holmes Streets, Room 1003, 501 High Street, Frankfort, Kentucky 40622. Any person who intends to attend this meeting must in writing by June 16, 1997 so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by June 23, 1997. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. Written comments will be accepted until the close of business on June 23, 1997. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra Pullen Davis, Staff Assistant, Transportation Cabinet, 1003 State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-4890, Fax: (502) 564-4809.

REGULATORY IMPACT ANALYSIS

Contact person: Sandra Pullen Davis

(1) Type and number of entities affected: Any person wishing to erect a structure which is taller than 200 feet above ground level or

TRANSPORTATION CABINET
Department of Highways
Division of Aeronautics
Kentucky Airport Zoning Commission
(Amendment)

602 KAR 50:060. Construction within jurisdictional airspace.

RELATES TO: KRS 183.861 to 183.890, 14 CFR Part 77

STATUTORY AUTHORITY: KRS 183.861

NECESSITY, FUNCTION, AND CONFORMITY: KRS 183.861 allows the Kentucky Airport Zoning Commission to regulate the use of land within and around all publicly-owned airports within Kentucky. This administrative regulation is promulgated to regulate the construction and alteration of structures in the airspace of the state over which the commission has jurisdiction in order to prevent an obstruction to the safety of air navigation. The federal regulation relating to this administrative regulation is applicable to all public-use airports. However, Kentucky state law allows the zoning protection to be afforded only to publicly-owned airports. Therefore, there are privately-owned, public use airports in Kentucky around which the airspace is not protected.

Section 1. Except as provided in 602 KAR 50:090, ~~a [no] person~~ shall not construct or alter any structure which penetrates the airspace of the state over which the commission has jurisdiction as set forth in 602 KAR 50:030, unless the person who intends to construct or alter the structure obtains a permit from the commission in accordance with the procedures set forth in 602 KAR 50:090. [the administrative regulations of the commission.]

Section 2. The commission shall consider the provisions of 14 CFR Part 77 Sections 77.21 through 77.25, the aeronautical study performed by the administrator and any aeronautical study performed by the FAA as well as the factors set forth in KRS 183.868 and 183.870 in approving or disapproving an application for a permit submitted in accordance with the requirements of Section 1 of this administrative regulation.

Section 3. (1) Any change or transfer in the care, custody, control or ownership of a structure previously permitted by the commission shall require the original owner to notify the commission in writing of the name and address of the new owner on Kentucky Airport Zoning Commission/Transportation Cabinet form TC 56-50G "Notification of Change in Ownership" effective March 1997.

(2) ~~[a form prescribed by the commission, however,]~~ The new owner shall comply with all conditions and requirements of the originally issued permit for the transferred structure unless properly amended by the commission.

Section 4. (1) A power line [Power lines] existing prior to January 4, 1984 for which ~~a [no]~~ permit has not been issued may continue in its [their] present configuration.

(2) A [However, any] person proposing to alter or reconstruct any wire, transmission, distribution or other power line subsequent to September 1, 1983 that exceeds 200 feet above the ground level shall:

(a) Obtain a permit [all necessary permits] from the commission in accordance with 602 KAR 50:090; and

(b) Comply with the [all] applicable marking and lighting requirements in accordance with 602 KAR 50:100. [the administrative regulation of the commission.]

Section 5. Material Incorporated by Reference. (1) Kentucky Airport Zoning Commission/Transportation Cabinet form TC 56-50G "Notification of Change in Ownership" effective March 1997 is incorporated by reference.

(2) A copy of Kentucky Airport Zoning Commission/Transportation Cabinet form "Notification of Change of Ownership" may be viewed, copied, or obtained from the Zoning Administrator, Division of Aeronautics, 125 Holmes Street, Frankfort, Kentucky 40622. The hours of operation are 8 a.m. to 4:30 p.m. weekdays. The telephone number is (502) 564-4480. The fax number is (502) 564-7953.

JAMES C. CODELL, III, Secretary, Chair

APPROVED BY AGENCY: April 30, 1997

FILED WITH LRC: May 14, 1997 at 1 p.m.

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REGULATORY IMPACT ANALYSIS

Contact person: Sandra Pullen Davis

(1) Type and number of entities affected: Any person wishing to erect a structure which is taller than 200 feet above ground level or which is located in any other airspace under the jurisdiction of the Kentucky Airport Zoning Commission.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no change in the cost of living or employment is anticipated from the changes to this administrative regulation.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no change in the cost of living or employment is anticipated from the changes to this administrative regulation.

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

1. First year following implementation: A new version of the change in ownership notification form has been incorporated by reference.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body: No effect.

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

1. First year: No effect.

2. Continuing costs or savings: No effect.

3. Additional factors increasing or decreasing costs: No effect.

(b) Reporting and paperwork requirements: A new version of the change in ownership notification form has been incorporated by

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turn and termination areas, of a federal airway or approved off-airway route, that would increase the minimum obstacle clearance altitude.

(5) The surface of a takeoff and landing area of an airport or any imaginary surface established under 602 KAR 50:010, Section 2 including those identified in "U.S. Terminal Procedures, Southeast Volume 1 of 3".

Section 2. 14 CFR Part 77. (1) The Kentucky Airport Zoning Commission adopts 14 CFR Part 77, Sections 77.21 through 77.25, Objects Affecting Navigable Airspace, as effective on April 1, 1997 [September 25, 1989].

(2) 14 CFR Part 77, Sections 77.21 through 77.25 shall govern [governs] the determination of an obstruction to safe air navigation in any instance not specified in this administrative regulation.

Section 3. Incorporation by Reference. (1) The publication of the U.S. Department of Commerce, National Oceanic and Atmospheric Administration "U.S. Terminal Procedures, Southeast Volume 1 of 3" effective April 1997 is incorporated by reference as a part of this administrative regulation.

(2) A copy of the "U.S. Terminal Procedures, Southeast Volume 1 of 3" is on file with the administrator and may be viewed or photocopied at his office on weekdays between 8 a.m. and 4:30 p.m. eastern time. The address is Transportation Cabinet, Division of Aeronautics, Kentucky Airport Zoning Commission, 125 Holmes Street, Frankfort, Kentucky 40622. The telephone number is (502) 564-4480. The fax number is (502) 564-7953.

(3) A copy of the material incorporated by reference may be obtained from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, NOAA, N/CG33, Distribution Branch, Riverdale, Maryland 20737. The telephone number is (301) 436-6993.

JAMES C. CODELL, III, Secretary, Chair

APPROVED BY AGENCY: April 30, 1997

FILED WITH LRC: May 14, 1997 at 1 p.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on June 23, 1997 at 2 p.m. local prevailing time in the Transportation Cabinet, Corner of High, Clinton and Holmes Streets, Room 1003, 501 High Street, Frankfort, Kentucky 40622. Any person who intends to attend this meeting must in writing by June 16, 1997 so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by June 23, 1997. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. Written comments will be accepted until the close of business on June 23, 1997. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra Pullen Davis, Staff Assistant, Transportation Cabinet, 1003 State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-4890, Fax: (502) 564-4809.

REGULATORY IMPACT ANALYSIS

Contact person: Sandra Pullen Davis

(1) Type and number of entities affected: Any person wishing to erect a structure which is taller than 200 feet above ground level or which is located in any other airspace under the jurisdiction of the Kentucky Airport Zoning Commission.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no change in the cost of living or employment is anticipated from the changes to this administrative regulation.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no change in the cost of living or employment is anticipated from the changes to this administrative regulation.

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

1. First year following implementation: No effect.

2. Second and subsequent years: No effect.

(3) Effects on the promulgating administrative body: No effect.

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

1. First year: This administrative regulation is only a definitions regulation. No effect.

2. Continuing costs or savings: No effect.

3. Additional factors increasing or decreasing costs: No effect.

(b) Reporting and paperwork requirements: No effect.

(4) Assessment of anticipated effect on state and local revenues: This administrative regulation is only a definitions regulation. No effect.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The cost of the administration of the Kentucky Airport Zoning Commission is paid for from the General Funds appropriated to the Transportation Cabinet for that purpose.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no economic impact is anticipated from the changes to this administrative regulation.

(b) Kentucky: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no economic impact is anticipated from the changes to this administrative regulation.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The "Federal Terminal Procedures Chart" has been amended since it was last incorporated by reference in 602 KAR 50:010. When it was determined that the incorporation by reference of this document should not be in the definitions administrative regulation, but rather in this one, the latest version was determined to be the one to be incorporated by reference. In addition, a review of 14 CFR Part 77 revealed that all of the parts are not applicable to the functions of the Kentucky Airport Zoning Commission. Therefore, only the applicable portions are now incorporated by reference.

(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 administrative regulations of the Kentucky Airport Zoning Commission collectively provide for safer airways in the Commonwealth. They are designed to protect aircraft operating in Kentucky and persons on the ground in or near the vicinity of the controlled structures.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Collectively, there would be a detriment to aviation safety if these administrative regulations were not implemented because there would be little control over the erection of towers or other structures in an airport flight path.

(c) If detrimental effect would result, explain detrimental effect:

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if it appears to the commission that the proposed structure will not adversely affect the safety of air navigation, and, if no objections were to be received, a permit would be issued by the commission. However, the commencement of any construction or erection of the proposed structure prior to the final consideration by the commission and the issuance of a permit shall be at the sole risk of the applicant. The commission, its members and its administrator shall not be responsible or liable in any manner for any work performed prior to the issuance of a permit.

(e) If approval for a temporary structure or tentative approval of a permanent structure is being sought, the applicant shall furnish to the administrator affidavits or sworn statements detailing the conditions and reasons for the extraordinary measures being requested or provide any other information requested by the commission or its administrator.

(f) The commission may reject any recommendation of the administrator or withdraw any tentative approval previously granted after final consideration of the application. Any reliance placed upon any recommendation of the administrator or any tentative approval of the commission shall be at the applicant's own risk.

(3) The administrator shall submit the application, the results of his aeronautical study and his recommendation for commission action to the commission at its next meeting.

(2) [(4)] At least twenty (20) days prior to the commission meeting at which the application is to be considered, the administrator shall circulate a copy of the application and the conclusions of his aeronautical study to any interested parties including, but not limited to, local airport boards, municipal and county governments' officials, airport owners and operators.

(3)(a) An interested party [(5) Any interested parties] shall be permitted to file with the commission written objections to or remarks about the application [approval of the application].

(b) The objections or remarks shall be filed with the commission not [no] later than the date for filing established in the circulated copy of the application.

(c) [However,] The date by which the objections or remarks shall be received by the administrator shall provide all interested parties with at least eighteen (18) days from the date the administrator mailed the notice by first class mail.

Section 5. (1) [(6)] The application normally shall be considered at the first meeting of the commission after the expiration of the established period in which an interested party could file an objection to or remarks about the application.

(2) A copy of the commission's decision shall be mailed to the applicant and any other interested parties who filed an objection to or remarks about the application.

Section 6. (1) If tentative approval of a permanent structure is being sought, the applicant shall furnish to the administrator an affidavit or sworn statement detailing the conditions and reasons for the extraordinary measures being requested or provide any other information requested by the commission or its administrator.

(2) The commission may grant tentative approval of an application if:

(a) The time for filing an objection to the application has not expired, but it appears to the commission that an objection will not be filed; and

(b) It appears to the commission that the proposed structure will not adversely affect the safety of air navigation; or

(c) Other special conditions imposed in the permit have been met.

(3) The commencement of any construction or erection of the proposed structure the based on the issuance of tentative approval by the commission prior to the issuance of a permit shall be at the sole risk of the applicant.

(4) The commission, its members, and its administrator shall not be responsible or liable in any manner for any work performed prior

to the issuance of a permit.

Section 7. Material Incorporated by Reference. (1) Transportation Cabinet Form TC 56-50, "Application for Permit to Alter or Construct a Structure", revised effective January 1996 is incorporated by reference.

(2) A copy of Transportation Cabinet Form TC 56-50 may be viewed, copied, or obtained from the Zoning Administrator, Division of Aeronautics, 125 Holmes Street, Frankfort, Kentucky 40622. The hours of operation are 8 a.m. to 4:30 p.m. weekdays. The telephone number is (502) 564-4480. The fax number is (502) 564-7953.

JAMES C. CODELL, III, Secretary, Chair

APPROVED BY AGENCY: April 30, 1997

FILED WITH LRC: May 14, 1997 at 1 p.m.

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REGULATORY IMPACT ANALYSIS

Contact person: Sandra Pullen Davis

(1) Type and number of entities affected: Any person wishing to erect a structure which is taller than 200 feet above ground level or which is located in any other airspace under the jurisdiction of the Kentucky Airport Zoning Commission.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no change in the cost of living or employment is anticipated from the changes to this administrative regulation.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no change in the cost of living or employment is anticipated from the changes to this administrative regulation.

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

1. First year following implementation: The amendment to this administrative regulation clarifies the paperwork which must be submitted to the Zoning Commission Administrator if the application is for a temporary permit. It further incorporates a new application form by reference because of the change in address of the Zoning Commission.

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Frankfort, Kentucky 40622. The telephone number of the commission is (502) 564-4480. The business hours of the commission are 8 a.m. to 4:30 p.m. eastern time on those days which state government routinely functions.]

Section 2. A [Every] person who is issued a permit to alter or construct a structure shall mark or light the structure in accordance with the applicable standards of the Federal Aviation Advisory Circular, "Obstruction Marking and Lighting" [incorporated by reference in Section 1 of this administrative regulation], unless the commission determines that the absence of the marking or lighting will not impair the safety of air navigation.

Section 3. Any structure that exceeds 200 feet above ground level shall be obstruction marked or lighted in accordance with the standards of the Federal Aviation Advisory Circular, "Obstruction Marking and Lighting" [advisory circular incorporated by reference under Section 1 of this administrative regulation], unless the commission determines the absence of the marking or lighting will not impair the safety of air navigation.

Section 4. A [Any] holder of a commission permit that requires obstruction marking and lighting, as a condition for the approval of the application, may request a change in the obstruction marking or lighting requirements in order to maintain or improve the existing obstruction marking or lighting system based upon technological advances. The request shall be in writing and approved by the commission prior to any changes or alterations being made to the previously approved obstruction marking or lighting system.

Section 5. If an existing, permitted and standing facility is abandoned, the permit holder shall continue to maintain obstruction marking or lighting which was required by the commission unless the facility is physically removed.

Section 6. During the construction or alteration of a structure, once any portion of the structure exceeds 200 feet above ground level, it shall be obstruction marked and lighted in accordance with the standards of the Federal Aviation Advisory Circular, "Obstruction Marking and Lighting" [Advisory Circular incorporated by reference under Section 1 of this administrative regulation], unless the commission determines the absence of this marking or lighting will not impair the safety of air navigation and so states when the permit is issued.

Section 7. (1) Advisory Circular No. AC 70/7460-1J, Obstruction Marking and Lighting, issued by the Federal Aviation Administration effective January 1, 1996 is incorporated by reference.

(2) Advisory Circular No. AC 70/7460-1J, Obstruction Marking and Lighting may be viewed or copied from the Zoning Administrator, Division of Aeronautics, 125 Holmes Street, Frankfort, Kentucky 40622. The hours of operation are 8 a.m. to 4:30 p.m. weekdays. The telephone number is (502) 564-4480. The fax number is (502) 564-7953.

(3) Advisory Circular No. AC 70/7460-1J, Obstruction Marking and Lighting may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, D.C. 20402-9328.

JAMES C. CODELL, III, Secretary, Chair

APPROVED BY AGENCY: April 30, 1997

FILED WITH LRC: May 14, 1997 at 1 p.m.

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attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by June 23, 1997. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. Written comments will be accepted until the close of business on June 23, 1997. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra Pullen Davis, Staff Assistant, Transportation Cabinet, 1003 State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-4890, Fax: (502) 564-4809.

REGULATORY IMPACT ANALYSIS

Contact person: Sandra Pullen Davis

(1) Type and number of entities affected: Any person wishing to erect a structure which is taller than 200 feet above ground level or which is located in any other airspace under the jurisdiction of the Kentucky Airport Zoning Commission.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no change in the cost of living or employment is anticipated from the changes to this administrative regulation.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no change in the cost of living or employment is anticipated from the changes to this administrative regulation.

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

1. First year following implementation: None

2. Second and subsequent years: No effect.

(3) Effects on the promulgating administrative body: No effect.

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

1. First year: No effect.

2. Continuing costs or savings: No effect.

3. Additional factors increasing or decreasing costs: No effect.

(b) Reporting and paperwork requirements: No effect.

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

No effect.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The cost of the administration of the Kentucky Airport Zoning Commission is paid for from the General Funds appropriated to the Transportation Cabinet for that purpose.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no economic impact is anticipated from the changes to this administrative regulation.

(b) Kentucky: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no economic impact is anticipated from the changes to this administrative regulation.

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parties. Notice of the hearing shall be given by mailing a copy of the order establishing the hearing at least twenty (20) days prior to the date set for the hearing.]

Section 3. (1) ~~(7)~~ If the commission deems it in the best interest of the public ~~[whether or not requested by the parties]~~, it may require that a public discussion of an issue under consideration [the hearing] be conducted prior to taking any action on an [the] application, permit, zoning map, or other item before the commission for consideration [ete].

(2) The administrator shall, at least ten (10) days prior to the meeting, notify all interested parties of the date, time, and location of the commission meeting at which the public discussion will take place.

(3) An ~~[Any]~~ action rendered by the commission as a result of a public discussion [hearing] conducted under this subsection shall constitute a final agency action from which an appeal may be taken pursuant to Section 2 of this administrative regulation.

~~[Section 2. The procedures that follow shall be observed during the hearing process:~~

~~(1) The hearing shall be conducted in a formal manner.~~

~~(2) A transcript or stenographic record of the hearing shall be taken. The reporter shall furnish an original and one (1) copy of the transcript to the commission. Unless otherwise agreed, the cost of transcribing the evidence and of furnishing an original and one (1) copy to the commission shall be borne by the petitioner.~~

~~(3) Opportunity shall be given to the petitioner, the applicant and all other interested persons to produce witnesses, present evidence or raise other points of issue.~~

~~(4) The burden of proof concerning any action to be taken by the commission as a result of the hearing shall be upon the petitioner.~~

~~(5) All parties may be represented by counsel.~~

~~(6) The chairman of the commission or his designated representative shall preside at the hearing and shall rule on any objection or question that arises. A majority of the commission may overrule or modify any ruling of the chairman.~~

~~(7) The administrator of the commission shall open the hearing by presenting the petition for the hearing, documents representing the action taken by the commission that prompted the petition for a hearing and conclusions resulting from any aeronautical study conducted.~~

~~(8) Unless there are exceptional conditions that would warrant otherwise, the petitioner may make an opening statement outlining its position and any other party who desires the same relief shall next be given the opportunity to present an opening statement. Then the adverse party may make an opening statement outlining its position, followed by any other parties seeking the same relief.~~

~~(9) After all opening statements, the petitioner shall present its evidence and witnesses in support of its claim followed by other parties seeking similar action by the commission. Following the conclusion of the evidence presented by the petitioner and all other parties similarly aligned, the adverse parties shall be afforded the opportunity to present their evidence and witnesses.~~

~~(10) Each party shall have the right to cross-examine any witness offered by any other party.~~

~~(11) Formal rules of evidence used by the courts shall apply.~~

~~(12) The parties may by stipulation enter into the record any agreed facts, and it is desirable that the facts agreed upon be entered by stipulation whenever practical.~~

~~(13) Witnesses shall not be permitted to give opinion evidence unless they have first been qualified to show their special familiarity and knowledge with the desired subject.~~

~~(14) At the conclusion of the presentation of all evidence, the parties may offer closing statements to the commission. The order of presentation shall be in reverse of the opening statements unless determined otherwise by the chairman of the commission.~~

~~(15) The commission may require the filing of briefs in which the time of filing, length of briefs and replies, shall be stated at the conclusion of the hearing.~~

~~(16) Subsequent to the closing statements, the commission shall consider all relevant, competent, and material evidence and make the necessary findings of facts and conclusions which shall constitute a final decision of the commission. The findings and conclusions of the commission shall be signed by the chairman and a copy sent to each party that appeared at the hearing.~~

~~Section 3. Appeals from any final decision or order of the commission may thereafter be made to the Franklin County Circuit Court in accordance with the procedures set forth in KRS 193.620.]~~

JAMES C. CODELL, III, Secretary, Chair

APPROVED BY AGENCY: April 30, 1997

FILED WITH LRC: May 14, 1997 at 1 p.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on June 23, 1997 at 2 p.m. local prevailing time in the Transportation Cabinet, Corner of High, Clinton and Holmes Streets, Room 1003, 501 High Street, Frankfort, Kentucky 40622. Any person who intends to attend this meeting must in writing by June 16, 1997 so notify this agency. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by June 23, 1997. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. Written comments will be accepted until the close of business on June 23, 1997. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra Pullen Davis, Staff Assistant, Transportation Cabinet, 1003 State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-4890, Fax: (502) 564-4809.

REGULATORY IMPACT ANALYSIS

Contact person: Sandra Pullen Davis

(1) Type and number of entities affected: Any person wishing to erect a structure which is taller than 200 feet above ground level or which is located in any other airspace under the jurisdiction of the Kentucky Airport Zoning Commission.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no change in the cost of living or employment is anticipated from the changes to this administrative regulation.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held on the Notice of Intent to amend this administrative regulation. However, no change in the cost of living or employment is anticipated from the changes to this administrative regulation.

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

1. First year following implementation: None unless an individual dissatisfied with the ruling of the Kentucky Airport Zoning Commission wishes to discuss the matter with the members of the commission. In these instances, the individual must request to attend a meeting of

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Section 2. Rate Schedule. On the basis of the findings in Section 1, and in accordance with KRS 341.270, Schedule A of Table A shall be in effect for calendar year 1997 [~~1996~~], because the "trust fund balance" equals or exceeds \$350,000,000 on December 31, 1996 [~~1995~~]. Rates listed in Schedule A of Table A are listed below.

Employer Reserve Ratio	Rate Schedule
8.0% and over	0.30%
7.0% but under 8.0%	0.40%
6.0% but under 7.0%	0.50%
5.0% but under 6.0%	0.70%
4.6% but under 5.0%	1.00%
4.2% but under 4.6%	1.30%
3.9% but under 4.2%	1.50%
3.6% but under 3.9%	1.80%
3.2% but under 3.6%	2.00%
2.7% but under 3.2%	2.10%
2.0% but under 2.7%	2.20%
1.3% but under 2.0%	2.30%
0.0% but under 1.3%	2.40%
-0.5% but under -0.0%	6.50%
-1.0% but under -0.5%	6.75%
-1.5% but under -1.0%	7.00%
-2.0% but under -1.5%	7.25%
-3.0% but under -2.0%	7.50%
-4.0% but under -3.0%	7.75%
-6.0% but under -4.0%	8.25%
-8.0% but under -6.0%	8.50%
Less than -8.0%	9.00%

RODNEY S. CAIN, Secretary

RHONDA K. RICHARDSON, Commissioner

APPROVED BY AGENCY: May 6, 1997

FILED WITH LRC: May 12, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, June 24, 1997, at 9:30 a.m. at the Health Services Cabinet Auditorium, 275 East Main Street, First Floor, Health Services Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by, Tuesday, June 17, 1997, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Beverly Haverstock, General Counsel, Workforce Development Cabinet, Capital Plaza Tower, 2nd Floor, Frankfort, Kentucky 40601, Telephone: (502) 564-6606, Fax: (502) 564-7916.

REGULATORY IMPACT ANALYSIS

Contact Person: Beverly Haverstock

(1) Type and number of entities affected: 79,000 Kentucky employers.

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

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

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available

from the public comments received: None

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None resulting from this administrative regulation.

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: Possible increase in unemployment insurance trust fund receipts due only to natural wage increases and increased number of employers.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: U.S. Department of Labor administrative funding.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits: Not applicable.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity or 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? Tiering was not applied because all taxpaying employers are treated equally.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. Either all or part of a local government could be affected. Entities such as county health departments, water districts, libraries, etc., could be affected based upon their independent exercise of unemployment reporting options.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation affects the unemployment tax assessed based on the payroll of those local governments which have elected to make quarterly unemployment tax payments.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: The great majority of local governments have elected to reimburse any unemployment benefits attributable to their

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- (56) Broncomar, elixir, NDC 12939-0128: butabarbital 1 mg/ml;
 (57) Bucet Capsules, capsule, NDC 00785-2307: butalbital 50 mg;
 (58) Bucet Tablets, tablet, NDC 00785-2307: butalbital 50 mg;
 (59) Butace, capsule, NDC code 00539-0906: butabarbital 50 mg;
 (60) Butacet Capsules, capsule, NDC 53121-0133: butalbital 50 mg;
 (61) Butalbital, Acetaminophen and Caffeine Capsules, capsule, NDC 46672-0228: butalbital 50 mg;
 (62) Butalbital, Acetaminophen and Caffeine Tablets, tablet, NDC 52555-0079: butalbital 50 mg;
 (63) Butalbital, Acetaminophen and Caffeine Tablets, tablet, NDC 54696-0513: butalbital 50 mg;
 (64) Butalbital, Acetaminophen and Caffeine Tablets, tablet, NDC 00302-0490: butalbital 50 mg;
 (65) Butalbital, Acetaminophen and Caffeine Tablets, tablet, NDC 46672-0053: butalbital 50 mg;
 (66) Butalbital, Acetaminophen and Caffeine Tablets, tablet, NDC 46672-0059: butalbital 50 mg;
 (67) Butalbital, Acetaminophen and Caffeine Tablets, tablet, NDC 00832-1102: butalbital 50 mg;
 (68) Butalbital, Acetaminophen and Caffeine Tablets, tablet, NDC 52446-0544: butalbital 50 mg;
 (69) Butalbital and Acetaminophen Tablets, tablet, NDC 00879-0543: butalbital 50 mg;
 (70) Butalbital and Acetaminophen Tablets 50/325, tablet, NDC 46672-0099: butalbital 50 mg;
 (71) Butalbital and Acetaminophen Tablets 50/650, tablet, NDC 46672-0098: butalbital 50 mg;
 (72) Butalbital, APAP and Caffeine, tablet, NDC 00302-0490: butalbital 50 mg;
 (73) Butalbital, APAP and Caffeine Tablets, tablet, NDC 00182-1274: butalbital 50 mg;
 (74) Butalbital Compound Capsules, capsule, NDC 53506-0103: butalbital 50 mg;
 (75) Butalbital with Acetaminophen and Caffeine Tablets, tablet, NDC 00143-1787: butalbital 50 mg;
 (76) Butibel Elixir, elixir, NDC 00037-0044: butabarbital sodium 3 mg/ml;
 (77) Butibel Tablets, tablet, NDC 00037-0046: butabarbital sodium 15 mg;
 (78) Cafatine-PB Tablets, tablet, NDC 00904-1750: pentobarbital sodium 30 mg;
 (79) Cafergot P-B Suppository, suppository, NDC 00078-0035: pentobarbital 60 mg;
 (80) Cafergot P-B Tablets, tablet, NDC 00078-0036: pentobarbital sodium 30 mg;
 (81) C.D.P. Plus Capsules, capsule, NDC 00182-1856: chlordiazepoxide HCl 5 mg;
 (82) Charspast, tablet, NDC 00377-0500: phenobarbital 16.20 mg;
 (83) Chlordiazepoxide HCl and Clidinium Br., capsule, NDC 57247-1003: chlordiazepoxide 5 mg;
 (84) Chlordiazepoxide HCl 5 mg and Clidinium BR 2.5 mg, capsule, NDC 52446-0096: chlordiazepoxide HCl 5 mg;
 (85) Chlordiazepoxide Hydrochloride + Clidinium Bromide, capsule, NDC 47679-0268: chlordiazepoxide HCl 5 mg;
 (86) Chlordiazepoxide with Clidinium Bromide, capsule, NDC 46193-0948: chlordiazepoxide HCl 5 mg;
 (87) Chlordinium, capsule, NDC 00719-1208: chlordiazepoxide HCl 5 mg;
 (88) Chlordinium Sealets, capsule, NDC 00580-0084: chlordiazepoxide HCl 5 mg;
 (89) Clindex, capsule, NDC 00536-3490: chlordiazepoxide HCl 5 mg;
 (90) Clinibrax Capsules, capsule, NDC 00832-1054: chlordiazepoxide HCl 5 mg;
 (91) Clinoxide, capsule, NDC 00879-0501: chlordiazepoxide HCl 5 mg;
 (92) CON-TEN, capsule, NDC 11584-1029: butalbital 50 mg;
 (93) Digestokraft, tablet, NDC 00796-0237: butabarbital sodium 8 mg;
 (94) Digestokraft, tablet, NDC 00377-0460: butabarbital sodium 8 mg;
 (95) Dilantin with Phenobarbital 1/2, capsule, NDC 00071-0531: phenobarbital 32 mg;
 (96) Dilantin with Phenobarbital 1/4, capsule, NDC 00071-0375: phenobarbital 16 mg;
 (97) Dolmar, capsule, NDC 12939-0812: butalbital 50 mg;
 (98) Donalixir, elixir, NDC 00471-0095: phenobarbital 3.24 mg/ml;
 (99) Donna-Sed, elixir, NDC 00298-5054: phenobarbital 3.24 mg/ml;
 (100) Donnatal Capsules, capsule, NDC 00031-4207: phenobarbital 16.20 mg;
 (101) Donnatal Elixir, elixir, NDC 00031-4221: phenobarbital 3.24 mg/ml;
 (102) Donnatal Extentabs, sustained release tablet, NDC 00031-4235: phenobarbital 48.60 mg;
 (103) Donnatal No 2, tablet, NDC 00031-4264: phenobarbital 32.40 mg;
 (104) Donnatal Tablets, tablet, NDC 00031-4250: phenobarbital 16.20 mg;
 (105) Donnazyme, enteric coated tablet, NDC 00031-4649: phenobarbital 8.10 mg;
 (106) Donphen, tablet, NDC 00093-0205: phenobarbital 15 mg;
 (107) E-Caff PB Tablets, tablet, NDC 00185-0982: pentobarbital 30 mg;
 (108) Endolar, capsule, NDC 00588-7777: butalbital 50 mg;
 (109) Ephedrine and Sodium Phenobarbital, tablet, NDC 00377-0109: phenobarbital sodium 16.20 mg;
 (110) Ephedrine with Phenobarbital, tablet, NDC 00463-6086: phenobarbital 15 mg;
 (111) EQUI-CET Tablets, tablet, NDC 57779-0111: butalbital 50 mg;
 (112) Ergocaff-PB Tablets, tablet, NDC 00536-3801: pentobarbital sodium 30 mg;
 (113) Esgic Capsules, capsule, NDC 00456-0631: butalbital 50 mg;
 (114) ESGIC-PLUS, NDC 00456-0676, tablet, contains butalbital 50 mg;
 (115) Esgic Tablets, tablet, NDC 0456-0630: butalbital 50 mg;
 (116) Espasmotex, tablet, NDC code 11475-0835: phenobarbital 20 mg;
 (117) Ezol, capsule, NDC 45985-0578: butalbital 50 mg;
 (118) Fabophen Tablets, tablet, NDC 00904-3280: butalbital 50 mg;
 (119) Febridyne Plain Capsules, capsule, NDC 05383-0001: butalbital 50 mg;
 (120) FEMCET Capsules, capsule, NDC 50474-0703: butalbital 50 mg;
 (121) Fioricet, capsule, NDC 00078-0084: butalbital 50 mg;
 (122) G-1 Capsules, capsule, NDC 43797-0244: butalbital 50 mg;
 (123) G.B.S., tablet, NDC 00456-0281: phenobarbital 8 mg;
 (124) Gustase Plus, tablet, NDC 00249-1121: phenobarbital 8 mg;
 (125) Hybephen, tablet, NDC 00029-2360: phenobarbital 15 mg;
 (126) Hyosital White, tablet, NDC 00361-2131: phenobarbital 16.20 mg;
 (127) Hyosophen Capsules, capsule, NDC 00536-3926: phenobarbital 16 mg;
 (128) Hyosophen Tablets, tablet, NDC 00536-3920: phenobarbital 16.20 mg;
 (129) Hypnaldyne, tablet, NDC 00298-1778: phenobarbital 16.20 mg;
 (130) Hydrophen, tablet, NDC 00917-0244: phenobarbital 16.20 mg;

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mg;

(210) Triaprin, capsule, NDC 00217-2811: butalbital 50 mg;
(211) Truxaphen, tablet, NDC 00377-0541: phenobarbital 16.20

mg;

(212) Two-Dyne Revised, tablet, NDC 00314-2229: butalbital 50

mg;

(213) Wescophen-S, tablet, NDC 00917-0135: phenobarbital 30

mg;

(214) Wescophen S-II, tablet, NDC 00377-0628: phenobarbital 30

mg;

(215) Wesmatic Forte, tablet, NDC 00917-0845: phenobarbital 8

mg; and

(216) Wesmatic Forte, tablet, NDC 00377-0426: phenobarbital 8.10 mg; [Any compound, mixture, or preparation containing any depressant or stimulant substance exempted from the provisions of the federal controlled substance law as set forth in the April 1, 1994, edition of the Code of Federal Regulations, (CFR), Title 21, Food and Drugs, Chapter II—Drug Enforcement Administration, Department of Justice, Section 1308.32, Exempted Prescription Products, incorporated by reference, shall be exempted from the provisions of KRS Chapter 218A for administrative purposes only. The Code of Federal Regulations is published by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408. A copy of 21 CFR 1308.32 shall be on file in the Office of Drug Control, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621, and shall be available for public inspection and copying Monday through Friday 8 a.m. to 4:30 p.m. A copy of the CFR is also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.]

RICE C. LEACH, M.D., Commissioner

JOHN MORSE, Secretary

APPROVED BY AGENCY: April 30, 1997

FILED WITH LRC: May 13, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held June 23, 1997, at 9 a.m. in the Cabinet for Health Services Auditorium, 1st Floor, Department for Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending shall notify this agency in writing by June 16, 1997. 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. 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: Mae B. Lewis, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, (502) 564-7900.

REGULATORY IMPACT ANALYSIS

Agency Contact: Danna Droz

(1) Type and number of entities affected: 30,000 health care professionals including pharmacists, physicians, dentists, 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.

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 the format of the regulation.

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 additional record-keeping would be required of health professionals if the regulation were not in force.

(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 benefit is conformity with federal regulations and the elimination of recordkeeping requirements for those products included in this regulation.

(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, controls on the products will be more stringent than federal requirements, which could inhibit their availability to citizens of the Commonwealth.

(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 exclusion applies to all pharmacists or other dispensers 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 and 21 CFR 1308.32.

2. State compliance standards. The criteria for exemption are set forth in KRS 218A.020(3) and 218A.090(4)(i).

3. Minimum or uniform standards contained in the federal mandate. The criteria for substances to be exempt are set forth in 84 Stat. 1241; and 21 CFR 1308.32.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The regulation imposes no

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exceed the limit of:

- (a) \$2000 for individual; or
- (b) \$3000 for couple.

Section 6. Income Considerations. (1) Except as noted in subsections (2) through (9) of this section, income and earned income deductions are considered according to policies for the medically needy in 907 KAR 1:004.

(2) The optional supplementation payment is determined by adding:

(a) Total net income of the applicant or recipient, or applicant or recipient and spouse; and

(b) Except for payments for medical insurance or medical care and services, payments made to a third party in behalf of an applicant or recipient; and

(c) Subtracting the total of paragraphs (a) and (b) of this subsection from the standard of need in Section 7 of this administrative regulation.

(3) Income of the ineligible spouse is:

(a) Adjusted by deducting sixty-five (65) dollars and one-half (1/2) of the remainder from the monthly earnings; and

(b) Conserved in the amount of one-half (1/2) of the Supplemental Security Income Program standard for an individual for:

- 1. Himself; and
- 2. Each minor dependent child.

(4) Income of the eligible individual is not conserved for the needs of the ineligible spouse or minor dependent children.

(5) Income of the child shall be considered when conserving for the needs of the minor dependent child so the amount conserved does not exceed the allowable amount.

(6) The earnings of the eligible individual and spouse shall be combined prior to the application of the earnings disregard of sixty-five (65) dollars and one-half (1/2) of the remainder.

(7) If one (1) member of a couple is institutionalized and the spouse maintains a home, income in the amount of the Supplemental Security Income Program standard for one (1) shall be conserved for the spouse, if this spouse is a recipient of the Supplemental Security Income Program.

(8) A husband and wife residing in the same personal care or family care home may be considered to be living with each other if treating the husband and wife as living apart would prevent either of them from receiving state supplementation.

(9) The Supplemental Security Income Program twenty (20) dollars general exclusion is not an allowable deduction from income.

Section 7. Standard of Need. (1) The standard shall be based on living arrangement as follows:

(a) For an eligibility determination for a resident of a personal care home made on or after January 1, 1997, \$818 [~~1996, \$804~~];

(b) For an eligibility determination for a resident of a family care home made on or after January 1, 1997, \$623 [~~1996, \$609~~];

(c) Caretaker.

1. For an eligibility determination for a single individual, or an eligible individual with an ineligible spouse who is not aged, blind, or has a disability made on or after January 1, 1997, \$517 [~~1996, \$503~~];

2. For an eligibility determination for an eligible couple, both aged, blind, or have a disability and one (1) requiring care made on or after January 1, 1997, \$754 [~~1996, \$733~~];

3. For an eligibility determination for an eligible couple, both aged, blind or have a disability and both requiring care made on or after January 1, 1997, \$798 [~~1996, \$777~~].

(2) In couple cases, when both are eligible, the couple's income is combined prior to comparison with the standard of need. One-half (1/2) of the deficit is payable to each.

(3) The personal care or family care home shall accept as full payment for cost of care the amount of the standard, based on the living arrangement, minus a forty (40) dollars personal needs

allowance which shall be retained by the client.

Section 8. Temporary Stay in a Medical Institution. (1) A recipient of optional or mandatory state supplementation shall have continuation of state supplementation benefits without interruption for any of the first three (3) full months of medical confinement if:

(a) Admitted to:

- 1. A hospital;
- 2. A psychiatric hospital;
- 3. A nursing facility; and

(b) The recipient's physician shall certify that he expects the recipient to be medically confined for ninety (90) full consecutive days or less; and

(c) The state supplementation recipient receives benefits from the Supplemental Security Income Program.

(2) If discharged in the month following the last month of continued benefits, the temporary absence continues through the date of discharge.

Section 9. Citizenship requirements. An applicant or recipient shall be:

(1) A citizen of the United States; or

(2) A qualified alien pursuant to Section 1(2) of this administrative regulation. [~~An alien legally admitted to this country for permanent residence; or~~

~~(3) An alien who is residing in this country under color of law.]~~

Section 10. Residence Requirements. (1) The applicant or recipient shall be a resident of Kentucky.

(2) Supplemental payments may be made to Kentucky residents residing outside the state if:

(a) The individual has been placed in the other state by this state.

(b) Except with regard to the requirement shown in Section 8 of this administrative regulation, the other requirements for eligibility contained in this administrative regulation shall be applicable.

(c) For out-of-state placements, the licensure shall be in accordance with a similar licensure act of the other state.

(d) If there is no similar licensure act in the other state, the payment may be made only if this state determines that, except for being in another state, the facility meets standards for licensure under the provisions of KRS 216B.010 to 216B.131.

(e) To be eligible for a supplemental payment while placed out-of-state:

1. The individual shall require the level of care provided in the out-of-state placement;

2. There shall be no suitable placement available in Kentucky; and

3. The placement shall be preauthorized by staff of the Department for Social Insurance.

(3) Except as specified in subsection (9) of this section, an applicant placed in Kentucky by another state shall not be considered a resident of Kentucky.

(4) The state of residence shall be Kentucky for an applicant or recipient of state supplementation if the individual:

(a) Is age twenty-one (21) and over;

(b) Is residing in the state; and

1. Intends to remain permanently or for an indefinite period; or

2. Entered the state with a job commitment or to seek employment.

(5) The applicant or recipient residing in a personal care home is considered incapable of indicating intent to become a Kentucky resident if the individual:

(a) Has an I.Q. of forty-nine (49) or less or has a mental age of seven (7) or less, based on tests acceptable to the department; or

(b) Is judged legally incompetent; or

(c) Is found incapable of indicating intent based on medical or other documentation acceptable to the state.

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(f) Instruction in providing necessary activities to meet the needs of residents who have a diagnosis of mental illness or mental retardation.

(3) Initial basic training shall include the licensed nurse or the individual who has successfully completed certified medication technician training and may include the owner or operator. These individuals shall be trained in the quarter during which the application is filed.

(4) To assure that a staff member who has received basic training is always employed at the facility, a maximum of five (5) may be trained during a year.

(a) If staff turnover results in the loss of the licensed nurse or individual who has successfully completed certified medication technician training and five (5) staff have been trained, the personal care home shall request in writing to the Department for Social Insurance an exemption of the five (5) staff rule.

(b) The personal care home shall have on staff a licensed nurse or individual who has successfully completed certified medication technician training who:

1. Has received the mental illness or mental retardation basic training; or

2. Is enrolled in the next scheduled mental illness or mental retardation basic training workshop at the closest location.

(5) The Department for Mental Health and Mental Retardation Services may provide advanced level training for personal care homes.

(a) Advanced level training shall be provided through one (1) day workshops.

(b) Each advanced level workshop shall consist of two (2) three (3) hour sessions per day.

(c) Each three (3) hour session shall cover a topic appropriate for staff who work with residents who have a diagnosis of mental illness or mental retardation.

(d) Attendance of advanced level training workshops shall be optional for Persons with Mental Illness or Mental Retardation Supplement Program participants.

(6) The Department for Mental Health and Mental Retardation Services will provide within five (5) working days:

(a) A certificate to direct care staff who complete the workshop; and

(b) A listing to the Department for Social Insurance of staff who completed the training workshop.

(7) The Department for Social Insurance shall pay twenty-five (25) dollars for each staff member receiving basic or advanced level training up to the maximum of five (5) staff per year to a personal care home who has applied for the Persons with Mental Illness or Mental Retardation Supplement Program.

(8) Attendance of the basic training workshop shall be optional for a specialized personal care home.

Section 13. Persons with Mental Illness or Mental Retardation Supplement Program Certification. (1) The Office of the Inspector General, Division of Licensing and Regulation, shall visit the personal care home to certify eligibility to participate in the Persons with Mental Illness or Mental Retardation Supplement Program:

(a) The personal care home's initial Persons with Mental Illness or Mental Retardation Supplement Program certification may be separate from the annual survey;

(b) The initial Mental Illness or Mental Retardation Supplement Program certification shall be in effect until the next licensure survey that can be greater than or less than twelve (12) months;

(c) A personal care home's annual Persons with Mental Illness or Mental Retardation Supplement Program recertification may be completed during the annual licensure survey;

(d) The Department for Social Insurance shall notify the Division of Licensing and Regulation that the facility is ready to be certified.

(2) The Division of Licensing and Regulation shall review records,

observe and interview residents and staff during the certification process. The Division of Licensing and Regulation shall review records to assure the following criteria is met:

(a) Certification is on file at the personal care home to verify staff attended basic training provided by the Department for Mental Health and Mental Retardation Services. This provision shall be waived for a specialized personal care home.

(b) The personal care home's certified staff have trained all other direct care staff through in-service training or orientation regarding the information obtained at the mental illness or mental retardation basic training workshop. The personal care home shall maintain documentation of attendance at the in-service training for all direct care staff.

(c) Activities are being regularly provided and meet the needs of the residents. When residents do not attend group activities, activities shall also be designed to meet the needs of individual residents, for example, reading or other activity that may be provided on an individual basis. Individualized care plans are not required to meet this criteria.

(d) Medication administration meets licensure requirements and licensed nurse or individual who has successfully completed certified medication technician training demonstrates a knowledge of psychotropic drug side effects.

(3) The Division of Licensing and Regulation shall review the personal care home copy of the training certification prior to performing their record review during the Persons with Mental Illness or Mental Retardation Supplement Program certification process.

(4) If thirty-five (35) percent mental illness or mental retardation population is met on the day of the visit, the personal care home shall be deemed to have an ongoing qualifying percentage effective with month of request for certification. The personal care home is responsible for notifying the Department for Social Insurance, within ten (10) working days, if the mental illness or mental retardation population goes below thirty-five (35) percent of all occupied personal care beds in the facility.

(5) The Office of the Inspector General, Division of Licensing and Regulation, shall provide a form to the Department for Social Insurance monthly identifying certified personal care homes eligible for the Persons with Mental Illness or Mental Retardation Supplement Program. This information shall be provided by the fifth working day of each month for the prior month.

(6) The Office of Inspector General, Division of Licensing and Regulation, shall inform the Department for Social Insurance monthly of a personal care home which receive a conditional rating. This information shall be provided by the fifth working day of each month for the prior month.

Section 14. Hearings and Appeals. Applicants or recipients of benefits under programs described herein who are dissatisfied with any action or inaction on the part of the cabinet shall have the right to a hearing under 904 KAR 2:055.

JOHN L. CLAYTON, Commissioner

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: May 8, 1997

FILED WITH LRC: May 13, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1997, at 9 a.m. at the Health Services Auditorium, 1st Floor, CHR Building. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 1997, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made, in which case the person requesting the transcript shall be responsible for payment. If you do not wish to attend the public hearing, you may submit written comments on the

CABINET FOR FAMILIES AND CHILDREN
Department for Social Insurance
Division of Management and Development
(Amendment)

904 KAR 3:010. Definitions.

RELATES TO: KRS 194.050, 7 CFR 217.2, 273.1, 273.4, 273.5, 273.6, 273.7, 273.11, 273.16, [PL 103-66,] 7 USC 2012(g), (i)

STATUTORY AUTHORITY: KRS 194.050, 7 CFR 271.4, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Social Insurance and its programs under the Cabinet for Families and Children. The Cabinet for Families and Children [Human Resources] shall [te] 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 definitions of terms used by the cabinet in administrative regulations pertaining to the Food Stamp Program.

Section 1. Definition of terms utilized in administrative regulations relating to the Food Stamp Program are as follows:

(1) [~~"Aid to families with dependent children (AFDC)" means a money payment program for children who are deprived of parental support or care due to death, continued absence, physical or mental incapacity or unemployment of a parent.~~]

(2) "Application for participation" means the form to apply for food stamps [designed or approved by Food and Consumer Service (FCS)] that is completed by:

- (a) A household member; or
- (b) An authorized representative.

(2) [(3)] "Authorization to participate card" (ATP) means the document that is issued by the state agency to a certified household to show the allotment the household is authorized to receive on presentation of such document.

(3) [(4)] "Authorized representative":

(a) Means an individual designated by a household member to act on behalf of the household in one (1) or all of the following capacities:

1. Making application for the program;
2. Obtaining the coupons; and
3. Using the coupons.

(b) An adult who is a nonhousehold member may be designated as the authorized representative for certification purposes if the authorized representative:

1. Has been designated in writing by:
 - a. The head of the household;
 - b. The spouse; or
 - c. Another responsible member of the household; and
2. Is an adult who is aware of relevant household circumstances.

(c) The following individuals shall not act as an authorized representative unless:

1. The specific written approval of the designated state agency official [officials] is obtained; and
2. That official determines that no one else is able to serve as the authorized representative:
 - a. A state agency employee who is involved in the certification or issuance processes;
 - b. A retailer that is authorized to accept food coupons; and
 - c. An individual disqualified for an intentional program violation.

(d) The cabinet shall disqualify an individual from participating as an authorized representative up to one (1) year if the cabinet obtains evidence that the individual has:

1. Misrepresented a household's circumstances;

2. Knowingly provided false information pertaining to the household; or

3. Made improper use of coupons.

(4) [(5)] "Boarder":

(a) Means an individual to whom a household furnishes lodging and meals for reasonable compensation;

(b) "Reasonable compensation" is determined:

1. By considering only the amount paid for meals; and
2. Provided that the amount paid for meals is distinguishable from the amount paid for lodging.

(c) A reasonable monthly payment for meals shall be:

1. An amount which equals or exceeds the thrifty food plan for the appropriate size of the boarder household for a boarder whose board arrangement is for more than two (2) meals a day; or

2. An amount which equals or exceeds two-thirds (2/3) of the thrifty food plan for the appropriate size of the boarder household for a boarder whose board arrangement is for two (2) meals or less per day.

(d) A boarder is ineligible to participate in the program independent of the household providing the board.

(5) [(6)] "Certification" means the action necessary to determine eligibility of a household including:

- (a) Interview;
- (b) Verification; and
- (c) Decision.

(6) [(7)] "Communal dining facility" means:

(a) A public or nonprofit private establishment, approved by FCS, that prepares and serves meals for elderly persons;

(b) A public or private nonprofit establishment (eating or otherwise) that feeds:

1. Elderly persons; and
2. SSI recipients and their spouses;
- (c) Federally subsidized housing for the elderly that prepares and serves meals to the residents; and

(d) A private establishment that contracts with an appropriate state or local agency to offer meals at concessional prices to:

1. Elderly persons; and
2. SSI recipients and their spouses.

(7) [(8)] "Coupon" means:

- (a) Any stamp;
- (b) Coupon; or
- (c) Type of certificate; that is
- (d) Issued in accordance with the Food and Consumer Service regulations for the purchase of eligible food.

(8) [(9)] "Date of entry" or "date of admission" means the date established by the Immigration and Naturalization Service as the date the sponsored alien was admitted for permanent residence.

(9) [(10)] "Disability" means:

(a) An individual who receives:

1. Supplemental Security Income (SSI) or presumptive SSI under 42 USC 1381 to 1385;

2. Disability or blindness payments under:

- a. 42 USC 301 to 306;
- b. 42 USC 401 to 433;
- c. 42 USC 1201 to 1206;
- d. 42 USC 1351 to 1355; or
- e. 42 USC 1381 to 1385;

3. Optional or mandatory state supplementation;

4. Disability retirement benefits from a:

- a. Federal;
- b. State; or
- c. Local governmental agency; and
- d. Resulting from a disability considered permanent [payment] under 42 USC 421(i) [224(i)];

5. Annuity payments under:

- A. 45 USC 231(a); and
- b. Is determined to qualify for Medicare by the Railroad Retirement

age who lives with and is under parental control of a person other than his parent, together with the person exercising parental control.

(d) Notwithstanding the preceding sentences, the following individual shall be considered, together with any of the others who is his spouse, an individual household, without regard to the purchase of food and preparation of meals, if the income as determined under 7 USC 2014(d) of the others, excluding the spouse, does not exceed the poverty line, as described in 7 USC 2014(c)(1) by more than sixty-five (65) per centum:

1. An individual who lives with others;
2. An individual who is sixty (60) years of age or older; and
3. An individual who is unable to purchase and prepare meals because he suffers, as certified by a licensed physician, from a:

a. Disability which would be considered a permanent disability under 42 USC 421(i); or

b. A severe, permanent and disabling physical or mental infirmity which is not symptomatic of a disease;

(e) In no event shall any:

1. Individual; or
2. Group of individuals;
3. Constitute a household if they reside in an:

a. Institution;

b. Boarding house; or

c. Live with others and pay compensation to the others for meals.

(f) The following shall not be considered a resident of an institution and shall be considered an individual household:

1. A resident of federally subsidized housing for the:

a. Elderly;

b. Persons with a disability or blind recipients of benefits as defined under subsection (9) of this section;

2. A resident in a public or private nonprofit group living arrangement that:

a. Serves no more than sixteen (16) residents; and

b. Is certified by the appropriate state agency or agencies under regulations under 42 USC [USCA] 1382e(e); or

c. Is certified under standards determined by the secretary to be comparable to standards implemented by appropriate state agencies under this section;

3. A temporary resident of a public or private nonprofit shelter for battered women and children;

4. A resident of a public or private nonprofit shelter for individuals who:

a. Do not reside in a permanent dwelling; or

b. Have no fixed mailing address; and

c. Are otherwise eligible for coupons; and

5. A narcotics addict or alcoholic who together with his child live under:

a. The supervision of a private nonprofit institution; or

b. A publicly operated community mental health center, for the purpose of regular participation in a drug or alcoholic treatment program.

(20) [(24)] "Identification (ID) card" means a card which identifies the bearer as eligible to receive and use food coupons.

(21) [(22)] "Immigration and Naturalization Service (INS)" means the Immigration and Naturalization Service, United States Department of Justice.

(22) [(23)] "Institution of higher education" means any institution providing post high school education, which normally requires a high school diploma or equivalency certificate for a student to enroll, including but not limited to:

(a) College;

(b) University; and

(c) Vocational or technical school.

(23) [(24)] "Job opportunities and basic skills (JOBS)" means a program which assists recipients of the Kentucky Transitional Assistance Program (K-TAP) [AFDC] in obtaining the necessary education and training that will lead to gainful employment and self-

support.

(24) "Kentucky Transitional Assistance Program (K-TAP)", Kentucky's Temporary Assistance for Needy Families (TANF) program, means a money payment program for children who are deprived of parental support or care due to:

(a) Death, continued voluntary or involuntary absence, physical or mental incapacity of a parent; or

(b) Unemployment of at least one (1) parent when both parents are in the home.

(25) "Meal delivery service" means an entity with which the cabinet has contracted for the preparation of meals at concessional prices to an individual who is unable to adequately prepare his meals.

(a) A "meal delivery service participant" shall include:

1. An elderly person and his spouse;

2. The person who has a physical or mental disability; and

3. A person who otherwise has a disability and his spouse.

(b) The cabinet shall contract with any of the following "meal delivery service" providers:

1. A political subdivision;

2. A private nonprofit organization; or

3. A private establishment.

(26) "Medicaid" means medical assistance under 42 USC 1396.

(27) "Nonassistance household" (NA) means a household containing at least one (1) member who is not included in a K-TAP [an AFDC] household.

(28) "Nonprofit cooperative food purchasing venture" means any private nonprofit association of consumers whose members pool their resources to buy food.

(29) "Nonhousehold member" means an individual residing with a household but not considered a household member in determining the household's eligibility or allotment.

(a) The following shall be considered a nonhousehold member and if otherwise eligible, may participate in the program as a separate household:

1. Roomer. An individual to whom a household furnishes lodging, but not meals, for compensation.

2. Live-in-attendant. An individual who resides with a household to provide medical, housekeeping, child care or other similar personal services.

3. Other. Another individual who shares living quarters with the household but who does not customarily purchase food and prepare meals with the household.

(b) The following shall be considered as a nonhousehold member, ineligible to participate in the program as a separate household, and treated as described in 904 KAR 3:035:

1. An ineligible student;

2. A person disqualified for noncompliance with the work requirements;

3. A border;

4. A resident of an institution, except as provided in subsection (17) of this section;

5. A striker, unless:

a. The household was eligible the day prior to the strike; and

b. The household is eligible at the time of application;

6. A household disqualified due to voluntary quit provisions.

(30) "Overissuance" means the amount by which coupons issued to a household exceeds the amount the household was eligible to receive.

(31) "Public assistance" (PA) means any of the programs authorized under 42 USC 601 to 686 including:

a. Old age assistance;

b. K-TAP [Aid to families with dependent children (AFDC)];

c. Aid to the blind;

d. Aid to the persons who have a permanent and total disability; and

e. Aid to aged, blind or persons with a disability.

(32) "Self-employment income" means income from a business

specifically mandated by 7 USC 2012(i), as amended by PL 104-193, section 803.

(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 state is required to administer the program required under 7 USC 2011 et seq. for the determination of eligibility for food stamp benefits. Individuals who meet technical and financial eligibility criteria may participate in the Food Stamp Program and benefit by the opportunity for a nutritional diet. This administrative regulation is needed to comply with the federal mandate of 7 USC 2012(i), as amended by PL 104-193, section 803.

(b) State whether a harmful effect on environment and public health would result if not implemented: A detrimental effect on public health would result if this amendment is not implemented.

(c) If detrimental effect would result, explain detrimental effect: It is necessary to promulgate this administrative regulation to prevent the possible loss of federal funding (100 percent of food stamp benefits, 50 percent of federal match for administrative funds, and 100 percent of federal enhanced funding) due to the failure to implement the federal mandate at 7 USC 2012(i), as amended by PL 104-193, section 803.

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

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through federal requirements.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 7 USC 2012(i), as amended by PL 104-193, Section 803.

2. State compliance standards. This administrative regulation pertains to the definitions that are germane to the Food Stamp Program, as prescribed by 7 USC 2011 et seq., as amended. There are no separate state compliance standards.

3. Minimum or uniform standards contained in the federal mandate. The provisions of this administrative regulation are promulgated in accordance with 7 USC 2011 et seq., as amended, and applied in a like manner on a statewide basis.

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

CABINET FOR HEALTH SERVICES

Department for Medicaid Services

Division of Administration and Development
(Amendment)

907 KAR 1:270. Podiatry Program services.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194.050, 42 CFR 440.60, 42 USC 1396a, b, d, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, [Human Resources] has responsibility to administer the Medicaid Program [of Medicaid Assistance]. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed 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 the coverage provisions relating to podiatry services for which payment shall be made by the Medicaid Program on behalf of both [the] categorically needy and [the] medically needy beneficiaries.

Section 1. Coverage. The Medicaid program shall cover medical and surgical services provided to an eligible Medicaid recipient [recipients] by a licensed, participating podiatrist [podiatrists] when the services fall within the scope of the practice of podiatry except as indicated in Section 2 of this administrative regulation. [otherwise provided for herein.] The scope of coverage generally parallels the coverage available under the Medicare program with the addition of wart removal.

Section 2. Exclusions From Coverage; Exceptions. The following areas of care shall not be covered except as specified:

(1) ~~Treatment of flatfoot. Services directed toward the care or correction of flatfoot shall not be covered.~~

(2) ~~Treatment of subluxations of the foot. Surgical or nonsurgical treatments undertaken for the sole purpose of correcting a subluxated structure as an isolated entity within the foot shall not be covered; this exclusion of coverage does not apply to reasonable and necessary diagnosis and treatment of symptomatic conditions such as osteoarthritis, bursitis (including bunion), tendonitis, etc., that result from or are associated with partial displacement of foot structures, or to surgical correction that is an integral part of the treatment of a foot injury or that is undertaken to improve the function of the foot or to alleviate an induced or associated symptomatic condition.~~

(3) ~~Orthopedic shoes and other supportive devices for the foot are not covered under this program element.~~

(4) Routine foot care.

(a) Services characterized as routine foot care shall generally not be covered; this includes such services as:

1. The cutting or removal of a corn or callus; ~~[corns or calluses];~~

2. The trimming of a nail; ~~[nails];~~ and

3. Other hygienic and preventive maintenance care in the realm of self-care such as:

a. Cleaning and soaking the feet;

b. The use of skin creams to maintain skin tone of both ambulatory and bedfast patient; ~~[patients];~~ and

c. Any service ~~[services]~~ performed in the absence of localized illness, injury or symptom ~~[symptoms]~~ involving the foot. ~~[Notwithstanding the preceding, payment may be made for routine foot care such as cutting or removing corns, calluses or nails]~~

(b) If the patient has a systematic disease of sufficient severity that unskilled performance of the following ~~[these]~~ procedures would be hazardous and ~~[:]~~ the patient's condition results ~~[must result]~~ from severe circulatory embarrassment or areas of desensitization in the legs or feet, payment may be made for routine foot care such as cutting or removing a:

1. Corn;

2. Callus; or

3. Nail. ~~[Although not intended as a comprehensive list, the following metabolic, neurological, and peripheral vascular diseases (with synonyms in parentheses) most commonly represent the underlying systematic conditions contemplated and which would justify coverage; where the patient's condition is one (1) of those designated by an asterisk (*), routine procedures shall be reimbursable only if the patient is under the active care of a doctor of medicine or osteopathy for the condition and this doctor's name shall appear on the claim form:~~

(a) *Diabetes mellitus;

(b) ~~Arteriosclerosis obliterans (A.S.O., arteriosclerosis 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 Division of Administration and Development (Amendment)

907 KAR 1:280. Payments for Podiatry Program services.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194.050, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, [Human Resources] has responsibility to administer the Medicaid Program [of Medical Assistance in accordance with Title XIX of the Social Security Act]. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed 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 the method for determining payments for podiatry services.

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services or its designee.

(2) "Resource-based relative value scale (RBRVS) unit" means a value assigned to a medical procedure which takes into consideration the practitioner's work, practice expenses, liability insurance, and a geographic factor based on the prices of staffing and other resources required to provide the service in an area relative to national average prices.

Section 2. Payments for Podiatry Services. (1) [For services provided on or after July 1, 1990,] The cabinet shall reimburse a licensed, participating podiatrist [podiatrists] for a covered podiatry service within the podiatrist's scope of licensure, except laboratory services, provided [services rendered] to eligible Medical Assistance recipients at the usual and customary actual billed charge up to the fixed upper limit per procedure established by the department using a Kentucky Medicaid Fee Schedule developed from a resource-based relative value scale (RBRVS) on parity with medical doctors as described in subsection (2) of this section. If an RBRVS based fee is

not established, the department shall set a reasonable fixed upper limit for the procedure consistent with general Medicaid rate setting methodology. [cabinet at sixty five (65) percent of the median billed charge for outpatient services and fifty (50) percent of the median billed charge for inpatient services using 1989 calendar year billed charges. If there is no median available for a procedure, or the cabinet determines that available data relating to the median for a procedure is unreliable, the cabinet shall set a reasonable fixed upper limit for the procedure consistent with the general array of upper limits for the type of service. Fixed upper limits not determined in accordance with the principle shown in this section of the administrative regulation (if any) due to consideration of other factors (such as recipient access) shall be specified in the administrative regulation.]

(2) RBRVS units shall be multiplied by a dollar conversion factor to arrive at the fixed upper limits. Medicaid shall use the Kentucky Conversion Factor for "all other services" as referenced in 907 KAR 3:010, Section 2(2)(b).

(3) Reimbursement for a covered clinical laboratory service shall be based on the Medicare allowable payment rate. For a laboratory service with no established allowable payment rate, the payment shall be sixty-five (65) percent of the usual and customary actual billed charge.

LARRY A. MCCARTHY, Deputy Commissioner
JOHN H. MORSE, Secretary

APPROVED BY AGENCY: May 6, 1997

FILED WITH LRC: May 13, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1997 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 June 16, 1997 five workdays 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: Mae B. Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ked Fitzpatrick or Trish Howard

(1) Type and number of entities affected: All providers of podiatry program services who participate in the Kentucky 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: 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 comments received: No comments were received.

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, MAY 15, 1997

FINANCE AND ADMINISTRATION CABINET
Office of the Secretary
(New Administrative Regulation)

200 KAR 6:050. Control of concealed deadly weapons in buildings owned or leased by the executive and judicial branches of state government.

RELATES TO: KRS 56.463, 237.115

STATUTORY AUTHORITY: KRS 56.463(4), (8), 237.115(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 56.463 vests in the Finance and Administration Cabinet the power to control the use of any real property owned or otherwise held by the Commonwealth of Kentucky, or any state agency. KRS 56.463 authorizes the Finance and Administration Cabinet to adopt administrative regulations necessary to govern, among other things, the control of property to which KRS 56.463 is applicable. KRS 237.115(1) recognizes the right of a unit of state government to prohibit the carrying of concealed deadly weapons in that portion of a building owned, leased, or occupied by that unit of government. KRS 237.115(2) allows the prohibition to be established by statute or administrative regulation. The Judicial Branch has indicated its approval of this administrative regulation by the concurrence of the Chief Justice. This administrative regulation provides for: the prohibition against carrying concealed deadly weapons in buildings owned or leased by the executive and judicial branches of state government, the posting of signs prohibiting the carrying of such weapons on all applicable building entrances, and consequences of violating this prohibition.

Section 1. No person shall be permitted to carry a concealed deadly weapon into a building owned or leased by the executive and judicial branches of state government, including constitutional officers. This administrative regulation shall not apply to property owned or controlled by the legislative branch of state government, or law enforcement officers authorized by state statute to carry concealed deadly weapons.

Section 2. The prohibition against carrying concealed deadly weapons into buildings owned or leased by the executive and judicial branches of state government shall not apply to any building used for public housing by private persons, highway rest areas, firing ranges, wildlife management areas, or private dwellings owned, leased, or controlled by the state.

Section 3. Signs prohibiting the carrying of concealed deadly weapons shall be posted at the entrances to all applicable buildings owned or leased by the executive and judicial branches of state government.

Section 4. Persons violating this administrative regulation may be denied entrance and ordered to leave the building. If any person who violates this administrative regulation is an executive branch employee, such person may be subject to employee disciplinary measures for violation of the provisions of this administrative regulation.

JOHN P. MCCARTY, Secretary

APPROVED BY AGENCY: May 1, 1997

FILED WITH LRC: May 2, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 25, 1997 at 9 a.m. at the Capitol Annex Building, Room 129, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing of their

intent to attend by June 18, 1997, five (5) working days prior to the hearing. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Karen Powell, General Counsel, Office of Legal and Legislative Services, Finance and Administration Cabinet, Capitol Annex Building, 702 Capitol Avenue, Room 374, Frankfort, Kentucky, 40601, Telephone: (502) 564-6660, FAX: (502) 564-9875.

REGULATORY IMPACT ANALYSIS

Contact Person: Karen A. Powell, General Counsel

(1) Type and number of entities affected: This administrative regulation affects all agencies of the executive and judicial branches of state government.

(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 no anticipated 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 administrative 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. This administrative regulation poses no anticipated cost on business in the geographical area in which it will be implemented. A public hearing on this administrative regulation has not yet taken place.

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

1. First year following implementation: There are no compliance, reporting, or paperwork requirements associated with this administrative regulation. Nor will there be any effect upon competition.

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: Expected cost will be the cost of posting signs on all applicable property.

2. Continuing costs or savings: None or minimal.

3. Additional factors increasing or decreasing costs: No other factors are known at this time.

(b) Reporting and paperwork requirements: None

(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:

(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 administrative regulation.

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

(3) An agency may receive assistance for a public water system described in subsection (1) under this section if:

- (a) The use of the assistance will insure compliance; and
- (b) The owner or operator of the system agrees to undertake feasible and appropriate changes in operations, including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures, that the cabinet determines are necessary to insure that the system has the technical, managerial, and financial capability to comply with the requirements of 401 KAR Chapter 8 and the Safe Drinking Water Act.

Section 3. Eligible Drinking Water Supply Projects. (1) Funds in the federally assisted drinking water supply revolving fund may be used for:

(a) Planning, design, and construction of drinking water treatment and distribution systems;

(b) Refinancing eligible debt.

(2) Drinking water supply projects may include projects for expenditures to address Safe Drinking Water Act health goals, or to address situations where compliance standards have been exceeded, or to prevent future violations of the rules. The projects may include:

(a) Drinking water treatment plants, including basins for rapid mix, flocculation, coagulation, filtration, pretreatment disinfection, and disinfection prior to entry to the distribution system;

(b) Distribution systems;

(c) Storage tanks;

(d) Intake lines and short-term raw water storage;

(e) Clearwells;

(f) Drilled wells and wellhead areas.

(g) Any other structure or facility that the cabinet considers necessary to the efficient and sanitary operation of a public water system.

(3) Funds in the federally assisted drinking water supply revolving fund shall not be used for:

(a) Dams or rehabilitation of dams.

(b) Water rights.

(c) Reservoirs, except for finished water reservoirs and those reservoirs that are part of a treatment process and are located on the property where the treatment facility is located.

(d) Laboratory fees and other monitoring expenses.

(e) Operation and maintenance expenses.

(f) Projects needed mainly for fire protection.

(g) Projects for systems that lack adequate technical, managerial, and financial capability, unless assistance will assure compliance.

(h) Land acquisition where eminent domain is necessary.

(i) Projects for systems that are not in compliance with the provisions of 401 KAR Chapter 8 and the Safe Drinking Water Act, unless funding will insure compliance.

(j) Projects primarily intended to finance the expansion of any public water system in anticipation of future population growth.

Section 4. Process for Selecting Eligible Drinking Water Supply Projects. (1) The cabinet shall select eligible drinking water projects from the project priority lists. Only projects identified on the state's drinking water supply project priority lists shall be considered for funding.

(2) The cabinet shall develop these project priority lists once a year and shall provide public notice and seek public comment of the contents of the project priority lists in accordance with 40 CFR Part 25.

(3) The project priority lists shall identify the projects to be funded, and shall identify the projects to be funded in the current year and those to be funded at a later time.

(4) The order on the lists shall be determined by the priorities set forth in Section 5 of this administrative regulation.

(5) An eligible applicant may request an application to be placed on the project priority list from the cabinet's Division of Water. The

application shall contain the identity of the agency seeking funding, a description of the scope of the project, the number of persons the project will benefit, and any other information that will assist the cabinet in determining priorities based on Section 5 of this administrative regulation. Projects shall receive funding in the order in which they are prioritized.

(6) If both the cabinet and the Kentucky Infrastructure Authority agree that a project is not ready to be funded due to a failure to comply with all the requirements of this administrative regulation, the next highest priority project may receive funding.

(7) The cabinet shall develop two (2) project priority lists in accordance with Section 1452(b) of the Safe Drinking Water Act and this subsection:

(a) One (1) for all projects qualified for funding, regardless of size, which shall be designated the "A" list; and

(b) One (1) for public water systems serving fewer than 10,000 people as determined by the cabinet, which shall be designated the "B" list.

(8) At least fifteen (15) percent of the funds available for projects shall be awarded to projects from the "B" list, unless all projects from the "B" list have been funded, or are not ready to be funded, due to a failure to comply with all of the requirements of this administrative regulation.

(9) The cabinet may designate funds to be used for loans pursuant to the requirements of Section 1452(k) of the Safe Drinking Water Act, and shall prioritize them separately from other projects, based on how effectively public health will be protected or how the loan will aid compliance with national drinking water regulations.

Section 5. Criteria for Prioritization. (1) Priority shall be given by the cabinet to the projects that are necessary to:

(a) Ensure compliance with the requirements of the Safe Drinking Water Act;

(b) Address the most serious risk to human health; and

(c) Assist systems most in need on a per household basis.

(2) The cabinet will make these determinations based on the following factors:

(a) Resource development. Projects include, but are not limited to, those that will improve a public water system's ability to achieve financial, managerial and technical capacity to comply with existing and future national drinking water standards, as well as projects to assure a sufficient quantity and quality of raw water for treatment. The projects may include, but are not limited to: intakes, wells, raw and finished water lines, pump stations and any other project which may allow one (1) or more public water system to consolidate to achieve technical, financial or managerial capacity to meet national standards.

(b) Improved treatment. Projects to prevent or correct compliance problems and produce potable water. Projects may include, but are not limited to: presettling basins; aeration towers; full water treatment plant processes such as rapid mix, coagulation, flocculation, sedimentation, filtration, and clearwell; baffling; and chemical feeders.

(c) Improved water distribution systems, which includes projects to allow public water systems to prevent and correct compliance problems and deliver potable water through the existing distribution system. Projects may include, but are not limited to installation, refurbishment, or replacement of finished water lines; storage facilities or pump stations; elimination of constantly running or hydropneumatic pump stations; looping of water lines; flushing devices; baffling of storage facilities; and disinfection booster stations.

(d) Improving public health through extension of new service lines and connections, including projects where there is insufficient raw water available, or where the raw water is of a quality that is unsuitable for an individual to treat to potable water standards.

Section 6. Submission Requirements. (1) Applications for funding may be obtained from the cabinet's Division of Water.

(2) The original and three (3) copies of each application shall be

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operations and maintenance and debt service requirements, an amount to be determined by the cabinet. Monies may be withdrawn from the account when major maintenance or replacement of equipment in excess of budgeted amounts are required.

(8) The assistance agreement between the authority and applicant shall contain such terms and conditions as the authority deems necessary to maintain the financial integrity of the federally assisted drinking water revolving fund according to the circumstances of each drinking water project.

Section 9. Applicants' Capacity. The cabinet and the authority's staff may require as a condition of any loan that the applicant perform any or all of the following:

(1) Document compliance with requirements for adequate financial, managerial and technical capacity to operate the public water system;

(2) Demonstrate the ability to operate as well as maintain, the project in a proper manner through the final maturity date of the loan or the useful life of the project, whichever is greater; and

(3) Document compliance with any other state or federal requirements that apply to this program.

Section 10. Submission and Review of Requisition for Funds. (1) The original and one (1) copy of each requisition for funds with the required invoices attached shall be submitted to the authority and one (1) copy of each requisition for funds with the required invoices attached shall be submitted to the cabinet's Division of Water at the address set forth in Section 6 of this administrative regulation.

(2) The cabinet shall review requisitions for funds for compliance with federal and state requirements as defined in the conditional commitment letter and assistance agreement before approving payment by the authority.

Section 11. Loan Closing and Extensions. An applicant shall meet all conditions for loan closing and take action to award contracts for the drinking water project within not more than nine (9) calendar months after the date of the conditional commitment letter, otherwise, the loan commitment shall expire. One (1) extension period of up to three (3) months may be granted upon request of the applicant, if the authority staff, after consultation with the cabinet, determines that circumstances warrant the granting of the extension. If the extension is denied, the loan commitment shall be rescinded. If a request for a time extension is granted, but all the conditions still cannot be met during the extension period, the loan commitment may be rescinded. The applicant may reapply for a loan for any drinking water project for which the loan commitment has expired or has been rescinded under this section. An applicant that reapplies for a loan for substantially the same project will be given, at the authority's discretion, the standard or hardship community interest rate applicable at the time of such reapplication or the initial rate assigned, depending on affordability. However, the interest rate will be no lower than the initial rate assigned to the project.

Section 12. Authority to Administer the Program. The authority staff shall monitor the assistance agreements and require that financial reports be made available to the authority by the governmental agency at such intervals as shall be deemed necessary by the authority. The authority staff shall monitor the cash flows of the drinking water project, and perform all actions that shall be required to assure that the agreements continuously meet the program standards established by this administrative regulation. There shall be an annual administrative fee .25 of one (1) percent charged on the unpaid balance of all loans. This fee shall be applied to the servicing costs of the loans and necessary operating expenses of the program.

JOHN P. MCCARTY, Secretary

APPROVED BY AGENCY: May 15, 1997

FILED WITH LRC: May 15, 1997 at noon

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on June 30, 1997, 1:30 p.m., EDT in Room 125, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by June 23, 1997, five work days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Marilyn Eaton-Thomas, Secretary/Treasurer, Kentucky Infrastructure Authority, Room 261, Capitol Annex, Frankfort, Kentucky 40601, Phone: (502) 564-2090, Fax: (502) 564-7416.

REGULATORY IMPACT ANALYSIS

Contact Person: Marilyn Eaton-Thomas, Staff Liaison

(1) Type and number of entities affected: All local governmental agencies such as cities, counties and special districts of which there are over 600.

(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 to date, but the public should receive lower user charges for drinking water service.

(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 to date, but businesses should receive lower user charges for drinking water service.

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

1. First year following implementation: The regulations set forth a program that is totally optional, therefore any compliance, reporting or paperwork requirements apply only if the entities affected so choose. Planning and administrative costs will be incurred in the submission of an application and the administration of an approved project. These items are eligible for reimbursement from the fund if the loan application is approved. An annual audit is required for approved projects.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: A great deal of staff time will be required in the first year of the program to establish procedures, train the entities affected and execute loan provisions. New staff will be required by the Division of Water. There will be an administrative percentage available from the grant to cover costs of administration.

2. Continuing costs or savings: The level of costs should remain the same since caseload will continually increase but up-front preparation will be less.

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: Program will require the authority to develop project priority lists annually. It will also require an annual report to the Environmental Protection Agency and an annual audit.

(4) Assessment of anticipated effect on state and local revenues: One assumes that with improved water infrastructure business will be well served and revenues will be enhanced, but the extent of the

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

1. First year following implementation: Licensees will be required to post their licenses in their business and furnish upon request, their current identification card.

2. Second and subsequent years: Licensees will be required to post their licenses in their business and furnish upon request, their current identification card.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The board will incur a minimum amount of cost in conducting inspections.

2. Continuing costs or savings: The board will incur a minimum amount of cost in conducting inspections.

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 board will incur a minimum amount of cost in conducting inspections.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The funds available in the trust and agency 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: None

(b) Kentucky: Minimal

(7) Assessment of alternative methods; reasons why alternatives were rejected: This is the only methodology by which these licenses can be checked.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This regulation will assist in insuring that persons functioning as ophthalmic dispensers or apprentice ophthalmic dispensers will be properly licensed as required by law.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The public could be disadvantaged either physically or economically if they deal with an unlicensed individual.

(c) If detrimental effect would result, explain detrimental effect: None

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

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

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

(10) Any additional information or comments: None

(11) TIERING: Was tiering applied: No. If no, please explain why tiering was not applied: Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals a license an ophthalmic dispenser or apprentice ophthalmic dispenser. Therefore there is no need to tier this regulation.

GENERAL GOVERNMENT CABINET Kentucky Board of Social Work (New Administrative Regulation)

201 KAR 23:011. Repeal of 201 KAR 23:010, 201 KAR 23:030, 201 KAR 23:040, 201 KAR 23:100, and 201 KAR 23:110.

RELATES TO: KRS 335.070(3)

STATUTORY AUTHORITY: KRS 335.070(3)

NECESSITY, FUNCTION, AND CONFORMITY: 201 KAR 23:010, 201 KAR 23:030, 201 KAR 23:040, and 201 KAR 23:110 are being repealed to conform to statutory revisions that the Kentucky General Assembly made to KRS Chapter 335 during the 1996 Regular Session and to conform to amendments to 201 KAR Chapter 23. 201 KAR 23:100 is being repealed to conform to KRS Chapter 13B.

Section 1. 201 KAR 23:010, Application for licensure, is hereby repealed.

Section 2. 201 KAR 23:030, License renewal; fee, is hereby repealed.

Section 3. 201 KAR 23:040, Suspension, revocation, refusal to renew license, is hereby repealed.

Section 4. 201 KAR 23:100, Hearing procedures, is hereby repealed.

Section 5. 201 KAR 23:110, Advertising, is hereby repealed.

JANICE K. JAMES, Chair

APPROVED BY AGENCY: April 21, 1997

FILED WITH LRC: May 15, 1997 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1997, at 2 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 1997, five workdays 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: David L. Nicholas, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40502-0456, Telephone: (502) 564-3296.

REGULATORY IMPACT ANALYSIS

Agency Contact: David L. Nicholas

(1) Type and number of entities affected: Approximately 3500 licensed social workers Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings 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: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all licensed social workers are treated uniformly under the law.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(New Administrative Regulation)**

401 KAR 63:101. National emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 40 CFR 63.100 to 63.106, December 5, 1996 Federal Register (61 FR 64574), 42 USC 7412(b), (c)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation provides applicability provisions, definitions and other general provisions that are applicable to 40 CFR 63.110 through 63.152 (40 CFR 63, Subpart G) and 40 CFR 63.160 through 63.182 (40 CFR, Subpart H). Delegation of implementation and enforcement authority for the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) regulation from the U.S. EPA to the Commonwealth of Kentucky is provided in 42 USC 7661 through 7671q (Title V of the Clean Air Act).

Section 1. Definitions. As used in 40 CFR 63.100 to 63.106, the following term shall be defined as provided in this section:

(1) "Administrator" means the Secretary of the Natural Resources and Environmental Protection Cabinet, except as provided in subsection (2) of this section.

(2) As used in 40 CFR 63.106(a), "administrator" means the administrator of the U.S. EPA.

Section 2. (1) 40 CFR 63.100 to 63.106, (40 CFR 63, Subpart F), National emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry, as published in the Code of Federal Regulations, 40 CFR Part 63, July 1, 1996, and as amended in the December 5, 1996 Federal Register (61 FR 64574), is incorporated by reference.

(2) The material incorporated by reference may be obtained, inspected, or copied at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky, 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky, 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky, 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky, 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, Regional State Office Building, Room 345, London, Kentucky, 40741-9008, (606) 878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive W., Suite 700, Owensboro, Kentucky, 42303, (502) 686-3304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky, 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

APPROVED BY AGENCY: May 14, 1997

FILED WITH LRC: May 15, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on the new administrative regulation will be held on June 23, 1997, at 10 a.m. (ET) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing, at least five days prior to the hearing, of their intent to attend. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the regulation to the contact person.

CONTACT PERSON: Millie Ellis, Supervisor, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382, and fax number (502) 573-3787.

To request appropriate accommodations for the public hearing (such as an interpreter), or alternate formats of the printed material, please call (502) 573-3382, ext 362. The cabinet does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of services and provides, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis, Supervisor

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry, 40 CFR 63, Subpart F, as published in the Code of Federal Regulations, July 1, 1996, and as amended in the December 5, 1996 Federal Register (61 FR 64574). The federal regulation establishes applicability provisions, definitions, and other general provisions for two other federal regulations which the cabinet is proposing to incorporate by reference, 40 CFR 63, Subparts G and H:

(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. There are no costs or savings beyond those which are described in the proposed and final federal rulemakings.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where the federal actions are implemented beyond the costs described in the proposed and final rulemakings.

(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 federal regulation provides applicability criteria for sources subject to the provisions of 40 CFR 63, Subpart G and H and specifies general reporting and

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Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division for Air Quality (New Administrative Regulation)

401 KAR 63:110. National emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry for process vents, storage vessels, transfer operations, and wastewater.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 40 CFR 63.110 to 63.152, December 5, 1996 Federal Register (61 FR 64575), 42 USC 7412(b), (c)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 40 CFR 63.110 to 63.152, 42 USC 7412(l)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation establishes emissions limitations for process vents, storage vessels, transfer operations, and wastewater located within synthetic organic chemical manufacturing sources. Delegation of implementation and enforcement authority for the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) regulation from the U.S. EPA to the Commonwealth of Kentucky is provided in 42 USC 7661 through 7671q (Title V of the Clean Air Act).

Section 1. Definitions. As used in 40 CFR 63.110 to 63.152, the following term shall be defined as provided in this section:

(1) "Administrator" means the Secretary of the Natural Resources and Environmental Protection Cabinet, except as provided in subsection (2) of this section.

(2) As used in 40 CFR 63.106(a), "administrator" means the administrator of the U.S. EPA.

Section 2. (1) 40 CFR 63.110 to 63.152, (40 CFR 63, Subpart G), National emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry for process vents, storage vessels, transfer operations, and wastewater, as published in the Code of Federal Regulations, 40 CFR Part 63, July 1, 1996, and as amended in the December 5, 1996 Federal Register (61 FR 64575), is incorporated by reference.

(2) The material incorporated by reference may be obtained, inspected, or copied at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky, 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky, 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky, 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky, 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, Regional State Office Building, Room 345, London, Kentucky, 40741-9008, (606) 878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive W., Suite 700, Owensboro, Kentucky, 42303, (502) 686-3304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky, 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

APPROVED BY AGENCY: May 14, 1997

FILED WITH LRC: May 15, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on the new administrative regulation will be held on June 23, 1997, at 10 a.m. (ET) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing, at least five days prior to the hearing, of their intent to attend. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the regulation to the contact person.

CONTACT PERSON: Millie Ellis, Supervisor, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382, and fax number (502) 573-3787.

To request appropriate accommodations for the public hearing (such as an interpreter), or alternate formats of the printed material, please call (502) 573-3382, ext 362. The cabinet does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of services and provides, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis, Supervisor

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater, 40 CFR 63, Subpart G, as published in the Code of Federal Regulations, July 1, 1996, and as amended in the December 5, 1996 Federal Register (61 FR 64575). The federal regulation establishes emissions limitations for process vents, storage vessels, transfer operations, and wastewater located at synthetic organic chemical manufacturing sources.

(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. There are no costs or savings beyond those which are described in the proposed rule at 57 FR 62607 (December 31, 1992), and in the final rule at 61 FR 64575 (December 5, 1996)

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where the federal actions are implemented beyond the costs described in the proposed and final rulemakings.

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

1. First year following implementation: Existing sources subject to the federal regulation were to have submitted an initial notification to the U.S. EPA by August 22, 1994.

2. Second and subsequent years: Existing sources are to be in compliance with the provisions of this regulation by April 22, 1997. New sources are to be in compliance upon startup. The federal regulation specifies individual monitoring, recordkeeping, and reporting requirements for affected process vents, storage vessels, transfer operations, and wastewater.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(New Administrative Regulation)**

401 KAR 63:160. National emission standards for organic hazardous air pollutants for equipment leaks.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 40 CFR 63.160 to 63.182, 42 USC 7412(b), (c)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 40 CFR 63.160 to 63.182, 42 USC 7412(l)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation establishes standards for the control of emissions from equipment located within a source subject to 40 CFR Part 63. Delegation of implementation and enforcement authority for the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) regulation from the U.S. EPA to the Commonwealth of Kentucky is provided in 42 USC 7661 through 7671q (Title V of the Clean Air Act).

Section 1. Definitions. As used in 40 CFR 63.160 to 63.182, the following term shall be defined as provided in this section:

(1) "Administrator" means the Secretary of the Natural Resources and Environmental Protection Cabinet, except as provided in subsection (2) of this section.

(2) As used in 40 CFR 63.106(a), "administrator" means the administrator of the U.S. EPA.

Section 2. (1) 40 CFR 63.160 to 63.182, (40 CFR 63, Subpart H), National emission standards for organic hazardous air pollutants for equipment leaks, as published in the Code of Federal Regulations, 40 CFR Part 63, July 1, 1996, is incorporated by reference.

(2) The material incorporated by reference may be obtained, inspected, or copied at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky, 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky, 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky, 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky, 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, Regional State Office Building, Room 345, London, Kentucky, 40741-9008, (606) 878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive W., Suite 700, Owensboro, Kentucky, 42303, (502) 686-3304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky, 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

APPROVED BY AGENCY: May 14, 1997

FILED WITH LRC: May 15, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on the new administrative regulation will be held on June 23, 1997, at 10 a.m. (ET) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane,

Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing, at least five days prior to the hearing, of their intent to attend. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the regulation to the contact person.

CONTACT PERSON: Millie Ellis, Supervisor, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382, and fax number (502) 573-3787.

To request appropriate accommodations for the public hearing (such as an interpreter), or alternate formats of the printed material, please call (502) 573-3382, ext 362. The cabinet does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of services and provides, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis, Supervisor

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks, 40 CFR 63, Subpart H, as published in the Code of Federal Regulations, July 1, 1996. The provisions of this federal regulation applies to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves, bottoms receivers, instrumentation systems and control devices or systems required by Subpart H that are intended to operate in organic hazardous air pollutant service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 CFR Part 63 that references Subpart H.

(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. There are no costs or savings beyond those which are described in the proposed rule at 57 FR 62607 (December 31, 1992), and in the final rule at 61 FR 31439 (June 20, 1996).

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where the federal actions are implemented beyond the costs described in the proposed and final rulemakings.

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

1. First year following implementation: Existing sources subject to the federal regulation were to have submitted an initial notification to the U.S. EPA by August 22, 1994.

2. Second and subsequent years: Based upon the staggered schedule contained in 40 CFR 63.100(k)(3)(i) through (k)(3)(v), affected sources were to have been in compliance with the federal regulation between October 24, 1994 and October 23, 1995. The regulation does provide compliance extensions for compressors which meet certain requirements. Periodic inspection requirements and test methods and procedures for affected equipment are specified in the regulation. Affected sources are required to submit semiannual equipment reports listing the leaks detected, repaired, and not repaired.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The division reviews and processes permits as part of the division's normal day-to-day operations. These activities are funded through the existing fee program.

2. Continuing costs or savings: The division inspects all permitted

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(New Administrative Regulation)**

401 KAR 63:190. National emission standards for organic hazardous air pollutants for certain processes subject to the negotiated regulation for equipment leaks.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 40 CFR 63.190 to 63.193, 42 USC 7412(b), (c)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 40 CFR 63.190 to 63.193, 42 USC 7412(l)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation establishes standards for designated processes emitting specified hazardous air pollutants at major sources as defined by the federal Clean Air Act. Delegation of implementation and enforcement authority for the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) regulation from the U.S. EPA to the Commonwealth of Kentucky is provided in 42 USC 7661 through 7671q (Title V of the Clean Air Act).

Section 1. Definitions. As used in 40 CFR 63.190 to 63.193, the following term shall be defined as provided in this section:

(1) "Administrator" means the Secretary of the Natural Resources and Environmental Protection Cabinet, except as provided in subsection (2) of this section.

(2) As used in 40 CFR 63.193, "administrator" means the administrator of the U.S. EPA.

Section 2. (1) 40 CFR 63.190 to 63.193, (40 CFR 63, Subpart I), National emission standards for organic hazardous air pollutants for certain processes subject to the negotiated regulation for equipment leaks, as published in the Code of Federal Regulations, 40 CFR Part 63, July 1, 1996, is incorporated by reference.

(2) The material incorporated by reference may be obtained, inspected, or copied at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky, 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky, 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky, 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky, 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, Regional State Office Building, Room 345, London, Kentucky, 40741-9008, (606) 878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive W., Suite 700, Owensboro, Kentucky, 42303, (502) 686-3304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky, 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

APPROVED BY AGENCY: May 14, 1997

FILED WITH LRC: May 15, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on the new administrative

regulation will be held on June 23, 1997, at 10 a.m. (ET) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing, at least five days prior to the hearing, of their intent to attend. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the regulation to the contact person.

CONTACT PERSON: Millie Ellis, Supervisor, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382, and fax number (502) 573-3787.

To request appropriate accommodations for the public hearing (such as an interpreter), or alternate formats of the printed material, please call (502) 573-3382, ext 362. The cabinet does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of services and provides, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis, Supervisor

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks, 40 CFR 63, Subpart I, as published in the Code of Federal Regulations, July 1, 1996. The provisions of this federal regulation establishes applicability provisions, definitions, and other general provisions that are applicable to sources subject to this subpart.

(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. There are no costs or savings beyond those which are described in the proposed rule at 57 FR 62607 (December 31, 1992), and in the final rule at 59 FR 19587 (April 22, 1994).

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where the federal actions are implemented beyond the costs described in the proposed and final rulemakings.

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

1. First year following implementation: Existing sources subject to the federal regulation were to have submitted an initial notification to the U.S. EPA by August 22, 1994.

2. Second and subsequent years: Except for affected compressors, existing sources were to have been in compliance with the federal regulation by October 24, 1994. Compressors were to have been in compliance either by May 10, 1995 or January 23, 1996. Compliance dates, standards for performance, semiannual reporting and recordkeeping requirements are set forth in the federal regulation.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The division reviews and processes permits as part of the division's normal day-to-day operations. These activities are funded through the existing fee program.

2. Continuing costs or savings: The division inspects all permitted sources and maintains an emissions inventory for each source. The costs associated with inspection, compliance, and enforcement activities are budgeted accordingly.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There will be a

and control of air pollution. The federal regulation incorporated by reference in this administrative regulation establishes standards for chromium emissions from existing and new hard and decorative chromium electroplating and chromium anodizing tanks. Delegation of implementation and enforcement authority for the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) regulation from the U.S. EPA to the Commonwealth of Kentucky is provided in 42 USC 7661 through 7671q (Title V of the Clean Air Act).

Section 1. Definitions. As used in 40 CFR 63.340 to 63.347, the term "administrator" means the Secretary of the Natural Resources and Environmental Protection Cabinet.

Section 2. (1) 40 CFR 63.340 to 63.347, (40 CFR 63, Subpart N), National emission standards for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks, as published in the Code of Federal Regulations, 40 CFR Part 63, July 1, 1996, is incorporated by reference.

(2) The material incorporated by reference may be obtained, inspected, or copied at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky, 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky, 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky, 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky, 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, Regional State Office Building, Room 345, London, Kentucky, 40741-9008, (606) 878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive W., Suite 700, Owensboro, Kentucky, 42303, (502) 686-3304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky, 42003, (502) 898-8468.

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JAMES E. BICKFORD, Secretary

APPROVED BY AGENCY: May 14, 1997

FILED WITH LRC: May 15, 1997 at 11 a.m.

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CONTACT PERSON: Millie Ellis, Supervisor, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382, and fax number (502) 573-3787.

To request appropriate accommodations for the public hearing (such as an interpreter), or alternate formats of the printed material, please call (502) 573-3382, ext 362. The cabinet does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of services and provides, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis, Supervisor

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, 40 CFR 63, Subpart N, as published in the Code of Federal Regulations, July 1, 1996. The provisions of this federal regulation apply to each chromium electroplating or chromium anodizing tank at facilities performing hard chromium electroplating, decorative chromium electroplating, or chromium anodizing. The regulation specifically exempts from Title V permitting requirements those facilities which are not major sources, or located at major sources of hazardous air pollutants, and either: (1) use fume suppressants as an emission reduction technology; and (2) uses a trivalent chromium bath that incorporates a wetting agent as a bath ingredient. Additionally, the regulation provides that the permitting authority may elect to defer the Title V permitting requirements for area sources for five years.

(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. There are no costs or savings beyond those which are described in the proposed rule at 58 FR 65768 (December 16, 1993), and in the final rule at 61 FR 27787 (June 3, 1996).

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where the federal actions are implemented beyond the costs described in the proposed and final rulemakings.

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

1. First year following implementation: Existing sources subject to the federal regulation were to have submitted an initial notification to the U.S. EPA or the Kentucky Division for Air Quality by July 25, 1995.

2. Second and subsequent years: Decorative chromium plating tanks were to have been in compliance with the federal regulation by January 25, 1996, and hard plating tanks by January 25, 1997. The regulation stipulates emission limitations which cannot be exceeded during tank operation, work practice standards to address tank operation and maintenance, initial performance test and notification and recordkeeping requirements.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The division reviews and processes permits as part of the division's normal day-to-day operations. These activities are funded through the existing fee program.

2. Continuing costs or savings: The division inspects all permitted sources and maintains an emissions inventory for each source. The costs associated with inspection, compliance, and enforcement activities are budgeted accordingly.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There will be a minimal increase in reporting and paperwork requirements and these activities will be absorbed into the division's day-to-day operations, as stated in 1. and 2. above.

(4) Assessment of anticipated effect on state and local revenues: This administrative regulation will have no known effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Division for Air Quality's existing fee program will be used to implement and enforce this administrative regulation.

(6) Economic impact, including effects of economic activities

Section 2. (1) 40 CFR 63.360 to 63.367, (40 CFR 63, Subpart O), Ethylene oxide emissions standards for sterilization facilities, as published in the Code of Federal Regulations, 40 CFR Part 63, July 1, 1996, is incorporated by reference.

(2) The material incorporated by reference may be obtained, inspected, or copied at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky, 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky, 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky, 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky, 41701, (423) 435-6022;

(f) London Regional Office, 85 State Police Road, Regional State Office Building, Room 345, London, Kentucky, 40741-9008, (606) 878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive W., Suite 700, Owensboro, Kentucky, 42303, (502) 686-3304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky, 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

APPROVED BY AGENCY: May 14, 1997

FILED WITH LRC: May 15, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on the new administrative regulation will be held on June 23, 1997, at 10 a.m. (ET) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing, at least five days prior to the hearing, of their intent to attend. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the regulation to the contact person.

CONTACT PERSON: Millie Ellis, Supervisor, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382, and fax number (502) 573-3787.

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REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis, Supervisor

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal Ethylene Oxide Emissions Standards for Sterilization Facilities, 40 CFR 63, Subpart O, as published in the Code of Federal Regulations, July 1, 1996. The provisions of this federal regulation apply to commercial sterilization or fumigation operations which use ethylene oxide. Affected sources which use less than one ton of ethylene oxide in all consecutive 12 month periods beginning on December 6, 1996, are subject only to the recordkeeping provisions. All other affected sources are subject to the emissions limitations and the reporting and recordkeeping requirements. This regulation exempts from its provisions beehive

fumigators, research or laboratory facilities as defined in 42 USC 7412(c)(7), and ethylene oxide sterilization operations at stationary sources such as hospitals, doctor's offices, clinics, or other facilities whose primary purpose is to provide medical services to humans or animals.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented. There are no costs or savings beyond those which are described in the proposed rule at 59 FR 10591 (March 7, 1994), and in the final rule at 61 FR 27788 (June 3, 1996).

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where the federal actions are implemented beyond the costs described in the proposed and final rulemakings.

(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 first year requirements specified in this regulation. Sources which are subject to its provisions and which are in existence prior to December 8, 1997, must be in compliance by December 6, 1997.

2. Second and subsequent years: Compliance, reporting, and recordkeeping requirements are directly related to the source's use of ethylene oxide. Sources using ten tons or more of ethylene oxide as defined by the regulation are subject to a Maximum Achievable Control Technology standard. Sources using between one and ten tons are subject to a less stringent Generally Available Control Technology standard. No controls are required of sources using less than one ton of ethylene oxide. The regulation specifies monitoring and reporting requirements for sources subject to the emissions standards and recordkeeping requirements for all commercial sterilization and fumigation operations which use ethylene oxide.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The division reviews and processes permits as part of the division's normal day-to-day operations. These activities are funded through the existing fee program.

2. Continuing costs or savings: The division inspects all permitted sources and maintains an emissions inventory for each source. The costs associated with inspection, compliance, and enforcement activities are budgeted accordingly.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There will be a minimal increase in reporting and paperwork requirements and these activities will be absorbed into the division's day-to-day operations, as stated in 1 and 2 above.

(4) Assessment of anticipated effect on state and local revenues: This administrative regulation will have no known effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Division for Air Quality's existing fee program will be used to implement and enforce this administrative regulation.

(6) 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 will have no economic impact in the geographical location of federal actions beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this

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Kentucky, 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky, 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky, 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky, 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky, 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, Regional State Office Building, Room 345, London, Kentucky, 40741-9008, (606) 878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive W., Suite 700, Owensboro, Kentucky, 42303, (502) 686-3304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky, 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

APPROVED BY AGENCY: May 14, 1997

FILED WITH LRC: May 15, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on the new administrative regulation will be held on June 23, 1997, at 10 a.m. (ET) in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing, at least five days prior to the hearing, of their intent to attend. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the regulation to the contact person.

CONTACT PERSON: Millie Ellis, Supervisor, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382, and fax number (502) 573-3787.

To request appropriate accommodations for the public hearing (such as an interpreter), or alternate formats of the printed material, please call (502) 573-3382, ext 362. The cabinet does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of services and provides, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis, Supervisor

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal National Emission Standards for Hazardous Air Pollutants for Hazardous Air Pollutants for Industrial Process Cooling Towers, 40 CFR 63, Subpart Q, as published in the Code of Federal Regulations, July 1, 1996. The provisions of this federal regulation apply to industrial process cooling towers which are either major sources or defined as integral parts of facilities that are major sources of hazardous air pollutants and are operated with chromium-based water treatment chemicals.

(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. There are no costs or savings beyond those which are described in the proposed rule at 58 FR 43028 (August 12, 1993), and in the final rule at 59 FR 46350 (September 8, 1994).

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where the federal actions are implemented beyond the

costs described in the proposed and final rulemakings.

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

1. First year following implementation: Affected facilities with an initial startup date prior to September 8, 1994 were to have notified the U.S. EPA by September 8, 1995. Affected facilities with an initial startup date on or after September 8, 1994 are to submit a notification within twelve months after initial startup.

2. Second and subsequent years: All affected facilities must submit a notification of compliance status within 60 days of the date that an industrial process cooling tower is brought into compliance with this regulation. Copies of the initial and compliance status notifications must be retained for five years. All affected facilities must have complied with this regulation no later than March 8, 1996.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The division reviews and processes permits as part of the division's normal day-to-day operations. These activities are funded through the existing fee program.

2. Continuing costs or savings: The division inspects all permitted sources and maintains an emissions inventory for each source. The costs associated with inspection, compliance, and enforcement activities are budgeted accordingly.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There will be a minimal increase in reporting and paperwork requirements and these activities will be absorbed into the division's day-to-day operations, as stated in 1 and 2 above.

(4) Assessment of anticipated effect on state and local revenues: This administrative regulation will have no known effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Division for Air Quality's existing fee program will be used to implement and enforce this administrative regulation.

(6) 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 will have no economic impact in the geographical location of federal actions beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation contains the same provisions as the federal regulation. Kentucky is promulgating this administrative regulation as part of its responsibilities pursuant to 42 USC 7661 through 7671q (Title V of the Clean Air Act), and so that sources will be able to work with the state to obtain the necessary permits rather than the federal government.

(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 will result in a reduction of hazardous air pollutant emissions.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect would result if this administrative regulation is not implemented because affected sources in Kentucky are already subject to the provisions of the federal regulation.

(c) If detrimental effect would result, explain detrimental effect: Kentucky's failure to adopt this federal regulation could result in revocation of its delegated program authority. This would not have a

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky, 42003, (502) 898-8468.

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JAMES E. BICKFORD, Secretary

APPROVED BY AGENCY: May 14, 1997

FILED WITH LRC: May 15, 1997 at 11 a.m.

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CONTACT PERSON: Millie Ellis, Supervisor, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382, and fax number (502) 573-3787.

To request appropriate accommodations for the public hearing (such as an interpreter), or alternate formats of the printed material, please call (502) 573-3382, ext 362. The cabinet does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of services and provides, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis, Supervisor

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations), 40 CFR 63, Subpart R, as published in the Code of Federal Regulations, July 1, 1996. The federal regulation establishes emissions limitations for:

(a) Bulk gasoline terminals and pipeline breakout stations which are major sources of hazardous air pollutants or located within a contiguous area and under common control of a facility that is a major source of hazardous air pollutants;

(b) Bulk gasoline terminals and pipeline breakout stations which are affected sources as a result of the application of the emissions screening formula contained in the regulation. Based upon this formula, some sources will be subject only to the reporting and recordkeeping requirements.

(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. There are no costs or savings beyond those which are described in the proposed rule at 59 FR 5868 (February 8, 1994), and in the final rule at 61 FR 7723 (February 29, 1996).

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where the federal actions are implemented beyond the costs described in the proposed and final rulemakings.

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

1. First year following implementation: Sources subject to the provisions of this regulation must have submitted an initial notification and have complied with the leak detection and repair standards no later than March 7, 1996. An affected source shall keep a log book

which contains a diagram of all equipment in gasoline service at the facility and in which is recorded the results of monthly inspections of this equipment and details any leak repairs which are made. Sources not subject to the emissions standards as a result of the emissions screening formula shall have submitted the methods, procedures, and assumptions supporting its calculations by March 7, 1996.

2. Second and subsequent years: Sources which are initially exempted from the emissions standards must submit annual reports stating that the facility parameters originally used in its calculations have not been exceeded. Loading rack standards and storage vessel standards are effective on December 15, 1997 at existing facilities and upon startup at new facilities. Loading rack standards address maximum allowed emissions resulting from the loading of cargo tanks, vapor tightness of cargo tanks, and cargo tank testing and repair. Storage vessel standards address roof requirements for any storage vessel with a design capacity greater than or equal to 75 cubic meters. Records and test results pertaining to each of these standards must be retained on site. The installation of new control equipment and deficiencies are required to be reported.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The division reviews and processes permits as part of the division's normal day-to-day operations. These activities are funded through the existing fee program.

2. Continuing costs or savings: The division inspects all permitted sources and maintains an emissions inventory for each source. The costs associated with inspection, compliance, and enforcement activities are budgeted accordingly.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There will be a minimal increase in reporting and paperwork requirements and these activities will be absorbed into the division's day-to-day operations, as stated in 1 and 2 above.

(4) Assessment of anticipated effect on state and local revenues: This administrative regulation will have no known effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Division for Air Quality's existing fee program will be used to implement and enforce this administrative regulation.

(6) 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 will have no economic impact in the geographical location of federal actions beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation contains the same provisions as the federal regulation. Kentucky is promulgating this administrative regulation as part of its responsibilities pursuant to 42 USC 7661 through 7671q (Title V of the Clean Air Act), and so that sources will be able to work with the state to obtain the necessary permits rather than the federal government.

(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 will result in a reduction of hazardous air pollutant emissions.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect would result if this administrative regulation is not implemented because affected sources in Kentucky are already subject to the provisions of

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Office Building, Room 345, London, Kentucky, 40741-9008, (606) 878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive W., Suite 700, Owensboro, Kentucky, 42303, (502) 686-3304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky, 42003, (502) 898-8468.

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CONTACT PERSON: Millie Ellis, Supervisor, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, 40601, (502) 573-3382, and fax number (502) 573-3787.

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REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis, Supervisor

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal National Emission Standards for Halogenated Solvent Cleaning, 40 CFR 63, Subpart T, as published in the Code of Federal Regulations, July 1, 1996. The federal regulation applies to individual batch vapor, in-line vapor, in-line cold, and batch cold solvent cleaning machines that use any solvent, or combination of solvents, listed in the regulation in a total concentration greater than five percent by weight as a cleaning and/or drying agent. The listed solvents are perchloroethylene, trichloroethylene, 1,1,1-trichloroethane, carbon tetrachloride, and chloroform.

(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. There are no costs or savings beyond those which are described in the proposed rule at 58 FR 62566 (November 29, 1993), and in the final rule at 60 FR 29485 (June 5, 1995).

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where the federal actions are implemented beyond the costs described in the proposed and final rulemakings.

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

1. First year following implementation: Existing facilities subject to the provisions of this regulation were to have notified the U.S. EPA and/or the Division for Air Quality by August 29, 1995. New sources which had commenced construction or reconstruction, but not initial startup, prior to December 2, 1994, were to have submitted an initial

notification by January 31, 1995. New sources commencing construction after December 2, 1994 are to submit a notification as soon as practicable before the construction or reconstruction is planned to commence.

2. Second and subsequent years: Any solvent cleaning machine which commenced construction or reconstruction after November 29, 1993 is to achieve compliance with this regulation either upon startup or December 2, 1994, whichever is later. Any solvent cleaning machine commencing construction or reconstruction on or before November 29, 1993, is to be in compliance no later than December 2, 1997. Monitoring requirements vary depending on the equipment standards to which a particular machine is subject. Inspection and monitoring parameters are listed in the regulation and they must be conducted weekly, monthly, or quarterly. Recordkeeping requirements relate to machine maintenance and operating procedures, machine and control equipment installation dates, dwell tests, initial performance tests, idling emission rates, solvent use, actions initiated to achieve compliance standards, solvent concentrations in carbon absorption units, and cleaning capacity determinations. Reports indicating that individual machines have met the regulatory standards must be submitted as follows:

a. existing machines no later than May 2, 1998;

b. new machines 150 days after startup or May 1, 1995, whichever is later.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The division reviews and processes permits as part of the division's normal day-to-day operations. These activities are funded through the existing fee program.

2. Continuing costs or savings: The division inspects all permitted sources and maintains an emissions inventory for each source. The costs associated with inspection, compliance, and enforcement activities are budgeted accordingly.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There will be a minimal increase in reporting and paperwork requirements and these activities will be absorbed into the division's day-to-day operations, as stated in 1 and 2 above.

(4) Assessment of anticipated effect on state and local revenues: This administrative regulation will have no known effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Division for Air Quality's existing fee program will be used to implement and enforce this administrative regulation.

(6) 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 will have no economic impact in the geographical location of federal actions beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation contains the same provisions as the federal regulation. Kentucky is promulgating this administrative regulation as part of its responsibilities pursuant to 42 USC 7661 through 7671q (Title V of the Clean Air Act), and so that sources will be able to work with the state to obtain the necessary permits rather than the federal government.

(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 will result in a reduction of hazardous air

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Florence, Kentucky, 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky, 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, Regional State Office Building, Room 345, London, Kentucky, 40741-9008, (606) 878-0157;

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REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis, Supervisor

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Nonnylon Polyamides Production, 40 CFR 63, Subpart W, as published in the Code of Federal Regulations, July 1, 1996. The federal regulation establishes emission limitations for existing and new epoxy resins and non-nylon polyamides production operations that are located at major sources as defined in section 112(a) of the federal Clean Air Act.

(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. There are no costs or savings beyond those which are described in the proposed rule at 59 FR 25387 (May 8, 1994), and in the final rule at 60 FR 12676 (March 8, 1995).

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where the federal actions are implemented beyond the costs described in the proposed and final rulemakings.

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

1. First year following implementation: Any new or reconstructed source must meet the provisions of this standard immediately upon

startup. Basic liquid resin sources must either reduce emissions by 98 percent or limit emissions to 5,000 pounds per year. Wet strength resin sources must either limit emissions to seven pounds per one million pounds of wet strength resins produced or comply with the provisions of 401 KAR 63:160 to control emissions from equipment leaks. The regulation also specifies methods for compliance demonstrations and monitoring requirements for both types of sources, and recordkeeping and reporting requirements which relate to source type and the method of compliance which has been chosen.

2. Second and subsequent years: Existing sources must comply with the provisions of this regulation no later than March 8, 1998. Basic liquid resin sources must limit their hazardous air pollutant emissions to no more than 130 pounds per 1 million pounds of basic liquid resin produced. Wet strength resin sources must either limit their emissions to 10 pounds per 1 million pounds of wet liquid resin produced or comply with the provisions of 401 KAR 63:160. Again, details relating to compliance demonstrations, monitoring and recordkeeping and reporting requirements are specified for each type of source.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The division reviews and processes permits as part of the division's normal day-to-day operations. These activities are funded through the existing fee program.

2. Continuing costs or savings: The division inspects all permitted sources and maintains an emissions inventory for each source. The costs associated with inspection, compliance, and enforcement activities are budgeted accordingly.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There will be a minimal increase in reporting and paperwork requirements and these activities will be absorbed into the division's day-to-day operations, as stated in 1 and 2 above.

(4) Assessment of anticipated effect on state and local revenues: This administrative regulation will have no known effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Division for Air Quality's existing fee program will be used to implement and enforce this administrative regulation.

(6) 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 will have no economic impact in the geographical location of federal actions beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation contains the same provisions as the federal regulation. Kentucky is promulgating this administrative regulation as part of its responsibilities pursuant to 42 USC 7661 through 7671q (Title V of the Clean Air Act), and so that sources will be able to work with the state to obtain the necessary permits rather than the federal government.

(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 will result in a reduction of hazardous air pollutant emissions.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect would result if this administrative regulation is not implemented because affected sources in Kentucky are already subject to the provisions of

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(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky, 42003, (502) 898-8468.

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REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis, Supervisor

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal National Emission Standards for Magnetic Tape Manufacturing Operations, 40 CFR 63, Subpart EE, as published in the Code of Federal Regulations, July 1, 1996. The federal regulation applies to:

(a) Existing and new magnetic tape manufacturing operated at major sources of hazardous air pollutants; and

(b) Magnetic tape manufacturing operations which choose to seek federally enforceable emissions limitations to avoid major source status. The federal regulation exempts from its provisions research or laboratory facilities and any coating operation that produces a quantity of magnetic tape that is 1 percent or less of total production, in terms of square footage coated, from that coating operation in any twelve month period.

(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. There are no costs or savings beyond those which are described in the proposed rule at 59 FR 11662 (March 11, 1994), and in the final rule at 59 FR 64596 (December 15, 1994).

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where the federal actions are implemented beyond the costs described in the proposed and final rulemakings.

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

1. First year following implementation: An affected facility's permit application submittal shall serve as its notification that it is subject to the provisions of this regulation. As is the case with all sources subject to the Clean Air Act Title V permitting standards, sources subject to the magnetic tape manufacturing operations regulation

should have submitted a complete permit application by December 14, 1996.

2. Second and subsequent years: Sources subject to this regulation must have been in compliance with its provisions by December 15, 1996 if no new add-on air pollution control equipment is required to be installed according to the gaseous emissions and wastewater treatment standards. If new add-on equipment is required to meet these standards, the compliance date is December 15, 1997.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The division reviews and processes permits as part of the division's normal day-to-day operations. These activities are funded through the existing fee program.

2. Continuing costs or savings: The division inspects all permitted sources and maintains an emissions inventory for each source. The costs associated with inspection, compliance, and enforcement activities are budgeted accordingly.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There will be a minimal increase in reporting and paperwork requirements and these activities will be absorbed into the division's day-to-day operations, as stated in 1 and 2 above.

(4) Assessment of anticipated effect on state and local revenues: This administrative regulation will have no known effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Division for Air Quality's existing fee program will be used to implement and enforce this administrative regulation.

(6) 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 will have no economic impact in the geographical location of federal actions beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation contains the same provisions as the federal regulation. Kentucky is promulgating this administrative regulation as part of its responsibilities pursuant to 42 USC 7661 through 7671q (Title V of the Clean Air Act), and so that sources will be able to work with the state to obtain the necessary permits rather than the federal government.

(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 will result in a reduction of hazardous air pollutant emissions.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect would result if this administrative regulation is not implemented because affected sources in Kentucky are already subject to the provisions of the federal regulation.

(c) If detrimental effect would result, explain detrimental effect: Kentucky's failure to adopt this federal regulation could result in revocation of its delegated program authority. This would not have a detrimental effect on public health and the environment because sources are already subject to the federal regulation as stated in (b) above. Program authority would allow the state to provide implementation and enforcement authority of the regulation rather than the federal government.

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

competition) for the:

1. First year following implementation: None
2. Second and subsequent years: None
- (3) Effects on promulgating administrative body:
 - (a) Direct and indirect costs or savings:
 1. First year: None
 2. Continuing costs or savings: None
 3. Additional factors increasing or decreasing costs: None
 - (b) Reporting and paperwork requirements: None
 - (4) Assessment of anticipated effect on state and local revenues:
 1. First year: None
 2. Continuing costs or savings: None
- No effect.
 - (5) Source of revenue to be used for implementation and enforcement of administrative regulation: Not applicable.
 - (6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
 - (a) Geographical area in which administrative regulation will be implemented: None
 - (b) Kentucky: None
 - (7) Assessment of alternative methods; reasons why alternatives were rejected: Retention of regulations will create contradictions with regulation 704 KAR 20:695 and 704 KAR 20:705.
 - (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: 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: 704 KAR 20:696, Standards for accreditation of teacher education, 704 KAR 20:706, Admission, placement, and supervision in student teaching.
 - (a) Necessity of proposed regulation if in conflict: Regulation will remove overlap and contradiction between old and new regulations.
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No, the regulations to be repealed are in conflict with the new standards for accrediting teacher education institutions and programs.
 - (10) Any additional information or comments: No
 - (11) TIERING: Is tiering applied? No. All teacher education programs will follow the same regulations in the preparation of professional educators.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(New Administrative Regulation)

704 KAR 20:696. Standards for accreditation of teacher education units and approval of programs.

RELATES TO: KRS 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028 requires that all 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. KRS 161.030 requires that certificates be issued to all persons who have completed programs approved by the Education Professional Standards Board. This administrative regulation establishes the standards for accreditation of teacher education units and approval of programs to prepare educators.

Section 1. Definitions. (1) "AACTE" means the American Association of Colleges for Teacher Education.

(2) "Board of Examiners" means the team who reviews an

institution on behalf of NCATE or EPSB and is made up of an equal number of representatives from three (3) constituency groups: teacher educators, teachers, and state and local policymaker groups. A joint Board of Examiner team, consisting of both NCATE representatives and state representatives would result when an institution pursues joint NCATE and state accreditation.

(3) "EPSB" means the Education Professional Standards Board with the authority and responsibility as defined in KRS 161.028

(4) "NCATE" means the National Council for Accreditation of Teacher Education.

(5) "NCATE accreditation" means a process for assessing and enhancing academic and educational quality through voluntary peer review. NCATE accreditation informs the public that an institution has a professional education unit that has met national standards of educational quality. NCATE accreditation of the education unit is not required by the Kentucky Professional Standards Board as a condition of offering in Kentucky teacher licensure and certification programs and programs leading to rank changes.

(6) "State accreditation" means recognition by the EPSB that an institution has a professional education unit that has met quality standards as a result of review, including an on-site team review. State accreditation of the education unit is required as a condition of offering in Kentucky teacher licensure and certification programs and programs leading to rank changes.

(7) "Third-year report" means the report summarizing institutional-prepared annual reports for a three (3) year period and prepared by NCATE or the EPSB.

Section 2. Schedule and Communications. (1) The EPSB shall send an accreditation and program approval schedule to each teacher education institution no later than August 1 of each year. The regular accreditation cycle shall provide for on-site continuing accreditation visits at five (5) year intervals.

(2) The accreditation and program approval schedule shall be directed to the official designated by the institution as the head of the teacher education unit with a copy to the president and to the chief academic officer. The head of the teacher education unit shall disseminate the information to administrative units within the institution, including appropriate colleges, schools, departments and offices.

(3) The EPSB shall annually place a two (2) year schedule of on-site accreditation visits for all Kentucky institutions in the agenda materials and minutes of an EPSB business meeting.

(4) The EPSB shall coordinate dates for joint state and NCATE accreditation on-site visits.

(5) At least six (6) months prior to a scheduled on-site visit, institutions seeking NCATE accreditation shall give public notice of the upcoming visit.

(6) The governance unit for teacher education shall be responsible for preparation necessary to comply with requirements for timely submission of materials for accreditation and program approval as described in this administrative regulation.

Section 3. Annual Reports. (1) Each institution shall report annually to the EPSB to provide data about faculty and students in each of its approved programs, progress made in addressing weaknesses identified by its last accreditation evaluation, and major program developments in each of the NCATE categories of standards. NCATE-accredited institutions may submit to the EPSB a copy of the annual report sent to NCATE/AACTE. Other institutions shall use the EPSB Annual Report Form dated 1996.

(2) Evaluation teams shall receive the three (3) year reports, based on data submitted in annual reports, in preparation for on-site accreditation visits.

(3) The EPSB shall use annual reports as a means of monitoring the capacity of units to continue programs of high quality.

shall submit, two (2) months prior to the scheduled on-site visit, a report not to exceed twenty-five (25) pages addressing changes that have occurred since the last accreditation visit. The report shall be submitted to the EPSB and to NCATE if appropriate. The narrative shall describe how changes relate to accreditation standards and results of the continuous assessment process, including program evaluation.

Section 7. Program Descriptions (folios). Eighteen (18) months in advance of the scheduled on-site evaluation visit, the teacher education unit shall prepare and submit to the EPSB for each separate program of teacher preparation for which the institution is seeking approval a concise description which shall provide the following information for each program:

(a) The unit's conceptual framework for the preparation of school personnel, followed by the program's conceptual framework, showing its congruence with the unit's framework;

(b) Program experiences including the relationship among the program's courses and experiences, content standards of relevant professional society, student academic expectations as established in 703 KAR 4:060, and relevant state performance standards adopted by the EPSB;

(c) Identification of how the program implements continuous assessment to assure each candidate's mastery, prior to exit from the program, of content of the academic discipline(s), and state performance standards as established in 704 KAR 20:670;

(d) A list of faculty responsible for and involved with the conduct of the specific program, along with the highest degree of each, responsibilities for the program, and status of employment within the unit and the university; and

(e) A curriculum guide sheet or contract provided to each student before or at the time of admittance to the program.

Section 8. Board of Examiners. (1) A Board of Examiners shall be recruited and appointed by the EPSB to include at least thirty-six (36) members representing the following constituencies.

(a) Kentucky Education Association, at least ten (10) members;

(b) Kentucky Association of Colleges of Teacher Education, at least ten (10) members; and

(c) At least ten (10) members nominated by as many of the following groups as may wish to submit nominations:

1. Kentucky Association of School Administrators;
2. Persons holding positions in occupational education;
3. Kentucky Branch National Congress of Parents and Teachers;
4. Kentucky School Boards Association;
5. Kentucky Association of School Councils;
6. Kentucky Board of Education;
7. Kentucky affiliations of national learned societies and professional groups;
8. Prichard Committee for Academic Excellence;
9. Partnership for Kentucky Schools; and
10. Subject area specialists in the Kentucky Department of Education.

(2) Based upon need, additional members of the Board of Examiners may be appointed by the EPSB.

(3) Appointments shall be for a period of four (4) years. Members may serve additional terms if renominated and reappointed in the manner prescribed for membership. Vacancies shall be filled by the EPSB as they occur.

(4) All members of the Board of Examiners and staff members of the EPSB responsible for teacher education and approval of teacher education programs shall be trained by NCATE or trained in an NCATE-approved state program.

(5) The EPSB shall select and appoint for each scheduled on-site accreditation a team of examiners giving consideration to the number and type of programs offered by the institution. Team appointments may be made at the beginning of the academic year for all of the

scheduled evaluation visits; however, replacements shall be made as needed.

(6) For institutions seeking NCATE accreditation, the EPSB and NCATE will arrange for the joint Board of Examiners to be chaired by an NCATE appointed team member. A state team chair will be appointed by the EPSB for purposes of decisions on state accreditation and program approval and state report preparation. The joint Board of Examiners will be composed of a majority of NCATE appointees in the following proportions, respectively: NCATE and state - six (6) and five (5), five (5) and four (4), four (4) and three (3), three (3) and two (2). The size of the Board of Examiners shall depend upon the size of the institution and the number of programs to be evaluated.

(7) For institutions seeking state-only accreditation, the EPSB will appoint a chair from a pool of trained Board of Examiners members.

(8) For initial accreditation, the state-only Board of Examiners shall have four (4) to six (6) members. For continuing accreditation reviews every five (5) years, the state Board of Examiners shall have two (2) to five (5) members. Arrangements shall be made for the release time of Board of Examiners members from their places of employment by the EPSB.

Section 9. Assembly of Records and Files for the Evaluation Team. For convenient access, the institution shall assemble, or make available, records and files of written materials which supplement the institutional report and which may serve as further documentation. The records and files shall include, but not be limited to the following:

- (1) The faculty handbook;
- (2) Agenda, list of participants, and products of meetings, workshops, and/or training sessions related to curriculum and governance groups impacting professional education;
- (3) Faculty transcripts;
- (4) A random sample of graduates' transcripts;
- (5) Conceptual framework documents;
- (6) Curriculum folios, rejoinders, and specialty group responses that were submitted as a part of the folio review process;
- (7) Course syllabi;
- (8) Policies, criteria and student records related to admission and retention;
- (9) Samples of students' portfolios and other performance assessments;
- (10) Record of performance assessments of candidate progress and summary of results including any program changes based on continuous assessment;
- (11) Student evaluations, including student teaching and internship performance; and
- (12) Data on performance of graduates, including results of state licensing examinations and job placement rates.

Section 10. Previsit to the Institution. No later than one (1) month prior to the scheduled on-site evaluation visit, the EPSB shall conduct a previsit to the institution to make a final review of the arrangements. For NCATE-accredited institutions, the previsit shall be coordinated with the NCATE previsit.

Section 11. On-site Evaluation Visit. (1) At least one (1) staff member of the EPSB shall be assigned as support staff and liaison during the evaluation visit.

(2) The EPSB shall reimburse state team members for travel, lodging, and meals in accordance with state travel administrative regulations. Team members representing NCATE shall be reimbursed by the teacher education institution in keeping with the NCATE guidelines.

(3) The function of the evaluation team shall be to conduct an on-site evaluation of the self-study materials prepared by the institution and to seek out additional information, as needed, to make a determination as to whether the standards are met for the accreditation.

including institutional response, resulting from an EPSB-ordered on-site limited program evaluation review and shall make recommendations to continue program approval, approve with stipulations, or deny approval.

(8) The Accreditation Audit Committee shall compile accreditation data and information for all Kentucky institutions that prepare school personnel. It shall periodically prepare for the EPSB reports and recommendations regarding accreditation standards and procedures as needed to improve the accreditation process and the preparation of school personnel.

Section 15. Official State Accreditation Action by the Education Professional Standards Board. (1) A recommendation from the Reading Committee for termination of the process of accreditation and program approval as specified in Section 4 of this administrative regulation shall be presented by EPSB staff to the Program and Technical Assistance Committee for recommendation to the full board. In considering its recommendation, the Program and Technical Assistance Committee shall review written information from the Reading Committee and response by the institution. Decisions include termination or continuance of the accreditation and program approval process.

(2) Recommendations from the Accreditation Audit Committee shall be presented to the Program and Technical Assistance Committee which shall make a recommendation to the full board.

(3) The EPSB shall consider the findings and recommendations of the Program and Technical Assistance Committee and make a final determination regarding the state accreditation of the teacher education unit.

(4) No institution shall have its accreditation removed following a regular continuing accreditation visit. The EPSB shall determine to:

(a) Continue accreditation, indicating that the unit, taken as a whole, meets standards for accreditation. Weaknesses may be cited which shall be addressed by the institution in its subsequent annual reports. The next on-site visit shall be scheduled five (5) years following the semester of the visit; or

(b) Continue accreditation with probation, indicating that the unit has serious weaknesses which may place the teacher education unit in jeopardy if not corrected soon. An on-site visit shall be scheduled by the institution within two (2) years of the semester in which the decision was made. This visit shall be conducted according to the guidelines for an initial accreditation visit. The accreditation standards in place at the time of the on-site visit shall be addressed by the unit as a part of this visit. Following the on-site visit, the EPSB shall decide to:

1. Continue accreditation and schedule the next visit in five (5) years from time the decision is made;

2. Continue accreditation with stipulations as specified in this paragraph; or

3. Revoke accreditation.

(5) Decision options following initial accreditation visits shall include:

(a) Full accreditation, indicating that the unit, taken as a whole, meets standards for accreditation. Weaknesses may be cited which shall be addressed by the institution in its subsequent annual reports. The next on-site visit shall be scheduled five (5) years following the semester of the visit;

(b) Accreditation with stipulations, specifying critical deficiencies that must be addressed within a specified time not to exceed eighteen (18) months from the date of the action by the EPSB. Stipulations are limited to critical deficiencies for which corrections may be verified through written report and documentation. If the EPSB decides that the documentation sufficiently supports a decision to remove the stipulation, an on-site accreditation visit is scheduled within the regular cycle. If the EPSB decides that the documentation does not sufficiently support a decision to remove the stipulation, accreditation is revoked; or

(c) Denial of accreditation, indicating that severe or numerous deficiencies limit the ability of the unit to offer quality programs to prepare educators.

(6) Notification of EPSB action to revoke continuing accreditation or deny initial accreditation, including failure to remove stipulations, shall include notice that:

(a) The institution shall inform students currently admitted to certification and licensure or rank programs of the following:

1. Only students recommended for licensure or advancement in rank within the twelve (12) months immediately following the denial of state accreditation and who apply to the EPSB within the fifteen (15) months immediately following the denial of state accreditation shall receive the teaching license and certificate or advancement in rank; and

2. All other students shall transfer to a state accredited teacher education unit in order to receive the teaching license and certificate or advancement in rank; and

(b) Institutions for which the EPSB has revoked or denied accreditation may seek state accreditation through completion of the initial accreditation process. The on-site accreditation visit shall be scheduled by the EPSB no earlier than two (2) years following the EPSB action to revoke or deny state accreditation.

Section 16. Program Approval Action by the Education Professional Standards Board. (1) Approval of programs shall be through the program folio process identified in Section 7 of this administrative regulation except that new programs not submitted during the regular accreditation cycle or programs substantially revised since submission during the accreditation process must be submitted for approval by the EPSB prior to admission of students to these programs.

(2) For new or substantially revised programs, the EPSB shall consider recommendations by staff, including review by content personnel.

(3) For programs reviewed during the accreditation process, the EPSB shall consider reports including information from the Reading Committee, evaluation team, and institutional response.

(4) Recommendations as specified in subsections (2) and (3) of this section shall be presented to the Program and Technical Assistance Committee which shall make a recommendation to the full EPSB.

(5) Program approval decision options shall be:

(a) Approval, with next review scheduled during the regular accreditation cycle unless substantial revisions are made;

(b) Approval with stipulations, with a maximum of one (1) year probationary extension for correction of specified problems to be documented through written materials in most cases or through an on-site visit. At the end of the extension:

1. The EPSB may decide that documentation supports approval; or

2. The EPSB may decide that documentation supports denial of approval; or

(c) Denial, indicating that serious problems exist which jeopardize the quality of preparation of school personnel.

(6) The EPSB may order review of any program when it has cause to believe that the quality of preparation is seriously jeopardized. Such review may be conducted by EPSB staff and Board of Examiners trained reviewers. The review will result in a report to which the institution may respond. The review report and institutional response shall be used by the Accreditation Audit Committee as the basis for a recommendation to the Program and Technical Assistance Committee and to the full board for approval, approval with stipulations, or denial of approval for the program.

(7) Notification of EPSB action to deny approval of any program shall include notice that:

(a) The institution shall inform students currently admitted to that program of the following:

1. Only students recommended for licensure and certification or

ADMINISTRATIVE REGISTER - 4281

EDUCATION, ARTS, AND HUMANITIES CABINET Education Professional Standards Board (New Administrative Regulation)

704 KAR 20:706. Admission, placement, and supervision in student teaching.

RELATES TO: KRS 161.028, 161.030, 161.042

STATUTORY AUTHORITY: KRS 161.028, 161.030, 161.042

NECESSITY, FUNCTION AND CONFORMITY: KRS 161.028 requires that a teacher education institution be approved for offering the preparation program corresponding to a particular certificate on the basis of standards and procedures established by the Education Professional Standards Board. KRS 161.030 requires that a certificate shall be issued to a person who has completed a program approved by the Education Professional Standards Board. This administrative regulation establishes the standards for admission, placement, and supervision in student teaching. This is not required by federal law or regulation.

Section 1. Admission to Student Teaching. In addition to the appropriate sections of the National Council for Accreditation of Teacher Education standards which are incorporated under 704 KAR 20:696, each teacher education institution shall determine minimum standards for admission to student teaching which shall include the procedures stated below. Admission to student teaching shall include a formal application procedure for each teacher candidate.

(1) A record or report from a valid and current medical examination, which shall have included a tuberculosis test, shall be placed on file with the admissions committee.

(2) The teacher candidate shall have achieved the following academic requirements:

(a) An overall academic standing of at least 2.50; and

(b) An academic standing of at least 2.50 in an academic specialty for which the institution shall recommend a certificate.

(3) Prior to and during the student teaching experience, the teacher candidate shall adhere to the Professional Code of Ethics for Kentucky School Personnel established in 704 KAR 20:680.

Section 2. Teacher-student Ratio. The ratio of student teachers to cooperating teachers shall be one (1) to one (1) unless circumstances exist as approved by the Office of Teacher Education and Certification. In any event, the ratio shall not exceed two (2) student teachers per cooperating teacher.

Section 3. College Coordinator. (1) The college coordinator shall make a periodic observation of the student teacher in the classroom and shall prepare a written report on each observation and share it with the student teacher.

(2) The observation report shall be filed as a part of the student record and also used as a validation of the supervisory function.

(3) A student teacher shall receive periodic and regular on-site observation and a critique of the actual teaching situation a minimum of four (4) times excluding seminars and workshops.

(4) The college coordinator shall be available to work with the student teacher and personnel in the cooperating school on a problem that may arise relating to the student teaching situation.

Section 4. Professional Experience. In addition to the appropriate NCATE standards incorporated by reference under 704 KAR 20:696, the teacher education institution shall provide an opportunity for the student to assume major responsibility for the full range of teaching duties in a real school situation under the guidance of qualified personnel from the institution of higher education or the cooperating elementary or secondary school. Each teacher education institution shall provide a full professional semester to include a period of student teaching for a minimum of twelve (12) weeks, full day, or

equivalent, within the grade levels corresponding to the student teacher's certification program.

ROSA WEAVER, Chair

APPROVED BY AGENCY: May 8, 1997

FILED WITH LRC: May 9, 1997 at noon

PUBLIC HEARING: A public hearing on this administrative regulation will be held on June 27, 1997, at 10 a.m. in the Local District Conference Room, 1st floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested on being heard at this hearing shall notify this agency in writing by June 20, 1997, five work 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 canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. 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 hearing or written comments on the proposed administrative regulation to contact person.

Contact Person: Dr. Betty Lindsey, Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, Fax (502) 573-1610.

REGULATORY IMPACT ANALYSIS

Contact Person: Dr. Betty Lindsey

(1) Type and number of entities affected: 26 institutions of higher education offering teacher education programs.

(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 costs.

(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 promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: No effect.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No increased cost.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: Current policies contain out-of-date requirements and are fragmented. The regulation will combine new standards and updated policies in a single regulation.

(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: No

(c) If detrimental effect would result, explain detrimental effect:

ADMINISTRATIVE REGISTER - 4283

**CABINET FOR HEALTH SERVICES
Department For Medicaid Services
Division of Administration and Development
(New Administrative Regulation)**

907 KAR 1:413. Repeal of 907 KAR 1:412.

RELATES TO: KRS 13A.310, 205.520

STATUTORY AUTHORITY: KRS 13A.310, 194.050, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed 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 requirements that may be imposed, or opportunity presented, by federal law for the provisions of medical assistance to Kentucky's indigent citizenry. This administrative regulation acts specifically to repeal 907 KAR 1:412 which is no longer needed.

Section 1. 907 KAR 1:412, Incorporation by reference of the Podiatry Services Manual, is hereby repealed.

LARRY A. MCCARTHY, Deputy Commissioner

JOHN H. MORSE, Secretary

APPROVED BY AGENCY: May 8, 1997

FILED WITH LRC: May 13, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1997 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 June 16, 1997 five workdays 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: Mae B. Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ked Fitzpatrick or Trish Howard

(1) Type and number of entities affected: Kentucky Medicaid providers who provide podiatric program services to Kentucky Medicaid recipients.

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

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

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

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: None

(6) To the extent available from 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 improve access for medicaid recipients to podiatry program services.

(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 pose an imminent threat to the public health, safety, or welfare of 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: 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 of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to 42 USC 1396a et seq., the Commonwealth of Kentucky has exercised the option to establish a Medicaid Program for indigent Kentuckians. Having elected to offer Medicaid coverage, the state must comply with federal requirements contained in 42 USC 1396 et seq.

2. State compliance standards. This administrative regulation does not set compliance standards.

3. Minimum or uniform standards contained in the federal mandate. This administrative regulation does not set minimum or uniform standards.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation does not set stricter requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. No additional standard or responsibilities are imposed.

ADMINISTRATIVE REGISTER - 4285

CABINET FOR HEALTH SERVICES DEPARTMENT FOR MEDICAID SERVICES (New Administrative Regulation)

907 KAR 1:710. Managed behavioral health care initiative (1915b waiver).

RELATES TO: KRS 205.520, 205.6334

STATUTORY AUTHORITY: KRS Chapter 47, Appendix A, Part 1, Sec. G, GB, 51b, 194.025, 194.030, 194.050, 205.520, 205.6320, 205.6332, 205.6334, 205.6336, 205.8453, 42 USC 1315, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has the responsibility to administer the Medicaid Program. Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. KRS 205.520 authorizes 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 establishes the terms and conditions under which the Department for Medicaid Services shall provide Medicaid services pursuant to a waiver granted by the Secretary, United States Department of Health and Human Services following a request made by the department pursuant to KRS 205.6334. The waiver provides for the development of a statewide system of capitated, comprehensive risk-bearing managed care plans for behavioral health and establishes standards for access and quality in accordance with KRS 205.6320.

Section 1. Definitions. (1) "Adult with severe mental illness" means an individual over eighteen (18) years of age who has chronic mental illness as defined in KRS 210.005(3).

(2) "Behavioral health care provider" means a licensed or certified individual or a facility, agency, institution, organization, or business that is employed by or has entered into an agreement with the MBHO to deliver behavioral health services.

(3) "Behavioral health services" is defined in Section 1(1) of 907 KAR 1:705.

(4) "Behavioral health region" means a partnership region or a grouping of partnership regions designated by the department as a geographical coverage area of an MBHO in Kentucky.

(5) "Capitation payment" is defined in Section 1(2) of 907 KAR 1:705.

(6) "Child with a severe emotional disability" is defined in Section 1(2) of 907 KAR 1:525.

(7) "Clinical practitioner" means a physician or person who is licensed or certified in accordance with KRS Chapters 309, 314, 319 or 335.

(8) "Coalition" means an entity composed of public and private behavioral health care providers that meets the application criteria as established in Section 3(4) of this administrative regulation and the MBHO requirements as established in Section 8 of this administrative regulation.

(9) "Department" means the Kentucky Department for Medicaid Services or its agent.

(10) "Department for Social Services (DSS) population" means children in foster care and children receiving adoption assistance as specified in 907 KAR 1:011, and adult wards for whom the Kentucky Cabinet for Families and Children has been appointed the legal guardian pursuant to KRS 387.500 to 387.770.

(11) "Emergency care" means immediate care for a condition of mental illness or emotional disability which may result in serious jeopardy to the life or health of the individual, harm to another person by the individual, or inability of the individual to seek food and shelter.

(12) "Encounter" means a behavioral health care contact or service provided or arranged by an MBHO in a behavioral health

region to a member.

(13) "Managed behavioral healthcare organization (MBHO)" means an entity that meets requirements as established in Section 8 of this administrative regulation and, under contract with the department in accordance with KRS Chapter 45A, agrees to provide, or arrange for the provision of, behavioral health services to members on the basis of prepaid capitation payments.

(14) "Member" means a Medicaid recipient who is enrolled in an MBHO.

(15) "Partnership" is defined in Section 1(10) of 907 KAR 1:705.

(16) "Partnership region" is defined in Section 1(11) of 907 KAR 1:705.

(17) "Primary care provider" is defined in Section 1(12) of 907 KAR 1:705.

(18) "Recipient" is defined in Section 1(13) of 907 KAR 1:705.

(19) "Regional interagency council" means the council established pursuant to KRS 200.509.

(20) "Regional mental health-mental retardation board" means the board established pursuant to KRS 210.370.

(21) "Rural area" is defined in Section 1(14) of 907 KAR 1:705.

(22) "Urgent care" means care for a condition of mental illness or emotional disability that is needed within a twenty-four (24) hour period, but the condition poses no serious jeopardy to the life or health of the individual, threat of harm to another person by the individual, or immediate inability of the individual to seek food and shelter.

Section 2. General. (1) The department shall implement, within the Medicaid Program, a prepaid capitation managed behavioral health care system to be known as Kentucky Access. Kentucky Access shall be implemented and administered in accordance with the terms and conditions of the waiver granted by the Secretary, United States Department of Health and Human Services under the authority granted by 42 USC 1315.

(2) Kentucky Access shall be implemented incrementally statewide, by the establishment of MBHOs with or immediately following the implementation of a partnership. An MBHO shall be:

(a) Organized by a coalition; or

(b) Identified through a competitive request for proposal process in accordance with KRS Chapter 45A.

Section 3. Application Process. (1) As part of the implementation of Kentucky Access, the department shall publish a legal notice specifying a time frame for a single coalition to register an intent to legally organize an MBHO.

(2) At the end of the registration period as specified in subsection (1) of this section, if more than one (1) coalition registers an intent to provide behavioral health services in a behavioral health region, the department shall respond in writing to all registrants:

(a) Identifying the names and addresses of all registrants; and

(b) Suspending activity for the application process for thirty (30) days from the date of the letter of intent in order to permit each registrant to be legally organized solely to meet requirements as specified in Section 8 of this administrative regulation.

(3) Upon receipt of the letter of intent from a single coalition, the department shall request an application from the coalition to provide, or arrange for the provision of behavioral health services in a behavioral health region.

(4) A coalition which applies to be an MBHO shall include:

(a) Each regional mental health-mental retardation board that serves an area which contains the behavioral health region except when two (2) or fewer counties are served by the regional mental health-mental retardation board;

(b) The department of psychiatry at the University of Kentucky medical school, if Lexington is within the behavioral health region, or the department of psychiatry at the University of Louisville medical school, if Louisville is within the behavioral health region; and

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or served through a home and community-based waiver;

(4) Receiving benefits only as a qualified medicare beneficiary (QMB), specified low income medicare beneficiary (SLMB) or qualified disabled working individual (QDWI);

(5) In an intermediate care facility for mentally retarded (ICF-MR); or

(6) Excluded from participation by the department for cause.

Section 6. Member Rights and Responsibilities. An MBHO shall have a written policy which specifies the following:

(1) A member shall have the right:

(a) To be treated with respect and dignity;

(b) To be guaranteed privacy and confidentiality in accordance with Section 21 of this administrative regulation;

(c) To be provided with clear information relating to the MBHO's services and providers, and the member's rights and responsibilities in a form as specified in Section 19(3) of this administrative regulation;

(d) To be permitted to select a clinical practitioner as specified in Section 4(2) of this administrative regulation;

(e) To be informed of the complaint procedures as specified in Section 11 of this administrative regulation and appeals process in accordance with 907 KAR 1:560;

(f) To access:

1. Advocacy services as specified in 42 USC 10801;

2. Protection services as specified in KRS 209.010 and 620.030; and

3. Ombudsman services in accordance with Section 12 of this administrative regulation.

(g) To receive services in a safe, clean, and humane environment;

(h) To formulate advance directives in accordance with KRS 311.621 through 311.643;

(i) To access medical records in accordance with KRS 422.317;

(j) To refuse behavioral health services in accordance with KRS 202A.191 without reprisal by the MBHO except for circumstances in which refusal is not permitted under state law;

(k) To have access to service sites that provide therapeutic rehabilitation if he is an adult with severe mental illness in accordance with Section 8(2) of this administrative regulation;

(l) To participate in the development and revision of his treatment plan that uses language he can understand;

(m) To be served by the behavioral health care provider without physical, verbal, sexual, or psychological abuse, exploitation, coercion, reprisal, intimidation or neglect;

(n) To choose services for a mutually agreeable treatment plan from an array of services provided by the MBHO; and

(o) To exercise the rights as established in this subsection without reprisal from the MBHO.

(2) A member shall be responsible for:

(a) Providing information needed by behavioral health care providers; and

(b) Following instructions and guidelines as specified in his individual treatment plan.

Section 7. Member Disenrollment from an MBHO. (1) Only the department shall disenroll a member from an MBHO pursuant to this section and in accordance with 907 KAR 1:560 and 1:675. Disenrollment of a member from an MBHO shall:

(a) Become effective on the first day of the month following the disenrollment procedure; and

(b) Occur if the member:

1. Except as provided in subsection (3)(b) of this section, no longer resides in the assigned behavioral health region;

2. Is incarcerated or deceased;

3. Resides in a nursing facility for more than thirty-one (31) days;

or

4. No longer qualifies for behavioral health services under one (1) of the categories as specified in Section 4(1) of this administrative regulation;

(2) The MBHO shall recommend disenrollment if a member:

(a) Is found guilty of fraud, in a court of law or administratively determined to have committed fraud or abuse related to the Medicaid Program;

(b) Is deceased; or

(c) No longer resides in the assigned behavioral health region or Kentucky.

(3) A member shall not be disenrolled, nor shall the MBHO recommend disenrollment of a member:

(a) Due to adverse changes in the member's physical or behavioral health; or

(b) If the member is included in the DSS population and resides outside the initially assigned MBHO region.

Section 8. Requirements of an MBHO. Each MBHO shall:

(1) Have experience in the management of capitated risk-based contracts for comprehensive behavioral health services or subcontract with an entity that shall have experience in the management of capitated risk-based contracts for comprehensive behavioral health services;

(2) Make services, service locations, and service sites available and accessible in terms of timeliness, amount, duration, and personnel sufficient to provide, or arrange for the provision of, all covered services;

(3) Meet requirements of KRS 304.17A-110(3);

(4) Meet requirements of 42 CFR 417.479 and 434.44 through 434.70;

(5) Meet requirements relating to 42 USC 1396b, including the maintenance of sufficient behavioral health care providers to provide covered services in accordance with access standards as established in Section 10(8) and (9) of this administrative regulation;

(6) Establish a board of directors, that shall:

(a) Establish and direct implementation of policies and procedures regarding financing and delivery of behavioral health services to members;

(b) Include at least five (5) persons who have completed an orientation approved by the department and developed in collaboration with consumers and behavioral health care providers and who shall be:

1. Two (2) adults with severe mental illness, one (1) of whom shall be or has been a recipient;

2. A parent, spouse or sibling of an adult with severe mental illness;

3. A parent of a child with a severe emotional disability; and

4. A foster parent who represents foster children in the custody of the Cabinet for Families and Children;

(7) Comply with all applicable requirements in accordance with KRS 304.17A-300 or 304.38 relating to licensure of entities that accept prepaid, at-risk capitation payments for comprehensive health services;

(8) Meet requirements of financial solvency for a provider-sponsored integrated health delivery network as established in KRS 304.17A-310;

(9) Demonstrate adequate protection against insolvency by establishing and maintaining an insolvency reserve equal to the amount of the MBHO's net worth determined in accordance with specifications for a provider sponsored integrated health delivery network established in KRS 304.17A-310. An MBHO's reserve requirement shall be:

(a) Available to the department for paying behavioral health care providers if the MBHO becomes insolvent;

(b) Met by at least one (1) of the following methods:

1. Establishing an insolvency reserve as specified in this subsection to be held by a regulated financial institution;

regulation.

(26) Develop an expedited resolution process approved by the department for use in instances where:

- (a) Actions of the MBHO may result in a court order; or
- (b) Expenditure of public funds may result from delay in action.

Section 9. MBHO Payments. (1) The department shall provide each MBHO a per month, per member capitation payment, except as established in subsection (5) of this section, whether or not the member receives services during the period covered by the payment.

(2) Capitation payments shall be based on a standard rate setting methodology that complies with the Health Care Financing Administration's upper payment limit requirements.

(3) Negotiated by the department with the MBHO in accordance with KRS Chapter 45A, payment rates shall be based on computations of a certified actuary using national actuarial standards, principles and appropriate actuarial factors which may include members':

- (a) Category of aid;
- (b) Geographic area;
- (c) Category of service; and
- (d) Other demographic and administrative factors, including age, gender, and service trends.

(4) Capitation payments shall be adjusted by the department if the scope of Medicaid services is increased or decreased as mandated by the Health Care Financing Administration. Written notification of an increase or decrease in coverage shall be provided to the MBHO by the department prior to implementation.

(5) The department may also contract with an MBHO for payment of Medicaid services provided to recipients prior to the actual enrollment of these individuals in the MBHO on a capitated or other basis as part of the MBHO's contract, or for other Medicaid services as designated by the department in accordance with KRS Chapter 45A.

(6) Following the establishment of benchmarks relating to behavioral health care outcomes in accordance with Section 13(2) of this administrative regulation, the department shall annually provide a financial incentive payment up to one (1) percent of the capitation payment to an MBHO based upon achievement of benchmarks.

(7) Payment provisions established in Medicaid payment regulations 907 KAR Chapters 1 and 3 shall not be applicable for MBHO services.

Section 10. Provision of Services Under an MBHO. (1) An MBHO shall provide or arrange for the provision of medically necessary behavioral health services, including services to members under twenty-one (21) years of age in accordance with 42 USC 1396d(r) and transportation in accordance with 907 KAR 1:060.

(2) Medically necessary behavioral health services shall be recommended by a clinical practitioner and be:

- (a) Reasonable and necessary to prevent, diagnose, correct, reduce, stabilize, or ameliorate conditions of a mental illness, emotional disability, or substance abuse disorder and restore the member to his best possible functional level;
- (b) Recognized as within the applicable standard of practice for the service modality and as appropriate to the mental illness, emotional disability, or substance abuse disorder of the member at the time the services are provided; and
- (c) The most economical intensity, frequency, and duration of available service which is safe and effective for the member.

(3) Emergency services shall be provided within or outside the behavioral health region in accordance with 42 CFR 431.52 and 907 KAR 1:705.

(4) Substance abuse services shall be provided in accordance with subsection (1) of this section to a member:

- (a) Under the age of twenty-one (21) and authorized under 42 USC 1396d(r); or

(b) With a primary diagnosis of mental illness that requires substance abuse services to effectively treat the mental illness.

(5) The MBHO shall not be required to provide or arrange for the provision of services as follows:

- (a) Substance abuse services except as specified in subsection (4) of this section;

(b) Inpatient hospital services for medical detoxification as defined in Section 1(8) of 907 KAR 1:705;

(c) Behavioral health services to a member who resides in a nursing facility after disenrollment from the MBHO;

(d) Partnership covered services as specified in 907 KAR 1:705, Section 7;

(e) School-based health services for members aged three (3) to twenty-one (21) years, as determined eligible under provisions of 20 USC Chapter 33, and in accordance with 707 KAR Chapter 1;

(f) Early intervention program services for members age birth to three (3) years as determined eligible under the provisions of 908 KAR 2:120, Section 2;

(g) Psychiatric services covered for currently enrolled, non-psychiatrist Medicaid physicians, including those physicians employed by public health departments, primary care centers and rural health centers, including federally qualified health centers;

(h) Behavioral health services provided by hospice agencies;

(i) Supporting psychiatric services provided by home health agencies as defined in 907 KAR 1:030;

(j) Targeted case management services as specified in 907 KAR 1:525, provided to a member served by a regional interagency council; and

(k) Services authorized under 907 KAR 3:020.

(6) The MBHO shall establish a written policy and procedures that shall be approved by the department for:

(a) Triage of member requests for or referrals to behavioral health services into the categories of emergency and urgent care, or routine care that does not meet the definitions of emergency and urgent care services; and

(b) Review by a psychiatrist of the denial of a member's request for inpatient hospital behavioral health services.

(7) The MBHO shall maintain a toll free telephone number to receive referrals and requests for emergency, urgent, routine and continuing care that is staffed twenty-four (24) hours per day by persons with at least a master's degree in a mental health field who shall be authorized by the MBHO to receive the requests and referrals as specified in subsection (6)(a) of this section and prior authorize covered services.

(8) The following provision of service requirements shall be met by an MBHO for the evaluation of a member's need for behavioral health services:

(a) The evaluation shall be performed face-to-face or by telemedicine technology when:

1. A plan for telemedicine has been approved by the medical director of the MBHO and the department;

2. The evaluation is performed by a physician;

3. A person with a master's degree in mental health is present with the member during the telemedicine evaluation; and

4. The physician and the person present with the member have been authorized by the MBHO for the telemedicine procedure.

(b) The evaluation for emergency care shall be initiated within three (3) hours of the:

1. MBHO's notification of the emergency from the referring party; or

2. Time of the member's presentation to a licensed mental health care facility or the emergency department of a hospital.

(c) The evaluation for urgent care shall be initiated within twenty-four (24) hours of the following events and based on which of the events occurs first:

1. MBHO's notification of the member's urgent care need from the referring party; or

administrative regulation.

Section 13. Monitoring for Quality and Access. The department shall:

(1) Monitor and evaluate, on a continuing basis, the quality, accessibility and behavioral health care outcomes relating to services provided or arranged by the MBHO;

(2) Based on recommendations of the quality and access advisory committee as specified in subsection (4) of this section, promulgate an administrative regulation that specifies behavioral health care outcomes, benchmarks, assessment of achievement of benchmarks process and dissemination of information relating to:

- (a) Members' access to behavioral health services;
- (b) Quality, effectiveness, and cost of behavioral health services;

and

(c) Prevention of mental or substance abuse disorders.

(3) Establish ongoing linkage with and monitor each MBHO's quality improvement program to ensure that requirements as specified in Section 14 of this administrative regulation are met;

(4) Establish a department quality and access advisory committee that shall:

(a) Be composed of persons who represent:

- 1. Primary care providers;
- 2. Consumers. At least five (5) persons on the committee shall be consumers, including:

a. Two (2) adults with severe mental illness, one (1) of whom shall be or has been a recipient;

b. A parent, spouse or sibling of an adult with severe mental illness;

c. A parent of a child with a severe emotional disability; and

d. A foster parent who represents foster children in the custody of the Cabinet for Families and Children.

3. Behavioral health care providers;

4. Behavioral health care researchers;

5. Psychiatric hospitals;

6. Regional mental health-mental retardation boards;

7. Quality assurance professionals; and

8. The Kentucky Department for Social Services.

(b) Make recommendations to the department based upon the review of data provided by the MBHOs and compiled by the department;

(c) Evaluate the effectiveness of the MBHO in ensuring access to needed services; and

(d) Make recommendations to the department relating to needed quality improvement studies designed to increase the effectiveness of the MBHO.

(5) Annually conduct an external retrospective medical audit based on reports and behavioral health services data received from the MBHO which evaluates:

(a) Acute care hospital, ambulatory and emergency care;

(b) Access to care based on requirements as established in Section 10(8) and (9) of this administrative regulation; and

(c) Early and periodic screening, diagnosis and treatment services as defined in 907 KAR 1:034.

Section 14. MBHO Quality Improvement. An MBHO shall:

(1) Submit for continuing evaluation by the department, reports and data which include at least the following:

(a) A quality improvement plan and quarterly reports on implementation of the quality improvement plan;

(b) Performance and behavioral health care outcomes data;

(c) Member and MBHO plan provider satisfaction information, including number, type and resolution of complaints and appeals; and

(d) Utilization of services, including encounter data.

(2) Submit for approval by the department, a written plan for the continuing quality improvement of the MBHO. The quality improvement plan shall include activities for the improvement of quality,

access and performance on behalf of members who are:

(a) Adults with severe mental illness, including:

1. Promotion of recovery and use of peer support and self-help;

2. Coordination of medical, dental, social, housing, vocational and rehabilitative services to behavioral health services;

3. Linkage with the community support systems of regional mental health-mental retardation boards;

4. Continuity of care with state-operated psychiatric hospitals and personal care homes; and

5. Outreach to members who are homeless as defined in 42 USC 255(r).

(b) Children with severe emotional disabilities, including:

1. Coordination of educational, juvenile and family services to behavioral health services;

2. Linkage with the regional interagency council;

3. Transition to adult services systems, if indicated, at the approach of the age of majority; and

4. Access to therapeutic rehabilitation services.

(c) Diagnosed with coexisting mental illness and substance abuse disorder, including linkage with the substance abuse programs of regional mental health-mental retardation boards;

(d) Hearing impaired;

(e) Requesting a provider who shares a common cultural heritage or gender;

(f) Victims of domestic violence, child abuse or sexual abuse;

(g) Separately identified as specified in Section 1(10) of this administrative regulation; and

(h) Identified by the MBHO as having special needs, including outreach and case management.

(3) Establish a quality improvement program that shall:

(a) Monitor and evaluate the quality and appropriateness of behavioral health care and services using clinical care standards and practice guidelines approved by the medical director of the MBHO and benchmarks following the establishment of benchmarks in accordance with Section 13(2) of this administrative regulation;

(b) Identify, recommend and monitor the implementation of activities as specified in subsection (2) of this section and the correction of problems relating to quality and performance that are identified by the MBHO or the department;

(c) Be directed, coordinated and monitored by a committee that:

1. Is staffed by a full-time employee of the MBHO

2. Meets at least quarterly; and

3. Documents its findings.

(d) Have access to all records of behavioral health care providers relating to the provision of services covered by the MBHO, which shall be kept confidential, and to data generated by the MBHO relating to:

1. Behavioral health services utilization;

2. Behavioral health care outcomes;

3. Member satisfaction; and

4. The number, type and resolution of complaints, including data for members identified in subsection (2) of this section and other subpopulations identified in the quality improvement plan.

(e) Submit to the MBHO's board of directors for approval:

1. The written quality improvement plan specified in subsection (2) of this section;

2. Quarterly reports of the quality improvement program;

3. An annual written report of the quality improvement program;

(f) Disseminate the annual report as specified in paragraph (e)3 of this subsection to participating behavioral health care providers and the department and provide the report free of charge to a member upon request.

(4) Establish a regional quality and access advisory committee that shall:

(a) Advise the MBHO regarding complaints and appeals, and activities undertaken by the MBHO in the resolution process;

(b) Be staffed by persons in the MBHO's quality improvement

behavioral health region;

(2) Be prohibited from:

(a) Direct face-to-face or telephone marketing, or direct mail advertising to members, or to recipients who are not enrolled in an MBHO;

(b) Offering or granting a reward, favor or compensation as an inducement to select a particular provider; and

(c) Misleading or misrepresenting members regarding the MBHO, department or other government agencies.

(3) Submit a marketing plan on an annual basis to the department for approval;

(4) Submit a plan and develop procedures to log and resolve marketing complaints; and

(5) Prepare and distribute marketing materials which factually represent the MBHO and meet requirements as specified in Section 19(3) of this administrative regulation.

Section 21. Confidentiality. An MBHO shall be required to maintain confidentiality of member eligibility information and medical records, and prevent unauthorized disclosure of this information in accordance with KRS 194.060, 434.840 to 434.860 and 42 CFR 431, Subpart F.

Section 22. Performance of an MBHO. (1) An MBHO shall be required to:

(a) Provide, or arrange for the provision of, medically necessary behavioral health services to members as specified in Section 10 of this administrative regulation; and

(b) Report to the department the delivery of behavioral health services to members and maintain documentation as required by federal and state laws to substantiate Medicaid behavioral services' delivery, or support the nondelivery of members' behavioral health services in the unique cases where services are neither authorized, nor provided.

(2) Upon failure of an MBHO to adhere to the requirements as established in this administrative regulation, the department:

(a) Shall take action necessary to preserve and maintain access to member services and program integrity; and

(b) May take one (1) or more of the following actions:

1. Recoup payments;

2. Assess liquidated damages; or

3. Terminate the MBHO's participation in Kentucky Access in accordance with KRS Chapter 45A.

(3) The department shall require a corrective action plan on the part of the MBHO if:

(a) A report, survey, investigation or audit indicates that the MBHO, subcontractor, or supplier, failed to adhere to MBHO requirements; or

(b) The department receives a substantiated complaint regarding the quality of behavioral health care provided.

(4) An MBHO shall develop a corrective action plan as specified in subsection (3) of this section within fifteen (15) days of receipt of a written deficiency issued by the department, and specify the time and manner in which the deficiency shall be corrected.

(5) If the MBHO fails to file a corrective action plan, or file a corrective action plan that is approved by the department, or implement the corrective action plan as specified in subsections (3) and (4) of this section and correct deficiencies, the department shall issue a written notice to the MBHO which:

(a) States the violations; and

(b) Notifies that failure to take the necessary action to correct the deficiencies within the time period specified by the department shall result in one (1) or more of the following:

1. Suspension of recipient enrollment;

2. Suspension or recoupment of the capitation payment; or

3. Termination of the MBHO's participation in Kentucky Access in accordance with KRS Chapter 45A.

LARRY A. MCCARTHY, Deputy Commissioner

JOHN H. MORSE, Secretary

APPROVED BY AGENCY: May 8, 1997

FILED WITH LRC: May 13, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1997 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 June 16, 1997 five workdays 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: Mae B. Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ked Fitzpatrick or Karen Doyle

(1) Type and number of entities affected: Approximately 1,700 behavioral health care providers are expected to participate and an unknown number of additional service providers who may seek to become subcontractors of a Managed Behavioral Healthcare Organization (MBHO). In addition, approximately 490,000 Medicaid recipients will be enrolled in MBHOs when the initiative is fully implemented statewide. Of the 490,000 recipients, approximately 90,000 recipients will be expected to actually seek behavioral health services through the MBHO on an annual basis.

(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: Based on planning and development of the federal waiver, it is anticipated that additional providers will become Medicaid providers which should expand access to services and benefit employment in communities.

(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: The development of an integrated service network should provide some administrative efficiency, other economies of scale (e.g., group purchasing) and savings which will decrease the cost of doing business for participating MBHO subcontractors.

(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 MBHOs and subcontractors will be required to submit encounter data to the department to support monitoring and accountability processes. These requirements are similar to current requirements and are no more onerous than current Medicaid reporting requirements, nor filing necessary paperwork for commercial plans. Every state agency will be required to do outcome reporting to support the department's goals, develop baseline health status data for the department and develop strategies for improving the health status of the Medicaid population. Relating to competition, it is anticipated that more providers will participate in MBHOs than have formerly participated in Medicaid. This should enhance competition among providers.

2. Second and subsequent years: Same impact for second and subsequent years as additional geographic regions are affected in the second and third years.

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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 except to the extent that they are consistent with the federally approved Section 1915(b) waiver.

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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KRS 13A.222(4)(b); and (3) delete the continuing education requirements for engineers, because KRS 322.290(2)(g) required the board to adopt a continuing education program for land surveyors, not engineers, as required by KRS 13A.120(2)(i) and (h).

Kentucky Real Estate Appraisers Board

201 KAR 30:040. Standards of practice administrative regulation. John Grant, Assistant Attorney General, represented the Board.

This administrative regulation was amended as follows: (1) the TITLE was amended to delete the words "administrative regulation"; (2) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (3) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); (4) Sections 1 and 4 were amended to comply with the (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4)(b); and (5) Section 1 was amended to cite the correct title of the material incorporated by reference.

201 KAR 30:070. Complaints of violations. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); and (2) Sections 1 through 4 were amended to comply with the (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4)(b).

Justice Cabinet: Department of Corrections

501 KAR 6:120. Blackburn Correctional Complex. Jack Damron, General Counsel, and Tamela Biggs, Staff Attorney, represented the Department.

This administrative regulation was amended as follows: (1) BCC 14-01-01, A. was amended to clearly establish the schedule for attorney-inmate visitation periods, pursuant to KRS 13A.222(4)(a); (2) BCC 15-03-01, F.2. was amended to clearly establish the factors to be used for bed assignments, pursuant to KRS 13A.222(4)(a); (3) BCC 16-02-01, B.13.a. was amended to clearly establish a list of modest attire to be worn by a visitor, pursuant to KRS 13A.222(4)(a); (4) BCC 16-02-01, F.5. was amended to require a staff member to warn a visitor of a rule infraction, pursuant to KRS 13A.222(4)(a); (5) BCC 16-02-01, F.9.a. was amended to clearly identify improper visitation conduct, pursuant to KRS 13A.222(4)(a); (6) BCC 17-02-01, M.2. was amended to clearly establish the amount of property that an inmate could possess, pursuant to KRS 13A.222(4)(a); (7) BCC 15-03-01, D. was amended to comply with the formatting requirements of KRS 13A.220(4); and (8) BCC-09-09-01, 12-02-02, 12-05-01, 13-01-01, 15-03-01, 16-02-01, 17-02-01, 21-01-01, and 24-03-01 were amended to comply with the drafting requirements of KRS 13A.222(4).

Jail Standards for Counties Housing Class D Felons

501 KAR 13:020. County jail and juvenile detention facility victim notification system. Mr. Damron stated that: (1) there was a typographical error on the agenda, which stated that this administrative regulation related to counties not housing Class D felons; and (2) this administrative regulation applied to counties housing Class D felons.

Subcommittee staff stated that the typographical error: (1) was on the agenda, not in the administrative regulation; and (2) would be corrected by the Regulations Compiler.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to comply with the drafting requirements of KRS 13A.222(4); (2) Section 1(2) was amended to clearly establish the definition of registration, pursuant to KRS 13A.222(4)(a); (3) Section 2(1) was amended to clearly establish the offender information to be made available to the public by the Department, pursuant to KRS 13A.222(4)(a); (4) Section 2(2)(a) was deleted because it repeated Section 2(1), as required by KRS 13A.222(4)(a); and (5) Section 3(1), which required the jailer to provide offender information, was deleted

pursuant KRS 13A.222(4)(a).

Transportation Cabinet: Department of Administrative Services: Division of Fleet Management: Division of Purchases: Administration

600 KAR 1:120. Purchase, use, lease, maintenance and disposal of state-owned motor vehicles. Sandra Pullen-Davis, Assistant to the Secretary, represented the Cabinet.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs were amended to correct statutory citations; (2) Sections 5 and 6 were amended to delete language that repeated KRS 44.045 and 186.065(1), as required by KRS 13A.120(2)(e); (3) Section 5(1)(b) was amended to cross-reference KRS 44.045(2), which required a State vehicle to be used for official purposes; and (4) Sections 2, 3, 4, 7, 8, and 9 were amended to comply with the: (a) drafting requirements of KRS 13A.222(4); and (b) formatting requirements of KRS 13A.220(4).

Nonpublic School Transportation

600 KAR 5:010. Transportation of nonpublic school students. Subcommittee staff stated that this administrative regulation: (1) included amendments to: (a) conform to KRS Chapter 13A's drafting and formatting requirements; and (b) delete repetition of statutes; and (2) established the method for distributing the funds for the transportation of non-public school students in Jefferson County.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); and (3) Sections 1 and 2 were amended to: (a) delete provisions that repeated statutes, as required by KRS 13A.120(2)(e) and (f); and (b) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4)(b).

Department of Vehicle Regulation: Division of Motor Vehicle Licensing: Motor Vehicle Tax

601 KAR 9:140. Temporary registration plates. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to delete language that repeated KRS 186A.100, pursuant to KRS 13A.120(2)(e); (3) Section 3(1) was amended to cross-reference KRS 186A.100, which required maintenance of a log of temporary registration plates issued; (4) Section 1(2)(a) was amended to comply with the drafting requirements of KRS 13A.222(4)(b); and (5) Section 4(2) was amended to comply with the formatting requirements of KRS 13A.220(4).

Department of Highways: Division of Aeronautics: Airport Development

602 KAR 15:010. Airport development loans. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs were amended to correct statutory citations; (2) Section 3 was amended to comply with the formatting requirements of KRS 13A.220(4); (3) Sections 4 and 6 were amended to comply with the drafting requirements of KRS 13A.222(4); and (4) Section 5 was amended to clearly establish the standards for granting a loan application, pursuant to KRS 13A.222(4)(a).

Department of Highways: Permits Branch: Right-of-way

603 KAR 4:035. Logo signs; placement along fully controlled access highways. In response to a question by Senator Roeding, Ms. Pullen-Davis stated that: (1) the Federal government recently approved the use of the fifth legend logo highway signs for tourist activities; and (2) the signs: (a) were approved for use throughout the Commonwealth; (b) were not restricted to the five interstate highways in Kentucky; and (c) would soon be seen across the State.

formatting requirements of KRS Chapter 13A; (b) ensure that the definitions established by these administrative regulations were consistent with each other; and (c) clearly establish the requirements imposed by the administrative regulations; (2) the amendments did not make changes to the substantive requirements that were originally established in the administrative regulations; (3) these administrative regulations would probably be moved to another chapter to conform with KRS Chapter 13A's requirements relating to definitions and definitions administrative regulations; and (4) because the Regulations Compiler was authorized to move the administrative regulations once she is requested to do so by the agency, Subcommittee action was not needed.

This administrative regulation was amended as follows: (1) Section 1 was amended to: (a) comply with the KRS 13A.222(4)(e) and (f) requirements for definitions; and (b) conform with the definitions included in 902 KAR 47:090 and 902 KAR 47:100; (2) Sections 1 through 10 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4)(b); and (3) Sections 4 and 5 were amended to clarify the requirements imposed by this administrative regulation.

902 KAR 47:090 & E. Accreditation of training programs and providers of educational programs for individuals who perform lead-hazard detection and abatement. This administrative regulation was amended as follows: (1) Section 1 was amended to: (a) comply with the KRS 13A.222(4)(e) and (f) requirements for definitions; and (b) conform with the definitions included in 902 KAR 47:080 and 902 KAR 47:100; (2) Sections 1 through 16 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4)(b); and (3) Sections 2, 3, 4, 5, 6, 8, 12, and 13 were amended to clarify the requirements imposed by this administrative regulation.

902 KAR 47:100 & E. Permit fees, permit requirements and procedures, and standards for performing lead-hazard detection and abatement. This administrative regulation was amended as follows: (1) Section 1 was amended to: (a) comply with the KRS 13A.222(4)(e) and (f) requirements for definitions; and (b) conform with the definitions included in 902 KAR 47:080 and 902 KAR 47:090; (2) Sections 1 through 17 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4)(b); and (3) Sections 3, 5, 6, 7, 8, 9, 13, and 14 were amended to clarify the requirements imposed by this administrative regulation.

Cabinet for Families and Children: Department for Social Insurance: Division of Management and Development: Public Assistance

904 KAR 2:410 & E. Child support collection and distribution. Steve Veno, Director, Division of Child Support Enforcement, represented the Department.

In response to a question by Representative Bruce, Mr. Veno stated that the amendment to this administrative regulation deleted the remedy of last resort from the administrative regulation for suspension of driver's license.

This administrative regulation was amended as follows: (1) Section 9 and the two forms incorporated by reference were amended to correct statutory citations; and (2) Section 11 was amended to correct the edition date of the two forms incorporated by reference.

Food Stamp Program

904 KAR 3:025 & E. Technical requirements. Mark Cornett represented the Department.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; and (2) Sections 2 and 3 were amended to comply with the drafting requirements of KRS 13A.222(4).

Adult Services

905 KAR 5:040. Standards for state funded spouse abuse shelters. Michael Cheek represented the Department.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly and accurately state the necessity for and function served by the administrative regulation, pursuant to KRS 13A.220(3)(f); (3) Sections 1, 2, and 7 were amended to comply with the drafting requirements of KRS 13A.222(4); (4) Section 1(5) was deleted because it repeated KRS 209.020(3), as required by KRS 13A.222(4)(d); and (5) a new Section 2(1)(d) was created to clearly establish the requirements of the advisory board.

Cabinet for Health Services: Department for Medicaid Services

907 KAR 1:008. Ambulatory surgical center services and reimbursement. Duane Dringenburg, Division Director, and Betsy Dunnigan represented the Department.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 were amended to comply with the (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4)(b).

907 KAR 1:011. Technical eligibility requirements. Joyce Turley represented the Department.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1, 2, and 4 were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 8, 10, and 11 were amended to comply with the (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4)(b); and (3) Sections 2 and 5 were amended to replace references to the K-TAP program with references to the AFDC program, to comply with federal law.

907 KAR 1:381. Repeal of 907 KAR 1:380. Duane Dringenburg, Division Director, represented the Department.

In response to questions by Representative Bruce, Mr. Dringenburg stated that: (1) this administrative regulation repealed 907 KAR 1:380, which incorporated by reference the manual for ambulatory services; and (2) the manual was now included in 907 KAR 1:008.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to comply with the drafting requirements of KRS 13A.222(4)(b); and (3) Section 1 was amended to correct the title of the administrative regulation being repealed.

907 KAR 1:605. Medicaid procedures for determining initial and continuing eligibility. Joyce Turley represented the Department.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 were amended to comply with the (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4)(b); and (3) Section 3(2) was amended to clarify that the Department received a waiver from certain eligibility requirements for Medicaid from the federal government, and that the waiver was promulgated as 907 KAR 1:705.

Department for Mental Health and Mental Retardation Services: Division of Administration and Financial Management: Mental Health

908 KAR 2:110 & E. Kentucky Early Intervention Program point of entry. John Walker, General Counsel, and Jim Henson represented the Department.

This administrative regulation was amended as follows: Section 1(8) was amended to (1) comply with the drafting requirements of KRS 13A.222(4)(b); and (2) correct a statutory citation.

courses to fifteen (15); (d) the number of credits for social studies and science was increased; (e) more specificity was provided for language arts and math; and (f) a visual and performing arts credit was added because: 1. the academic expectations included a section on arts and the humanities; and 2. there was not a course offered to students in that subject; (3) the high school graduation requirements were changed to bring the graduation requirements into coherence with the: (a) goals; and (b) academic expectations; (4) across the state, teachers had stated that while the teachers were being held accountable to deliver subject matter in the arts, the students were not required to take courses that would prepare them to meet the academic expectations; (5) the individual graduation plan: (a) allowed each student to complete a program that emphasized the student's career plans; and (b) could be altered with the student and the parent during the high school years; (6) the proposed amendments to 704 KAR 3:305 were recommended by the Kentucky Board of Education, which had anticipated a change in the job market; and (7) because research showed that students would change jobs five to seven times, the academic core was strengthened to allow students to better pivot and make job shifts.

In response to a question by Senator Roeding, Ms. Hurt stated that: (1) even though Senator Roeding had not received support for its inclusion, the history and appreciation of visual and performing arts course was included in the high school graduation requirements because the Kentucky Board of Education was required to bring coherence between the: (a) high school graduation requirements; (b) goals; and (c) academic expectations; and (2) because there were approximately eight academic expectations that referenced arts and humanities, the Board decided an arts course should be required for high school graduation.

In response to questions by Senator Roeding, Mr. Noland stated that: (1) KRS 158.645: (a) enacted as statute the goals for education that the state Supreme Court had established in the Rose vs. Council for Better Education case; and (b) included the goal that students have sufficient grounding in the arts to enable the students to appreciate their cultural and historical heritage; (2) KRS 158.6455 required schools to develop their students' abilities to apply core concepts and principles from math, science, the arts, humanities, social studies, and practical living studies to situations they would encounter throughout their lives; (3) KRS 156.160 required the state board to establish minimum high school graduation requirements; and (4) while this administrative regulation established the skeleton of courses that were required for high school graduation, a local board was authorized to: (a) specify what the seven (7) elective courses should be; or (b) increase the requirements for high school graduation in that district.

Representative Bruce stated that: (1) when he attended an FFA banquet for high school vocational students, he was impressed with the leadership displayed by the students; (2) he thought the high school graduation requirements affected vocational education more than the Department realized; and (3) vocational-agriculture courses taught: (a) agriculture; (b) character; (c) leadership; and (d) community involvement.

In response to a question by Representative Bruce, Ms. Hurt stated that: (1) the Herald-Leader last week showcased how the South Laurel High School was able to: (a) raise standards; and (b) have growth in their vocational education programs; and (2) both she and the state board: (a) recognized the importance of vocational education; and (b) felt that vocational education could be offered: 1. as an elective; or 2. by integrating academic and vocational education together.

Sen. Pendleton stated that: (1) at the same banquet Representative Bruce discussed, he had a chance to talk with the guidance counselor: (a) about the strong agriculture academy in Christian County; and (b) how it started; and (2) the counselor: (a) was very supportive of the increased high school graduation requirements; and (b) realized that students would respond to increased benchmarks.

Ms. Rausche stated that: (1) while she shared some of the concerns that had been raised, she was opposed to this administrative regulation for a different reason; (2) she admired the Department of Education for adding additional course requirements; (3) ACT had indicated for a long time that students who had the core courses did a much better job on the ACT than those who did not; (4) she was concerned about the content of the courses; (5) the Department: (a) had not promulgated an amended administrative regulation to amend the program of studies, which defined the course content; and (b) was scheduled to consider those amendments at its June meeting; (6) this piecemeal approach concerned her because the Subcommittee was considering the change in high school graduation requirements in isolation of the other proposed changes; (7) the additional changes included the: (a) expanded transcript; (b) certificate of initial mastery; (c) senior cumulative projects; and (d) changes in the program of studies; (8) she did not believe the Subcommittee should consider this administrative regulation in isolation of the other changes; (9) she was glad that Section 6, relating to an expanded transcript, was deleted because: (a) it had indicated that KIRIS test scores could be placed on student transcripts; and (b) people had indicated that KIRIS was not reliable or valid for individual students; (10) she was concerned about Section 2's emphasis on career development because: (a) there had been concerns that a shortage of time had resulted in basic skills being short-changed, especially at the elementary school level; and (b) an emphasis on career development through the individual graduation plan would detract from the emphasis on content and basic skills; (11) she thought the Department needed to more clearly define: (a) career development; and (b) applied interdisciplinary and higher level courses; and (12) she wanted the Subcommittee to find this administrative regulation deficient.

Mr. Crawford stated that: (1) the Kentucky Farm Bureau: (a) supported twenty of the twenty-two proposed increased graduation requirements; (b) believed the proposed increase would help students become more competitive in whatever endeavor the students chose beyond high school graduation; (c) commended the Department of Education for its efforts; and (d) had concerns regarding the requirement that history and appreciation of visual and performing arts be an additional core requirement for graduation; (2) there was concern because: (a) local school districts currently had the authority to: 1. require the course; or 2. integrate it into the existing curriculum; (b) unless the schools fully utilized block scheduling, the opportunity for students to enroll in an elective such as vocational education was reduced; and (c) there did not appear to be additional funding for school districts to implement these requirements; (3) currently 70 out of 170 school districts did not use block scheduling; (4) other financial resources, including a vocational education teacher, would be eliminated to enable the school district to hire the additional social studies, science, and arts personnel required to meet the high school graduation requirements; and (5) the Farm Bureau: (a) recognized that the Department had proposed what it thought was necessary for all school districts to prepare students for their endeavors beyond high school; (b) did not believe there was sufficient cause to warrant placing history and appreciation of visual arts requirements on the same level as science, math, and other core requirements; and (c) requested that this portion of the administrative regulation continue as a local decision, not a state mandate.

Mr. Lacy stated that: (1) he has been: (a) an agriculture teacher at Scott County High School for twenty-three years; (b) past president of the: 1. Kentucky Vo-Ag Teachers Association; and 2. the Kentucky Vocational Teachers Association; and (c) a member of his site-based council since it was conceived; (2) he represented a small group of teachers that would be impacted by this administrative regulation; (3) the Kentucky Vo-Ag Teachers Association: (a) supported the increase: 1. to twenty-two (22) credits because the increase would serve Kentucky citizens; and 2. in social studies and science credits because a better working knowledge of those areas would be a

(a) was not in the best interest of children; and (b) would increase the drop-out rate for all children; (10) the educational system was already failing many children, including those who had disabilities; (11) according to Department data, the percentage of children with disabilities who graduate with a diploma had decreased from fifty percent (50%) in 1991-92 to forty-one percent (41%) in 1995-1996; (12) he believed that: (a) both numbers were unacceptable; (b) the percentage should not have declined; and (c) at least eighty percent (80%) of children with disabilities: 1. had the ability to successfully exit the educational system to full employment; and 2. were entitled to diplomas; (13) approximately 80,000 children with disabilities were currently enrolled in the public schools; (14) it was unconscionable that only 32,000 of these children could expect to receive a high school diploma; (15) the courses specified in this administrative regulation constituted a pre-college curriculum; (16) the Department needed to realize that: (a) college was not the future for many children in Kentucky; and (b) a pre-college curriculum should not be the minimum requirement for a high school diploma; (17) because his wife served on the two task forces for high school restructuring commissioned by the Department, he followed the deliberations and development of recommendations from the task forces; (18) the task forces: (a) did not recommend the required courses listed in this administrative regulation; and (b) discussed the need to preserve a vocational oriented curriculum as the option for many children; (19) while he understood that the Department was going to promulgate future administrative regulations to further define the program of studies, he was not convinced the problem would be addressed; (20) while he commended the Department's beliefs that all children could learn, he opposed this administrative regulation; (21) he had worked consistently to assure that educators had maintained high expectations for his son but it has been difficult to obtain access to regular education courses with the supports necessary to ensure success; (22) while most children with disabilities could successfully complete the proposed listing of courses with supports and modifications, the educational system was not prepared to successfully include children with disabilities in a pre-college curriculum; and (23) the Subcommittee should request the Department to: (a) reconsider this administrative regulation; and (b) revise it in a manner that was in the best interest of the children of Kentucky.

Senator Roeding stated that: (1) while he knew that all children could learn, he was concerned with the Department's mandate to mainstream all children because it put a hardship on the children in the class; (2) he hoped that the Department would realize that the one thing fits all approach was: (a) not true; and (b) hurting both the 1. normal child, and 2. child with disabilities; (3) it was an indictment for the Department to state that some were for and some were against this administrative regulation when twenty-three people opposed it and only one supported it; (4) the Department needed to listen to what the people wanted, rather than mandating what needed to be done; and (5) while the law required the Department to revise the high school graduation requirements, the Department did not have a good reason for waiting to make the revisions until now because KERA had been in effect for six years.

Mr. Miller stated that: (1) before he joined the Kentucky Developmental Disabilities Council, he: (a) was a private attorney for three years; and (b) represented parents and students with disabilities; (2) he wanted to share his experiences with the Subcommittee members relating to: (a) what the law was; and (b) how the law was interpreted by people in the state; (3) he was concerned because: (a) the administrative regulation did not specifically mention the federal law that granted authority to the admissions and release committee to: 1. modify classes, or 2. set the individual program for a student with disabilities; and (b) if the administrative regulation did not specifically authorize those actions, the local school districts, educators, and attorneys would think those actions were not authorized; (4) if the language were not clarified, it was possible an adversarial process would begin between the parents and the school that would result in:

(a) an administrative hearing; or (b) a federal court case; and (5) the problem could be eliminated if the Department amended the administrative regulation to explicitly state that the admissions and release committee was authorized to design an individual education plan for a student with disabilities.

Ms. Lincoln stated that: (1) she was the Director of the Kentucky Disabilities Coalition; (2) the Coalition wanted the Subcommittee members to know that: (a) it supported the highest possible expectations for all students, including students with disabilities; (b) many parents were concerned because the administrative regulation did not include a definite statement that functional substitutions were permitted through the admissions and release committee; and (c) the administrative regulation would make it impossible for many students to earn a diploma; (3) while the Subcommittee had already discussed students for whom algebra and geometry were vocationally not necessary, it was important to discuss those students with disabilities who: (a) were cognitively able to do algebra and geometry; and (b) could not get the necessary accommodations; (4) her daughter: (a) had been totally blind all her life; (b) attended middle school in Eastern Kentucky where: 1. no one had previously worked with a blind student; 2. there was not a teacher of visually impaired students; and 3. she did not have all of her textbooks in Braille; (c) could do algebra, geometry, and pre-calculus; (d) went to the Kentucky School for the Blind when she entered the eighth grade because: 1. she could: a. study algebra and geometry there; and b. get the course materials in Braille; and 2. someone knew how to do the Nimith Code; and (e) did well in these subjects; (5) when her daughter decided she wanted to graduate with her classmates, she had the same problems taking pre-calculus because: (a) she did not have a Braille textbook; (b) no one could assist her in that subject; and (c) the teacher did all of the work on the blackboard; (6) her daughter: (a) managed that problem; (b) graduated with high distinction; (c) received straight A's at her second semester at the University of Kentucky; and (d) would not have accomplished those things if: 1. she had not been able to go to the Kentucky School for the Blind for algebra and geometry; and 2. her family did not get the needed accommodations; (7) many students in rural school districts were not able to receive accommodations; (8) the Department needed to know that many of the school systems did not have appropriate accommodations for students with disabilities; and (9) while the Coalition hoped to have a voice in the Department's decisions regarding the program of studies, it wanted the Subcommittee to specify in this administrative regulation that functional substitutions would be permitted for students.

In response to questions by Chairman Arnold, Mr. Noland stated that: (1) he: (a) wanted to send a letter to each school district to explain the federal law relating to the accommodation of students with disabilities; and (b) could not include the requested sentence in the administrative regulation because the federal law: 1. could not be repeated in the administrative regulation; and 2. preempted the requirements of the administrative regulation; (2) the Department: (a) agreed that the admissions and release committee, on which parents served, would: 1. develop the appropriate accommodations and plans for the student; and 2. take priority over the high school graduation requirements; and (b) was working on: 1. the issue of mainstreaming students with disabilities; and 2. how to implement the federal Individuals with Disabilities Education Act's requirement for the least restrictive environment; (3) written comments were received regarding the visual and performing arts class, including letters from many teachers in music and art who supported the class; (4) the Local Superintendents Advisory Council: (a) was: 1. established by the General Assembly in 1994; and 2. appointed by the Legislative Research Commission; (b) consisted of eleven members, including 1. one from each judicial district; and 2. four at-large members; (c) reviewed this administrative regulation; and (d) was required to review all administrative regulations proposed by the state board; (5) the state board: (a) received input from different groups; (b) could not please all parties on this issue; (c) had considered the issues that had

ADMINISTRATIVE REGISTER - 4305

Department for Public Health: State Health Plan

902 KAR 17:035E. State health plan for facilities and services.

Cabinet for Families and Children: Department for Social Insurance: Division of Management and Development: Public Assistance

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

Food Stamp Program

904 KAR 3:010E. Definitions.

904 KAR 3:020E. Financial requirements.

904 KAR 3:042E. Food Stamp Employment and Training Program.

Cabinet for Health Services: Department for Medicaid Services

907 KAR 1:013E. Payments for hospital inpatient services.

907 KAR 1:022E. Nursing facility and intermediate care facility for the mentally retarded services.

907 KAR 1:025E. Payments for nursing facility and intermediate care facility for the mentally retarded services.

907 KAR 1:038E. Hearing and vision program services.

907 KAR 1:405. Repeal of 907 KAR 1:404.

907 KAR 1:631E. Reimbursement of vision program services.

Department for Mental Health and Mental Retardation Services: Division of Administration and Financial Management: Mental Health

908 KAR 2:060. Mental health and mental retardation manuals for funding instructions, program policies and standards, and reimbursement guidelines.

The Subcommittee adjourned at 1 p.m. until June 10, 1997 at 10 a.m. in Room 149 of the State Capitol Annex.

ADMINISTRATIVE REGISTER - 4307

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the May 14, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

ADMINISTRATIVE REGISTER - L1

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates L2

The Locator Index lists all administrative regulations published in VOLUME 23 of the Administrative Register from July, 1996 through June, 1997. 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 22 are those administrative regulations that were originally published in the Volume 22 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1996 bound Volumes were published.

KRS Index L17

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 23 of the Administrative Register.

Subject Index L34

The Subject Index is a general index of administrative regulations published in VOLUME 23 of the Administrative Register, and is mainly broken down by agency.

ADMINISTRATIVE REGISTER - L3

LOCATOR INDEX - EFFECTIVE DATES

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Replaced		9-13-96	Expired		2-18-97
201 KAR 1:130E	59	5-22-96	502 KAR 45:075E	1352	8-14-96
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201 KAR 10:050E			502 KAR 45:150E	1353	8-14-96
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201 KAR 11:190E	1877	10-14-96	502 KAR 60:010E	1354	8-14-96
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301 KAR 2:221E	1880	10-2-96	503 KAR 6:040E	1359	8-14-96
Replaced	2842	3-12-97	Expired		2-18-97
301 KAR 2:222E	1883	10-2-96	503 KAR 6:050E	1360	8-14-96
Replaced	2844	3-12-97	Replaced	2718	1-9-97
301 KAR 2:224E	1887	10-2-96	503 KAR 6:060E	1361	8-14-96
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302 KAR 20:110E	2439	11-6-96	503 KAR 6:100E	1366	8-14-96
Replaced	3757	5-14-97	Expired		2-18-97
302 KAR 20:120E	2440	11-6-96	503 KAR 6:110E	1367	8-14-96
Replaced	3758	5-14-97	Replaced	2720	1-9-97
302 KAR 78:020E	61	6-5-96	505 KAR 1:020E	3208	2-14-97
Replaced	1934	11-11-96	505 KAR 1:030E	3713	3-25-97
307 KAR 5:010E	327	7-15-96	603 KAR 5:320E	1546	9-3-96
Expired		1-18-97	Replaced	2641	2-10-97
401 KAR 8:030E	1888	10-7-96	603 KAR 5:330E	366	7-12-96
401 KAR 50:035E	62	6-14-96	Replaced	2529	1-9-97
Expired		1-17-97	701 KAR 5:020E	80	6-14-96
415 KAR 1:050E	328	7-3-96	Replaced	2464	12-5-96
Expired		2-17-97	701 KAR 5:051E	81	6-14-96
415 KAR 1:060E	330	7-3-96	Expired		10-14-96
Expired		2-17-97	701 KAR 5:055E	82	6-14-96
415 KAR 1:070E	333	7-3-96	Replaced	2465	12-5-96
Expired		2-17-97	701 KAR 5:086E	84	6-14-96
415 KAR 1:080E	336	7-3-96	Expired		10-15-96
Expired		2-17-97	701 KAR 5:090E	85	6-14-96
415 KAR 1:090E	340	7-3-96	Replaced	2466	12-5-96
Expired		2-17-97	702 KAR 1:080E	86	6-14-96
415 KAR 1:100E	343	7-3-96	Replaced	2467	12-5-96
Expired		2-17-97	702 KAR 7:055E	1368	8-12-96
415 KAR 1:110E	344	7-3-96	Expired		2-18-97
Expired		2-17-97	702 KAR 7:065E	87	6-14-96
415 KAR 1:114E	348	7-3-96	Replaced	1433	12-5-96
Expired		2-17-97	702 KAR 7:125E	1369	8-12-96
415 KAR 1:120E	352	7-3-96	Replaced	2722	1-9-97
Expired		2-17-97	703 KAR 3:060E	1372	8-12-96
415 KAR 1:125E	359	7-3-96	Replaced	2724	1-9-97
Expired		2-17-97	703 KAR 3:205E	89	6-14-96
501 KAR 8:010E	3536	3-14-97	Replaced	2472	12-5-96
502 KAR 45:005E	1350	8-14-96	703 KAR 4:010E	1376	8-12-96
Expired		2-18-97	Replaced	2728	2-6-97
502 KAR 45:035E	1351	8-14-96	703 KAR 4:090E	1379	8-12-96
Expired		2-18-97	Replaced	2731	1-9-97
502 KAR 45:045E	1351	8-14-96	704 KAR 20:305E	367	6-28-96
Replaced	3564	4-15-97	Expired		1-18-97

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Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
907 KAR 1:631E	3308	1-17-97	12 KAR 2:046		
907 KAR 1:673E	2455	11-15-96	Amended	1611	1-10-97
Replaced	3786	4-16-97	12 KAR 2:051		
907 KAR 1:720E	3741	3-18-97	Amended	1612	1-10-97
907 KAR 3:020E	421	7-28-96	12 KAR 2:061		
Expired		2-17-97	Amended	1612	1-10-97
908 KAR 2:100E	1554	9-13-96	12 KAR 2:066	1809	1-10-97
908 KAR 2:110E	1556	9-13-96	12 KAR 3:012		
908 KAR 2:120E	1560	9-13-96	Amended	1613	1-10-97
908 KAR 2:130E	1563	9-13-96	12 KAR 3:017		
908 KAR 2:140E	1566	9-13-96	Amended	1615	1-10-97
908 KAR 2:150E	1569	9-13-96	12 KAR 3:022		
908 KAR 2:160E	1572	9-13-96	Amended	1616	1-10-97
908 KAR 2:170E	1574	9-13-96	12 KAR 3:027		
908 KAR 2:180E	1576	9-13-96	Amended	1617	1-10-97
908 KAR 2:200E	3742	3-18-97	12 KAR 3:037		
909 KAR 1:005E	423	7-11-96	Amended	1618	1-10-97
Expires		1-18-97	12 KAR 3:042	1810	1-10-97
			13 KAR 2:045		
			Amended	3380	
			Amended	3797	
			As Amended	4099	

ORDINARY ADMINISTRATIVE REGULATIONS:

1 KAR 6:020			13 KAR 2:060		
Amended	2833		Amended	164	
2 KAR 2:010			As Amended	1389	9-5-96
Amended	1603		13 KAR 2:070	1049	
As Amended	2458	12-13-96	Expired		9-13-96
11 KAR 4:030			Resubmitted	2892	3-6-97
Amended	3066	4-14-97	13 KAR 2:080	4017	
11 KAR 5:130			40 KAR 1:040	206	
Amended	158		Withdrawn		10-22-96
As Amended	1387	9-5-96	40 KAR 1:050	207	
11 KAR 8:030			Withdrawn		10-22-96
Amended	159		40 KAR 1:060	208	
As Amended	1387	9-5-96	Withdrawn		10-22-96
11 KAR 12:050			40 KAR 1:070	209	
Amended	161		Withdrawn		10-22-96
As Amended	1389	9-5-96	40 KAR 2:250	4018	
11 KAR 13:010	2636		40 KAR 2:260	4019	
As Amended	3310	3-6-97	40 KAR 3:010		
12 KAR 2:006			Amended	3604	
Amended	1604		40 KAR 3:020	2894	2-19-97
As Amended	2703	1-10-97	101 KAR 1:325		
12 KAR 2:011			Amended	3070	3-26-97
Amended	1604		101 KAR 1:365		
As Amended	2703	1-10-97	Amended	2193	
12 KAR 2:016			As Amended	2711	1-13-97
Amended	1606		103 KAR 16:200	3645	
As Amended	2704	1-10-97	103 KAR 18:050		
12 KAR 2:017	1805		Amended	461	
As Amended	2705	1-10-97	As Amended	1578	10-14-96
12 KAR 2:018	1806		104 KAR 1:020		
As Amended	2706	1-10-97	Amended	166	
12 KAR 2:021			As Amended	1391	9-11-96
Amended	1607		105 KAR 1:200		
As Amended	2709	1-10-97	Amended	2834	
12 KAR 2:026			As Amended	3311	
Amended	1608		As Amended	3554	2-26-97
As Amended	2710	1-10-97	106 KAR 3:010	2896	3-6-97
12 KAR 2:036			109 KAR 7:020	2638	
Amended	1609		Amended	3005	
As Amended	2711	1-10-97	As Amended	3312	3-12-97
12 KAR 2:041					
Amended	1610	1-10-97			

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Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
201 KAR 30:040			301 KAR 6:030		
Amended	3608		Amended	3401	
As Amended	4111		As Amended	3755	5-14-97
201 KAR 30:070			302 KAR 3:010	2898	
Amended	3609		Amended	3367	
As Amended	4111		As Amended	3561	4-9-97
201 KAR 30:081	3648		302 KAR 20:110		
201 KAR 31:060	213		Amended	3403	
As Amended	1583	9-13-96	As Amended	3757	5-14-97
201 KAR 32:060	215		302 KAR 20:120		
As Amended	1584	9-18-96	Amended	3405	
201 KAR 35:020	3456		As Amended	3758	5-14-97
As Amended	3752	4-16-97	302 KAR 20:180		
300 KAR 2:010	1810		Amended	3882	
As Amended	2459	12-11-96	302 KAR 40:010		
301 KAR 1:016			Amended	3885	
Amended	2197		302 KAR 78:020	1471	
As Amended	2713	1-10-97	As Amended	1934	11-11-96
301 KAR 1:100			307 KAR 2:020	1812	
Repealed	1929	11-11-96	As Amended	2461	12-11-96
301 KAR 1:201			307 KAR 5:010	2900	
Amended	468		Amended	3368	
As Amended	1929	11-11-96	As Amended	3562	3-20-97
301 KAR 2:176	217	9-11-96	401 KAR 5:001		
301 KAR 2:140			Amended	1621	
Amended	2200		Amended	2755	5-14-97
As Amended	2714	1-10-97	401 KAR 5:005		
Amended	3867		Amended	1633	
301 KAR 2:172			Amended	2766	5-14-97
Amended	3870		401 KAR 5:006	1814	
301 KAR 2:174			Amended	2780	5-14-97
Amended	3873		401 KAR 8:010		
301 KAR 2:178			Amended	2538	5-14-97
Amended	3874		401 KAR 8:030		
301 KAR 2:211			Amended	3079	
Repealed	217	9-11-96	Amended	3808	
301 KAR 2:221			401 KAR 8:060		
Amended	2842	3-12-97	Amended	2543	5-14-97
301 KAR 2:222			401 KAR 8:070		
Amended	2844	3-12-97	Amended	2548	5-14-97
301 KAR 2:224			401 KAR 8:100		
Amended	2848	3-12-97	Amended	2560	5-14-97
301 KAR 2:225			401 KAR 8:150		
Amended	2536		Amended	2563	5-14-97
As Amended	2972	2-12-96	401 KAR 8:200		
301 KAR 2:251			Amended	2568	5-14-97
Amended	3879		401 KAR 8:250		
301 KAR 3:022			Amended	2573	5-14-97
Amended	1619		401 KAR 8:300		
As Amended	2460	12-11-96	Amended	2579	5-14-97
301 KAR 3:028			401 KAR 8:350		
Amended	471		Amended	2593	5-14-97
As Amended	1932	11-11-96	401 KAR 8:400		
301 KAR 3:030			Amended	2595	5-14-97
Amended	3881		401 KAR 8:420		
301 KAR 4:100			Amended	2600	5-14-97
Amended	3398		401 KAR 8:440		
As Amended	3752	5-14-97	Amended	2606	5-14-97
301 KAR 4:200			401 KAR 8:500		
Amended	472		Amended	2609	5-14-97
As Amended	1933	11-11-96	401 KAR 8:600		
301 KAR 5:040	3457		Amended	2612	5-14-97
As Amended	3755	5-14-97	401 KAR 8:700		
			Amended	2614	5-14-97

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Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
401 KAR 35:200 Amended	731	3-12-97	401 KAR 38:100 Amended	965	3-12-97
401 KAR 35:210 Amended	735	3-12-97	401 KAR 38:150 Amended	968	3-12-97
401 KAR 35:230 Amended	738	3-12-97	401 KAR 38:160 Amended	970	3-12-97
401 KAR 35:245 Amended	1133 2073	3-12-97	401 KAR 38:170 Amended	972	3-12-97
401 KAR 35:250 Amended	742	3-12-97	401 KAR 38:190 Amended	974	3-12-97
401 KAR 35:275 Amended	744	3-12-97	401 KAR 38:250 Amended	976	3-12-97
401 KAR 35:280 Amended	751	3-12-97	401 KAR 38:500 Amended	978	3-12-97
401 KAR 35:281	1137	3-12-97	401 KAR 39:005 Amended	1192 2132	3-12-97
401 KAR 35:290 Amended	757	3-12-97	401 KAR 39:080 Amended	980	3-12-97
401 KAR 36:005 Amended	1154 2076	3-12-97	401 KAR 39:110 Amended	982	3-12-97
401 KAR 36:020 Amended	760	3-12-97	401 KAR 39:120 Amended	983	3-12-97
401 KAR 36:025 Amended	783	3-12-97	401 KAR 40:001	1205	3-12-97
401 KAR 36:030 Amended	795	3-12-97	401 KAR 42:005 Amended	986	3-12-97
401 KAR 36:050 Repealed	1242	3-12-97	401 KAR 43:005 Amended	1207 2145	3-12-97
401 KAR 36:070 Amended	797	3-12-97	401 KAR 43:010	1219	3-12-97
401 KAR 37:005 Amended	1166 2089	3-12-97	401 KAR 43:020	1222	3-12-97
401 KAR 37:010 Amended	799	3-12-97	401 KAR 43:030 Amended	1226 2159	3-12-97
401 KAR 37:010 Amended	2103	3-12-97	401 KAR 43:040 Amended	1231 2163	3-12-97
401 KAR 37:030 Amended	809	3-12-97	401 KAR 43:050	1233	3-12-97
401 KAR 37:040 Amended	816	3-12-97	401 KAR 43:060	1235	3-12-97
401 KAR 37:050 Amended	925	3-12-97	401 KAR 43:070	1237	3-12-97
401 KAR 37:100 Repealed	816	3-12-97	401 KAR 44:005 Amended	1240 2165	3-12-97
401 KAR 38:005 Amended	1179 2113	3-12-97	401 KAR 44:010	1242	3-12-97
401 KAR 38:010 Amended	928	3-12-97	401 KAR 44:020	1245	3-12-97
401 KAR 38:020 Amended	931	3-12-97	401 KAR 44:030	1248	3-12-97
401 KAR 38:030 Amended	934	3-12-97	401 KAR 44:040 Amended	1249 2167	3-12-97
401 KAR 38:040 Amended	938	3-12-97	401 KAR 44:050	1253	3-12-97
401 KAR 38:050 Amended	2127	3-12-97	401 KAR 44:060	1258	3-12-97
401 KAR 38:050 Amended	943	3-12-97	401 KAR 44:070	1261	3-12-97
401 KAR 38:060 Amended	949	3-12-97	401 KAR 44:080	1264	3-12-97
401 KAR 38:070 Amended	956	3-12-97	401 KAR 46:060 Recodified from 401-49:220		11-8-96
401 KAR 38:080 Amended	959	3-12-97	401 KAR 46:070 Recodified from 401-49:230		11-8-96
401 KAR 38:090 Amended	961	3-12-97	401 KAR 47:005	1265	3-12-97
			401 KAR 48:005 Amended	990	3-12-97
			401 KAR 49:005	1272	3-12-97
			401 KAR 49:220 Recodified as 401-46:060		11-8-96
			401 KAR 49:230 Recodified as 401-46:070		11-8-96
			401 KAR 50:035 Amended	1646	
			Amended	2785	
			As Amended	3313	2-12-97

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Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
503 KAR 4:050	1288		601 KAR 13:025		
As Amended	1589	9-17-96	Amended	2261	
503 KAR 4:060	1290		As Amended	2982	2-10-97
As Amended	1590	9-17-96	601 KAR 13:070		
503 KAR 4:070	1291		Amended	2264	
As Amended	1590	9-17-96	As Amended	3347	3-4-97
503 KAR 6:020	2342		601 KAR 13:090	219	
As Amended	2717	1-9-97	As Amended	1593	10-1-96
503 KAR 6:030	2344		601 KAR 13:100	221	
As Amended	2718	1-9-97	Amended	1399	
503 KAR 6:050	2345		As Amended	1594	10-1-96
As Amended	2718	1-9-97	601 KAR 13:110	2639	
503 KAR 6:060	2346		Amended	3032	
As Amended	2719	1-9-97	As Amended	3349	
503 KAR 6:080	2346		As Amended	3567	3-4-97
As Amended	2719	1-9-97	602 KAR 15:010		
503 KAR 6:090	2348		Amended	3615	
As Amended	2720	1-9-97	As Amended	4117	
503 KAR 6:110	2349		602 KAR 50:010		
As Amended	2720	1-9-97	Amended	4214	
600 KAR 1:120			602 KAR 50:060		
Amended	3409		Amended	4217	
Amended	3817		602 KAR 50:070		
As Amended	4113		Amended	4218	
600 KAR 2:020			602 KAR 50:090		
Amended	2850		Amended	4220	
As Amended	3342	3-4-97	602 KAR 50:100		
600 KAR 2:030			Amended	4222	
Amended	2853		602 KAR 50:120		
As Amended	3345	3-4-97	Amended	4224	
600 KAR 3:010			603 KAR 2:015		
Amended	3899		Amended	1014	
600 KAR 5:010			As Amended	1596	10-1-96
Amended	3411		603 KAR 4:035		
Amended	3819		Amended	3413	
As Amended	4115		Amended	3821	
601 KAR 1:005			As Amended	4119	
Amended	2257		603 KAR 4:040		
Amended	2817	2-10-97	Amended	178	9-3-96
601 KAR 1:025			603 KAR 5:066		
Amended	1010		Amended	183	9-3-96
As Amended	1591	10-1-96	603 KAR 5:115		
Amended	3917		Amended	2266	
601 KAR 1:101			As Amended	2985	2-10-97
Amended	1012		603 KAR 5:230		
As Amended	1592	10-1-96	Amended	1419	
601 KAR 1:160			Amended	2171	
Repealed	441	9-3-96	As Amended	2462	11-14-96
601 KAR 1:200			603 KAR 5:320	2641	2-10-97
Amended	441	9-3-96	603 KAR 5:330	1818	
601 KAR 9:074			Amended	2529	1-9-97
Repealed	441	9-3-96	701 KAR 5:020		
601 KAR 9:140			Amended	1422	
Amended	3613		As Amended	2464	12-5-96
As Amended	4116		701 KAR 5:051	1472	
601 KAR 11:020			Withdrawn		10-15-96
Amended	2260		701 KAR 5:055		
As Amended	2721	1-9-97	Amended	1423	
601 KAR 12:020			As Amended	2465	12-5-96
Amended	2855	3-4-97	701 KAR 5:060		
601 KAR 12:040			Repealed	2350	1-9-97
Repealed	2901	3-4-97	701 KAR 5:065	2350	1-9-97
601 KAR 12:041	2901	3-4-97	701 KAR 5:086	1473	
			Withdrawn		10-15-96

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Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
782 KAR 1:020			803 KAR 2:320		
Amended	3427		Amended	1726	12-13-96
As Amended	4129		Amended	3932	
782 KAR 1:030			803 KAR 2:402		
Amended	3428		Amended	1732	12-13-96
782 KAR 1:040			Amended	3938	
Amended	3113		803 KAR 2:403		
As Amended	3771	5-12-97	Amended	1734	12-13-96
785 KAR 1:010			Amended	3939	
Amended	1679		803 KAR 2:404		
As Amended	2480	12-5-96	Amended	1735	12-13-96
787 KAR 1:200			Amended	3941	
Amended	1681	1-3-97	803 KAR 2:405		
787 KAR 1:210			Amended	3946	
Amended	189	10-14-96	803 KAR 2:408		
Amended	4226		Amended	1740	12-13-96
787 KAR 1:320			803 KAR 2:410		
As Amended	3355	2-25-97	Amended	1741	12-13-96
803 KAR 2:019			Amended	3947	
Amended	1682	12-13-96	803 KAR 2:411		
803 KAR 2:200			Amended	3949	
Amended	1684	12-13-96	803 KAR 2:422		
803 KAR 2:300			Amended	1743	12-13-96
Amended	1687	12-13-96	803 KAR 2:424		
803 KAR 2:301			Amended	3950	
Amended	1689	12-13-96	803 KAR 2:425		
Amended	3925		Amended	1744	12-13-96
803 KAR 2:302			Amended	3952	
Amended	1690	12-13-96	803 KAR 2:500		
Repealed	3243	2-14-97	Amended	1746	12-13-96
803 KAR 2:303			Amended	3955	
Amended	1692	12-13-96	803 KAR 2:600		
803 KAR 2:304			Amended	1748	1-9-97
Amended	1694	12-13-96	803 KAR 25:010		
803 KAR 2:305			Amended	3958	
Amended	1696	12-13-96	803 KAR 25:012		
803 KAR 2:306			Amended	1450	
Amended	1698	12-13-96	Amended	2173	
Amended	3927		As Amended	2481	12-13-96
803 KAR 2:307			803 KAR 25:015	1475	
Amended	1702	12-13-96	As Amended	2987	2-10-97
803 KAR 2:308			803 KAR 25:035		
Amended	1705	12-13-96	Amended	1453	
Amended	3929		Withdrawn		9-30-96
803 KAR 2:309			Repealed	2442	11-14-96
Amended	1708	12-13-96	803 KAR 25:036	2904	
803 KAR 2:311			As Amended	3355	2-25-97
Amended	1711	12-13-96	803 KAR 25:089		
803 KAR 2:312			Amended	1750	
Amended	1713	12-13-96	As Amended	2485	12-12-96
803 KAR 2:313			803 KAR 25:091		
Amended	1714	12-13-96	Amended	2619	
803 KAR 2:314			As Amended	2988	2-10-97
Amended	1716	12-13-96	803 KAR 25:096		
803 KAR 2:315			Amended	1455	
Amended	1719	12-13-96	Amended	2177	
803 KAR 2:316			As Amended	2485	12-13-96
Amended	1720	12-13-96	803 KAR 25:190		
803 KAR 2:317			Amended	1459	
Amended	1722	12-13-96	Amended	2181	
803 KAR 2:319			As Amended	2489	12-13-96
Amended	1724	12-13-96	803 KAR 25:200	4022	
			803 KAR 25:210	4023	
			803 KAR 25:220	4024	

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Regulation Number	23 Ky.R Page No.	Effective Date	Regulation Number	23 Ky.R Page No.	Effective Date
902 KAR 1:400	1829		902 KAR 55:015		
As Amended	2521	11-20-96	Amended	3981	
902 KAR 2:020			902 KAR 55:030		
Amended	3119		Amended	3983	
Amended	3597		902 KAR 55:040		
As Amended	4131		Amended	3985	
902 KAR 2:060			902 KAR 55:045		
Amended	1024		Amended	4228	
Expired		9-5-96	902 KAR 55:090		
Amended	2628		Amended	3986	
As Amended	2997	1-15-97	902 KAR 55:100	1300	9-18-96
902 KAR 2:090			902 KAR 100:040		
Amended	1463		Amended	3988	
Amended	2190		902 KAR 105:070		
As Amended	2522	11-20-96	Amended	1783	
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